

COMMUNITIES COMMITTEE

Wednesday 29 November 2006

Session 2

£5.00

© Parliamentary copyright. Scottish Parliamentary Corporate Body 2006.

Applications for reproduction should be made in writing to the Licensing Division,
Her Majesty's Stationery Office, St Clements House, 2-16 Colegate, Norwich NR3 1BQ
Fax 01603 723000, which is administering the copyright on behalf of the Scottish Parliamentary Corporate
Body.

Produced and published in Scotland on behalf of the Scottish Parliamentary Corporate Body by Astron.

CONTENTS

Wednesday 29 November 2006

Col.

SUBORDINATE LEGISLATION	4343
Building (Scotland) Amendment Regulations 2006 (SSI 2006/534)	4343

COMMUNITIES COMMITTEE **32nd Meeting 2006, Session 2**

CONVENER

*Karen Whitefield (Airdrie and Shotts) (Lab)

DEPUTY CONVENER

*Mr Jamie Stone (Caithness, Sutherland and Easter Ross) (LD)

COMMITTEE MEMBERS

Scott Barrie (Dunfermline West) (Lab)

*Cathie Craigie (Cumbernauld and Kilsyth) (Lab)

*Christine Grahame (South of Scotland) (SNP)

*Patrick Harvie (Glasgow) (Green)

*John Home Robertson (East Lothian) (Lab)

*Tricia Marwick (Mid Scotland and Fife) (SNP)

*Dave Petrie (Highlands and Islands) (Con)

COMMITTEE SUBSTITUTES

Chris Ballance (South of Scotland) (Green)

Alex Johnstone (North East Scotland) (Con)

Christine May (Central Fife) (Lab)

Mike Rumbles (West Aberdeenshire and Kincardine) (LD)

Ms Sandra White (Glasgow) (SNP)

*attended

THE FOLLOWING GAVE EVIDENCE:

Heather Fiskin (Disability Rights Commission)

Michael Levack (Scottish Building)

Len Murray (Scottish Association of Building Standards Managers)

Scott Restrick (Energy Action Scotland)

Dr Paul Stollard (Scottish Building Standards Agency)

CLERK TO THE COMMITTEE

Steve Farrell

SENIOR ASSISTANT CLERK

Katy Orr

ASSISTANT CLERK

Catherine Fergusson

LOCATION

Committee Room 4

Scottish Parliament

Communities Committee

Wednesday 29 November 2006

[THE CONVENER *opened the meeting at 10:33*]

Subordinate Legislation

Building (Scotland) Amendment Regulations 2006 (SSI 2006/534)

The Convener (Karen Whitefield): I open the 32nd meeting in 2006 of the Communities Committee. I remind all those present that mobile phones and BlackBerrys should be turned off.

The first and only item on today's agenda is subordinate legislation. The committee will hear evidence from two panels of witnesses before considering the Building (Scotland) Amendment Regulations 2006 (SSI 2006/534). The regulations amend the Building (Scotland) Regulations 2004, which made provision in relation to the design, construction or demolition of a building; the provision of services, fittings or equipment in or in connection with a building; and the conversion of a building. The regulations that are before the committee provide for an update of standards and guidance, stemming from partnership agreement commitments on energy conservation levels and the implementation of European directive 2002/91/EC on the energy performance of buildings. Amendments are also required as a result of changes to domestic legislation that impacts on the building standards system—for example, the Disability Discrimination Act 1995. The Subordinate Legislation Committee had no comments to make in relation to the instrument.

I welcome our first panel of the morning. We are joined by Heather Fiskén, of the Disability Rights Commission; Michael Levack, of Scottish Building; and Scott Restrict, of Energy Action Scotland. Thank you for joining us this morning. We will proceed straight to questions.

How do you feel that your organisations engaged with the Executive in the consultation on the regulations? Were you able to influence the Executive in the process?

Michael Levack (Scottish Building): We were perfectly happy with the consultation process. We did not respond formally, but we were happy with the communication that we had.

Scott Restrict (Energy Action Scotland): The consultation was considerable, but we managed to cover most of the areas about which we had concerns. There were some areas in which we do

not have any policy area interest. That aside, there was a huge weight of stuff in the consultation, including some wide-sweeping changes, and we think that the process could have been aided.

Mention has been made of the low number of people who responded to the consultation, given the number of organisations that could have done so. Perhaps that is a reflection of the text of the consultation document, which was an issue for us. We feel that that requires to be tested. Also, a lot of people would have responded through trade bodies or organisations; therefore, one response may represent a considerable number of organisations. A more active approach to the consultation could perhaps have been taken, with workshops being held in particular areas. The knowledge that is required to give a response to a consultation document in this area is considerable. Energy Action Scotland was able to respond to the consultation, but we are aware that other organisations ducked out of it.

Heather Fiskén (Disability Rights Commission): Scott Restrict makes some interesting points. We have spoken to our stakeholders—disabled people and disabled organisations—who have told us that that kind of formal consultation is incredibly time consuming. Such organisations do not have the capacity to respond to a document of that size. However, those people are the ones who have the expertise on access.

It is crucial—not just for the consultation on building standards, but more widely—that the Executive and its agencies look for ways in which to marry up the expertise of disabled people and people who have the technical knowledge, such as the Scottish Building Standards Agency. Under the terms of the Disability Rights Commission, we have been involved in this since the original building legislation was touted. We have built up a good relationship with both the Executive department that preceded the Scottish Building Standards Agency and the agency itself, which has been helpful for us and, I hope, for them.

We responded to the consultation but, like disabled people, we are not technologists or architects; therefore, our response was quite broad brush. Nevertheless, we hope that it has managed to get across to the Scottish Building Standards Agency the importance of getting the regulations right. We were also pleased to be involved in the working party both before and after the consultation. I believe that we had considerable influence, in particular in retaining shorter distances between the point of access of a building and the start of the building area. In terms of sanitary accommodation, small, non-domestic premises—generally those with fewer than five employees—used not to have to provide a toilet

for disabled people. However, we believe that they will now have to do so, and we are pleased with that. We thought that we were able to influence the process and that we were listened to.

Dave Petrie (Highlands and Islands) (Con): Are you content that there is flexibility in the document to cover the varying weather and climatic conditions throughout Scotland? Obviously, no one would want a flat roof in a place such as Argyll.

Michael Levack: I do not have any specific concerns. However, I endorse what has just been said. The complexity of some of the technical issues in the consultation paper is reflected in the fact that we did not respond formally. Probably like the other organisations that are represented here, we are asked to participate in consultations on 101 different things at any time, and we cannot respond to them all—especially when they are as technically detailed as this one was.

In preparation for today's meeting, I attempted to speak to more of our members on the detail of the regulations, but I have no specific concerns to report on any of the technical requirements.

Scott Restrict: I am not entirely sure what you mean by climatic conditions.

Dave Petrie: I am based in the Highlands and Islands, and I know for a fact that no one would think of putting a flat roof on a building there. That may not be standard practice now, anyway. Obviously, weather conditions vary throughout Scotland, with more extreme rainfall in the north-west and warmer weather in the west than in the east. Does the document provide flexibility for variations in building standards in different areas of Scotland?

Scott Restrict: Do you mean from an architectural point of view?

Dave Petrie: Yes.

Scott Restrict: I do not think that we have any comment to make on that.

Dave Petrie: It was just an observation.

Scott Restrict: The calculations that I use in my methodology allow for flexibility. I do not know whether that answers your question.

The Convener: Do you want to continue with your line of questioning?

Dave Petrie: I will continue. My next question is specifically for Scottish Building. My initial impression, on reading the regulations, is that some fairly non-specific terms are used. Do you have any concerns about the introduction of the term "convenience" into building standards—for example, in the statement that room sizes should be designed to ensure the convenience of

occupants and visitors? How would you define convenience?

Michael Levack: The issue that we often have with building standards is the lack of consistency in the way in which the standards are applied. Words such as "convenience" are open to interpretation. The general feedback that we have received from our members is that there is usually sensible dialogue with building standards departments, although there are exceptional cases. It is necessary to proceed on the basis of trust in a reasonable approach being taken towards building standards. However, I am sure that we could all cite examples of buildings—perhaps including this building—where we question the convenience of use. For example, this morning I wanted to come to the committee room using the stairs, but I was not allowed to do so—I had to use the lift.

Dave Petrie: Do you see the door being opened to claim situations between contractors and clients when there has been a misunderstanding in the descriptions?

Michael Levack: In most cases, unless it is design and build, the builder will work to a contract and a specification. I therefore suggest that it is more for the designers and specifiers to clarify or design what they think will be convenient in a particular instance.

Tricia Marwick (Mid Scotland and Fife) (SNP): The present regulations say that room sizes should be such that they do not threaten the health of the occupants. We are now talking about ensuring the welfare and convenience of all occupants and visitors. Do you think that the change in wording will lower the standard that is required? Or do you think that the word "convenient" is more appropriate than the current wording about threatening the health of the occupants?

Michael Levack: No. I think that it might give designers and specifiers—architects—a problem in interpreting what would be convenient in a particular location or building.

Tricia Marwick: Do you think that the issue was more clear cut when the standards talked about threatening the health of the occupants rather than using the word "convenient"?

Michael Levack: Yes. There would have been less disagreement about what would or would not cause danger to health.

10:45

Dave Petrie: What impact will the new standards governing access to and within new buildings have on the cost and supply of new buildings?

Michael Levack: I do not think that they will have significant cost implications. Like most things, if they are captured in the design process, they can be incorporated fairly sensibly. Again, that comes down to what is reasonable and sensible in a particular case.

Dave Petrie: Do you have any concerns about bringing underpinning work within the building control system? Speaking as a former civil engineer, I thought that that was more of a civil engineering concept than a building concept.

Michael Levack: We have no major concerns about that, other than the need to ensure that appropriate resources are available to ensure that site inspections, which will clearly need to be carried out by local building standards officers, can be done in a way that will allow the work to proceed in a sensible manner.

Dave Petrie: Do you think that building control officers are sufficiently qualified to deal with things such as underpinning?

Michael Levack: They already cover a wide variety of topics in their job—

Dave Petrie: It just seems to add to the regulations—

Michael Levack: I do not think that that is a major problem. Looking at the range of knowledge that they have at the moment, you could say that there will have to be an education process to ensure that they are all au fait with the requirements for underpinning. However, I do not think that that will present any major problems, apart from the fact that it will be an imposition on an already fairly scarce resource.

Patrick Harvie (Glasgow) (Green): Will the certificates for energy performance for most new buildings result in the construction of more energy-efficient buildings? If so, why?

Michael Levack: The construction industry has a major role to play with regard to issues such as energy efficiency and sustainability. Obviously, we have regulations about the purchase of a new fridge or a new car and I think that it would be inconceivable for buildings to be left out of that. Whether the certificates result in more energy-efficient buildings being produced will come down to what clients demand and whether clients see that as an important factor.

Patrick Harvie: The committee has been given some evidence to suggest that compliance with even the existing energy standards is quite poor. Given that the Scottish Executive has decided not to go down the route that England has taken, which involves compulsory on-site testing, how can we be sure that the certificates will have any impact if we do not get compliance right?

Michael Levack: I know something about some of the issues that you are referring to with regard to current compliance. The evidence is a little bit anecdotal and I would suggest that such stories certainly grab the media headlines. As a trade body, we would be looking for client bodies or anyone else who has major concerns on that front to approach us and discuss how we can improve compliance on a building site rather than getting headlines in the press and so on.

Patrick Harvie: So it would be worth looking at that research.

Michael Levack: Yes.

Patrick Harvie: Are there any other issues beyond the energy concerns? The section on solid waste storage makes it clear that there must be access to remove that solid waste, but it says nothing about making buildings compatible with segregated recycling provision, for example. One of the reasons that some local authorities give for not providing that service is that the housing stock does not suit it. Would it not have been better to broaden out that section? Are there other aspects that you would like to change?

Michael Levack: I put out a bag and box this morning for my local authority to pick up, but whether one finds that convenient or inconvenient is a personal choice. We do not need further regulations at this point. We have to accept that a lot of learning still has to be done in order for society to operate in a more sustainable fashion.

We want to be careful that we do not overload the construction industry—client bodies in the public and private sectors, designers, contractors or specialist contractors—with new regulations and further initiatives. At the moment, trying to disseminate and understand all the information that we receive and pass it to our membership is difficult, even for us as a trained body. I do not think that further regulations need to be imposed at the moment.

John Home Robertson (East Lothian) (Lab): I invite Mr Levack to comment on the contradictions that can arise between the different objectives of different Government agencies. We are talking about building regulations, in which energy efficiency is rightly a high priority, but what happens when, for example, there are concerns about the appearance of buildings that are being renovated in a conservation area where regulations might rule out the use of available windows? I am sure that we have all had constituency cases about such conflicts—I had another one yesterday. Is there usually a way round that?

Michael Levack: There can be conflict when many agencies and departments want to promote best practice in sustainability. Even trying to define

what sustainability means to society and the construction industry is difficult. There are major conflicts, but most of the time building contractors work to a design and we seek guidance from the designer or a local authority.

There is a move towards more design and build projects, which involve the contractor in the design process. Equally, there has been a greater move in recent years towards taking on board the contractor at an early stage and getting them involved in what people refer to as buildability, so there would be contractor input at that point.

John Home Robertson: If the building control people are saying that you have to put in double or triple glazing and someone from the same authority says, "No, this a conservation area; you may not do that", how do you deal with that? Might it be helpful if there were a clear understanding of which regulations should take priority under those circumstances? Perhaps the regulations on energy efficiency should take priority.

Michael Levack: I am not trying to avoid the question, but in most cases the building contractor would be commissioned as the builder and he would build to a specification. Any conflicts such as those that you describe would generally require the design team, project manager or architect to liaise with the authorities. Equally, I have experience in my previous life not far from here doing a Communities Scotland-funded project, which contained many such conflicts. We managed to tackle them because we had an architect on the job who was extremely experienced in designing in a sustainable manner.

Christine Grahame (South of Scotland) (SNP): Good morning, Ms Fiskén. My questions will mostly be directed at you.

Will you tell the committee of the difficulties that you and others experience in accessing fairly new buildings, for instance in the communal areas of flats? Will the regulations improve the situation for anybody with disabilities and if so, in what way?

Heather Fiskén: To answer the first question, you would have to ask each individual. What might not work for me—intercoms or communications without a video link, for example—might work for someone who uses a wheelchair, so it very much depends on the individual. Every building has its problems. I do not think that the perfect building exists or ever will, because there is such a range of disabilities, including progressive disabilities.

Most people having a superficial look at building standards would probably say that the issues are mostly based on mobility impairments, but there are other aspects, such as communication support for deaf people through loop systems and flat treads to prevent trip hazards, which are important for people with visual impairments.

On the communal areas of flats, we believe that the regulations will have a positive impact. They contain a lot of commonsense provisions, because if there are no dwellings on the ground floor and no lift to the other floors, wheelchair access would not be a high priority. However, our concern is about how many times builders will decide that, to avoid making special adaptations or designing such access, they will construct a building that does not require them.

Most people whom we meet tend to aim for better practice and to have some awareness of the issues, but that is not always the case. We are conscious that some of the changes to building regulations will increase the size of a building's footprint. Land is one of the biggest costs, so that will put pressure on the building trade. However, disabled people have waited a long time to have access, and we are talking not just about buildings but what goes on inside. We are talking about disabled people having a home and someone not having to change their home if they become disabled or if their disability progresses to such an extent that their house is no longer acceptable. We are looking for the potential to adapt housing, and our aging population will have an impact, too.

We are not technologists. We cannot say what the impact will be on communal areas in flats, but we would like to emphasise that the disability and equality duty comes into effect on Monday. All public authorities, including the Scottish Building Standards Agency, will have a duty to monitor the effect of their policies on disabled people. We would like to see how the regulations will work in practice. We know that they are now laid in Parliament so we cannot change them, but we emphasise that it is important to keep monitoring their impact, to involve disabled people—that is another element of the disability and equality duty that the agency must adhere to—and then to look to improve the situation over time.

Christine Grahame: I understand perfectly that there is such a range of disabilities that one cannot cater for every individual requirement. However, to give an example, how well does the Parliament building, which was built not that long ago, comply with the new regulations? Are there access issues in this building that require to be addressed?

Heather Fiskén: I would love to answer that, but it would take weeks for a qualified person to do a proper access audit. However, off the top of my head, something that is probably not covered in building regulations is the fact that it is virtually impossible in this room to sight the lip-speaker because of all the accoutrements on the wall, the windows, the lighting and glare, and the fact that she cannot sit in front of me because of the table's design. We have to recognise that the building

regulations have limitations. We cannot regulate for the other aspects, such as the background in this room.

11:00

Christine Grahame: I was talking about access into the building rather than its interior. We have already had Mr Levack saying that he had to take a lift, although we have that system for security reasons. I am interested in the example that the building gives to other new buildings. There has been a thorough disability audit of the building, and I think that it passed well.

Heather Fiskén: I beg your pardon, but could you repeat the question?

Christine Grahame: We had a disabled access audit of this building—it is my understanding that it passed really well. If we are looking at the practical effect on access to new buildings, is this building a good template?

Heather Fiskén: I must reply honestly and say that I am not qualified to answer that, because I cannot speak for every disability. That is the only answer that I can give. If you have had an access audit done, I would say that that is evidence.

Tricia Marwick: For information, this evening at 6 o'clock, there is to be a meeting for people with multiple sclerosis, for which we are expecting 80 wheelchairs in the garden lobby. That will provide an opportunity to see how accessible the building is to disabled persons. That will be an interesting experience.

The Convener: That is very interesting, but we should keep to the matter that is before us, which is the regulations that we are considering.

Christine Grahame: I was trying to get an illustration of how they could be better.

Ms Fiskén has to an extent already dealt with the interior of buildings. In relation to internal design, the regulations talk about

“the welfare and convenience of all occupants and visitors”

rather than

“the health of the occupants.”

Dave Petrie referred to that issue. The regulations also require that at least a proportion of the rooms that are intended to be used as bedrooms in a residential building should be accessible to wheelchair users. You have already touched on that in talking about flexibility to adapt the interior of buildings. Will you comment on that?

Heather Fiskén: Sorry, but could I clarify whether you are talking about the size of bedrooms?

Christine Grahame: That is an issue on which you can comment. I am talking about the requirement that at least some of the rooms that are to be used as bedrooms should be accessible to those with disabilities. The most obvious case that leaps to mind is accessibility for people who are in a wheelchair, but that is not the only issue.

Heather Fiskén: I apologise. I have not looked at the building regulations, but at the guidance, which we have to hand. A couple of days ago, we spoke to some of the voluntary organisations and stakeholders. The Scottish Disability Equality Forum, which is the umbrella organisation for most of the access panels in Scotland, reported to us that it felt that, when furniture is included, there will still not be enough manoeuvrability. I suppose the issue boils down to the personal question of how much furniture people want in their bedroom. The working party discussed that issue and, if I recall correctly, the sense was that there would be a bed, a chest of drawers and a wardrobe. However, I have more furniture than that in my bedroom. Perhaps the issue boils down to minimum expectations. The guidance is supposed to set out the minimum that people will have to do to meet the building regulations, but we want to encourage people to go beyond that and get to good practice.

Mr Jamie Stone (Caithness, Sutherland and Easter Ross) (LD): In the 2006 regulations, there is a requirement that sanitary facilities that are provided in dwellings should be “convenient” to use for all occupants and visitors, in addition to the current requirement that they should not threaten the health and safety of occupants or visitors. I ask Heather Fiskén what will be the implications of that for disabled people.

Heather Fiskén: I am sorry; I am not following any of this. I beg your pardon, but this room is really difficult to lip-read in. Could you repeat the question for me?

Mr Stone: In the 2006 regulations, there is a requirement that sanitary facilities that are provided in dwellings be “convenient” to use for all occupants and visitors. Have you got that?

Heather Fiskén: I beg your pardon, but I understand that that is one of the questions that was given to us. Is that correct?

Mr Stone: I seek advice from the convener.

The Convener: The answer is yes.

Heather Fiskén: The amendment regulations move away from the visitability standard in the 2004 regulations. For example, a disabled person could visit a dwelling but get no further than the lobby, which would give rise the situation at Christmas time where somebody says, “Go and ask Uncle Peter if he wants another mince pie. He is under the coatstand in the hall.” That is not a

situation that we want to continue. We are all for health and safety, of course, but not convenience.

I looked up “convenient” in the dictionary before I came, because there is no glossary in the regulations. It is defined as

“fitting in well with a person’s needs, activities, and plans.”

That takes me back to my earlier comment that it is about what buildings are for. We are not so much concerned with how they are built or what they look like, but the purpose for which they are built, whether that is education, the supply of services or for somebody to live in.

Mr Stone: Will the regulations have any benefits for people who have disabilities other than mobility problems?

Heather Fiskien: Yes, absolutely. I would go so far as to say that everybody benefits from the regulations, not just people with disabilities, in the sense that they benefit people with young children, especially with prams, and elderly people. We have said from day one that the message is that design should be inclusive. As you say, that applies not only to people with mobility impairments. There are provisions on communication and hearing enhancement systems in the regulations. There are also provisions on protection barriers, which will be of assistance to people with visual impairments. However, as I said earlier, we would like those elements to go a bit further, although we recognise the regulations’ limitations.

Mr Stone: Would you have liked any other changes to be made to access-related building standards? If so, what are they? I ask in case there is anything about which you feel strongly.

Heather Fiskien: There are a few things. The introduction to each mandatory standard should refer people to British standard 8300 or perhaps to the Disability Discrimination Act 1995. It refers them to other standards, and we would like it to be clear. People dip into the big book of standards and might read the introduction to the one on which they are reading up, so we would like overarching statements to be made.

There is also advice in the standards about what is “reasonably practicable”. You might be familiar with the concept of reasonable adjustments under the disability discrimination legislation. We have had six years of people asking us what “reasonable” means. It is laid down in our code of practice and it is really important that it is defined in a positive way so that people say, “Okay, that can be done,” instead of discounting it on the basis of cost, time or the availability of land.

We would also like there to be more monitoring and research into the regulations’ impact on people other than those with mobility impairments

and their impact over time on people with any kind of disability, so that the Scottish Building Standards Agency can keep them under constant review. The crucial point is that we want several disabled people to be involved in that. On Monday, such monitoring will become law anyway, so we hope that the Scottish Building Standards Agency will pick up that mantle.

Finally, we would also like access statements to be enhanced. You have heard from my colleagues about the Planning etc (Scotland) Bill. Design and access statements are now part of the planning system. Obviously those statements are relevant not just at the planning stage, but throughout the lifetime of the building—when it is being managed, or when it is being evacuated during an emergency, for example. If possible we would like that to be highlighted.

Tricia Marwick: I have some questions for Scott Restrick of Energy Action Scotland. Will the requirement to produce an energy performance certificate for new buildings result in the construction of more energy-efficient buildings?

Scott Restrick: No. I will explain.

Tricia Marwick: Please do, and then I will ask Mr Levack to comment.

Scott Restrick: It is partly explained in the documentation that comes along with the building standards. The requirement to produce an energy performance certificate is simply so that there will be a report; it will not enforce any kind of action to make the energy performance of a building better. All that the certificate does is report on the condition of the building as it is. So the answer to Tricia Marwick’s question is no.

However, as Michael Levack indicated, market forces could come into play and it could be that in 10 years’ time getting an energy-efficient home will be much like getting a Jag—an energy efficient one of course.

Tricia Marwick: Do you mean a car?

Scott Restrick: Yes.

Tricia Marwick: I am sorry. I am into grandchildren at the moment and I thought “jag” meant immunisation.

Scott Restrick: I used the wrong example there.

Of itself, the energy performance certificate will not necessarily enforce better standards. The only thing that will do that is building standards.

Tricia Marwick: Would you like there to be compliance with energy standards as part of the building regulations?

Scott Restrick: I suppose that compliance is implicit within the building standards process. Testing for compliance with building standards is not really part of the energy performance certificate process. Compliance is, however, tested for the completion certificate.

Michael Levack: Scott Restrick is correct about that. As I said earlier, introducing an energy performance certificate is a good first step. I do not think that we are yet ready for any heavier regulation. We will have to see how the market reacts, whether it is the commercial market or domestic households. I do not know how many people look at the carbon dioxide emissions when they want to buy a Jaguar or a fridge. We can put the requirement in, but I am not sure how many people will actually refer to the information that is given.

Tricia Marwick: I was going to touch on that point with both witnesses. Do you have any evidence that, for example, tenants would choose to rent in a more energy-efficient building if there was a cost premium in the rental? Would people choose an energy-efficient home if the cost of it was greater?

Scott Restrick: Are you talking about private renting or social renting?

Tricia Marwick: Whatever.

Scott Restrick: There are some differences. For the social rented sector, things like housing allocation policies have to be taken into account. Perhaps the people who would be given the option of renting an energy-efficient home would have been assessed as appropriate for that house because they could afford to live there. However, there should be an education process that gives up-front information and an education process that tells people about the running costs of a property that are outwith the rental costs. That has as much influence on the affordability of a property as anything else does. Whether someone would choose to take a more energy-efficient home would come down to them being given the right information when they were given the choice. Such choice might not be particularly widespread within the social rented housing sector.

In the private rented sector, perhaps the amenity of a well-insulated flat with a condensing boiler, for example, would be implicit in the rental cost. Again, however, if the renter does not explain that to a potential tenant, the choice is irrelevant. If someone does not know about it, how can they choose it?

11:15

Tricia Marwick: Does Mr Levack want to comment?

Michael Levack: We have a lot of work to do with the construction industry, working with organisations such as Energy Action Scotland. The construction industry is not resisting the change that is required. We fully understand the requirement for change, but it must be implemented at a sensible pace so that it can be delivered and can tie in with market demands.

Cathie Craigie (Cumbernauld and Kilsyth) (Lab): I apologise for being late this morning.

I will come back to Scott Restrick on the questions that Tricia Marwick asked. Your short reply to her first question was no. You said that the requirement to produce an energy performance certificate was to provide a report, not to enforce standards. I would have hoped for more enthusiasm than that from Energy Action Scotland. We are all more energy conscious and buy white goods, for example, on the strength of their energy-efficiency ratings. Do you not see the situation being the same for housing in future? Michael Levack said that developers, building companies, architects and designers all have to get together.

Scott Restrick: The question was on new build, rather than refurbishment. What, in effect, drives energy efficiency in new build is building standards. If you are asking whether an energy performance certificate would mean better standards, you are asking whether the industry would exceed building standards. Evidence over the past 30 or 40 years suggests that buildings are built to keep out of jail, as the terminology goes; they are built to minimum standards.

Whether the energy performance certificate would encourage people to exceed the standards goes back to Michael Levack's point that the issue would be determined by market forces and whether it becomes a status symbol to have an energy-efficient home. Obviously, we cannot get away from the fact that over the past few months fuel prices have been rising. Not a day goes by when there is not an item on the news about rising fuel prices and how they impact on people's daily lives.

Would energy performance certificates create an environment in which it becomes desirable to have an energy-efficient home? At the moment, the answer to that question is no. The certificates will not do that. The scheme was not designed to do that; it was designed to report—as the European directive states—on the condition of the property. The European directive, which pushes what the legislation is in this country, does not suggest that the certificate should be aspirational. It does not suggest that that should be legislated for, that we should have a target based upon a minimum energy performance certificate and that all

buildings should be built to exceed that in some way, shape or fashion.

Cathie Craigie: My aims, opinions and views are probably similar to yours. However, I point out that there is nothing to force people to buy the most energy-efficient product when they make a choice about white goods such as washing machines, yet most people I know will do so when they replace their washing machine or whatever. It has taken us a wee while to get there. Are the certificates not moving us in the right direction, in that if builders and developers provide a product that is energy efficient the consumer would want to buy an energy-efficient home?

Scott Restrick: The analogy with white goods is often used, but there is a slight difference. As you rightly say, the white goods industry has taken a while to accommodate the A-rated and B-rated appliances. We hope that such an approach would be matched with new buildings, but in the white goods industry manufacturing costs and manufacturing practices have changed. The cost of producing an A-rated or B-rated appliance is now similar to what it would have been 10 years ago to produce a D-rated appliance. Things have changed in manufacturing, but practices in the construction industry have to change as well if there is to be the same step change in that sector.

Tricia Marwick: Can you explain what is meant by

“the safe, convenient and sustainable drying of washing”

in new homes? I confess that I struggle with that concept.

Scott Restrick: I would love to, but it is not really my area of expertise.

Tricia Marwick: Michael, can you explain what is meant by that?

Michael Levack: No, although I can point to an example of good practice. In countries such as Austria and Germany, such facilities are often provided in basements, often on a communal basis. However, a huge cultural change would be required in Scotland.

Tricia Marwick: The regulations state that all new homes should have

“an accessible space ... for the safe, convenient and sustainable drying of washing.”

I do not know what that means. Most people have kitchens for washing and perhaps a drying green outside. I do not know whether the regulations are referring to a utility room where people can hang up washing. I do not understand what that means and I hoped that you could help me.

Michael Levack: I do not think that it is clear.

Scott Restrick: The purpose is perhaps to get away from using tumble driers. I think that that is really what it is about. Scotland is not the driest place in the world, so on a number of days in the year people cannot dry their washing by putting it outside. The aim of the regulation might be to ensure that there is a facility in new buildings to encourage people to dry clothing indoors without causing a condensation problem.

Tricia Marwick: Is that practical?

Scott Restrick: It is practical, but it could be expensive, because an internal space would have to be set aside. It might be possible to use a basement area, as Michael Levack said, but that would increase the cost of the building.

Michael Levack: We should also bear in mind the lessons of the past. We now seal up buildings and we are moving towards energy efficiency and air tightness, but good ventilation is required in buildings to prevent condensation. Given fuel poverty, we have to balance the two. Otherwise, we end up with homes that individuals cannot afford to heat properly. There are problems if people dry washing internally but the building is not breathing naturally.

Tricia Marwick: Do you share my concern about that requirement?

Michael Levack: I share your concern about how it will be met in practice.

Tricia Marwick: Scott, do you agree?

Scott Restrick: Meeting that requirement would be a great thing. I will give you a figure. It costs about 30p to tumble dry a load of washing, so you can imagine the annual cost of doing that every day. Meeting the requirement would ensure sustainability because people would avoid using electricity and producing carbon dioxide.

The Convener: I do not want to ask Patrick Harvie to be so brief that he does not ask his questions, but I am conscious that the lip-speaker has not had a break and that she should have had one by now. I ask Patrick to keep his questions as brief as possible so that we can wind this session up.

Patrick Harvie: I will do my best, convener. I continue the questions to Scott Restrick. There is a new requirement on the storage of woody biomass fuel, which I guess just means wood. Will that have an impact on the uptake of domestic wood-fuelled boilers and heating systems?

Scott Restrick: The answer depends on how many new houses are built with wood-fired boilers. I have no idea about that. I do not know whether Michael Levack has a view.

Michael Levack: That gives me a convenient opportunity to comment on a point that Scott

Restrict made earlier. I take slight exception to the construction industry's being viewed in such a negative way. Many changes have occurred in the industry in the past 10 to 15 years and even in the past few years. We have some fine examples in Scotland of cases in which clients, together with designers and builders, are choosing not just to meet minimum standards but to provide buildings that exceed them. There are some excellent examples. It is all about continuing that change. We have a lot of work to do, but please let us not castigate the industry constantly in such a negative way. If we do not work together to make the improvement, we will not achieve it.

Patrick Harvie: Let us move on. My next question is for Scott Restrict. New regulation 17 requires regular inspection of air conditioning systems and the provision of energy-efficiency advice on their running. There are no standards for their energy efficiency; there is just the requirement for the provision of advice. Do you welcome that measure? Could it have gone further? Should it have applied to other systems, such as electrical lighting and so on?

Scott Restrict: I do not honestly believe that a country such as Scotland requires air conditioning. I think that it is bad design if that is needed. There are many examples of good building practice in which, although there may be the potential for summer overheating, there is no requirement for air conditioning because of the design of the building.

Advice is always welcome, however, and should be extended beyond air conditioning systems. Someone has to pass a test to drive a car but, as long as they have enough money, they can just pick up a key for a house. They do not have to understand how the house works. Twenty years ago, the National House-Building Council started to produce a householders' handbook, in which there was information about some of the services that people could expect to find in a house. After a few years, the handbook would get lost and subsequent owners of the house would not get the same information. The information could be beefed up, and we are more than happy to work with the industry in providing that kind of support and information. Advice is needed to tell people how to operate their house most effectively.

Patrick Harvie: I have one broad, final question for Scott Restrict, which I asked Mr Levack earlier. Would you have liked any other changes to the building standards? I talked about compliance earlier. We could also consider how we could impact on existing buildings, not just on new build, by saying, for example, that a proportion of any spend on extensions or improvements to existing buildings should be spent on the energy performance of the existing structure. We could do

that within the context of the Government's overall target for a 60 per cent cut in CO₂ emissions within a little over 40 years. With the best will in the world, ensuring an emissions saving of 20 per cent or so in new build—which, I understand, makes up about 1 per cent of the total housing stock per year—will not get us anywhere near that target. Do you agree that the Executive could achieve a great deal more if it chose to incorporate existing buildings into the building standards regulations?

Scott Restrict: I will try to keep my answer short. First, I will pick up on your point about the Government's commitment to a 60 per cent reduction in CO₂ emissions by 2050 and how the building standards system fits in with that. Some things that were intended to encourage the installation of low and zero-carbon technologies have been taken out of the regulations. That is not to say that the need to encourage that kind of measure has disappeared. We would like those things to be reinstated in some way. I am aware that there may be issues regarding the ability of the market to supply those technologies; however, where there is a will there is always a way. There is always someone who will be more than happy to supply technologies at the right rate. We are talking about 20,000 to 23,000 new homes a year. What would happen if the regulations required a solar panel for heating water on each roof? I am sure that the industry would be able to respond to that, especially as including such technology in new build at the design phase would reduce the cost considerably.

The other issue that I will pick up on is how we handle low-energy lighting in new build. I understand that the original reference to that has been removed from the regulations. There were to have been dedicated light fittings, but it is now argued that the light quality or whatnot of low-energy lighting is not necessarily that great. That is a challenge to the industry. Can the industry make the light quality of low-energy lighting better? Nonetheless, the idea that we need to reduce lighting energy use does not disappear. We can perhaps revisit that issue.

Patrick Harvie: So, in short, the regulations will not put an end to the building of gas-guzzlers in Scotland.

Scott Restrict: Insulation will stop gas being guzzled, but the use of electricity within properties needs to be addressed.

The Convener: That concludes the committee's questions for you. Thank you for your attendance. I suspend the meeting to allow the changeover of witnesses.

11:30

Meeting suspended.

11:37

On resuming—

The Convener: I welcome our second panel of witnesses. We are joined by Dr Paul Stollard, of the Scottish Building Standards Agency, and Len Murray, of the Scottish Association of Building Standards Managers. Thank you for joining us, gentlemen.

I will start off with a general question that follows on from Patrick Harvie's questioning of the previous panel. New regulation 17 requires the provision of energy efficiency advice to building users on the operation of air conditioning systems. Who will provide that information and what will be done to ensure compliance with any advice that is received?

Dr Paul Stollard (Scottish Building Standards Agency): That is a requirement of the energy performance of buildings directive, which we are introducing through the regulations. Compliance will be enforced by a continuing requirement to ensure the maintenance and inspection of air conditioning plant throughout the life of a building. We are developing a protocol with the Heating and Ventilating Contractors Association so that it can provide the advice and information. Its members will be able to undertake that work efficiently.

The Convener: Will you ensure that the advice is written in plain English and that householders will be able to understand it easily?

Dr Stollard: I do not think that the measure will apply to householders. It is about heating and ventilating plant in commercial and large buildings: we are talking about hospitals and shopping centres. We would not encourage householders to install air conditioning at all. The measure is about large plant, and there is a threshold cut-off, so it will not apply to small properties.

Scott Barrie (Dunfermline West) (Lab): My questions also lead on from the questions that Patrick Harvie asked the previous panel. Do you think that the requirement to provide energy performance certificates for most new buildings will lead to a general improvement in the energy efficiency standard of new buildings in Scotland?

Dr Stollard: I do not think that the certificates will do that for new buildings. The directive requires that a building's energy performance should be stated on a certificate, which the regulations will require to be attached to the building in such a way that it remains a permanent physical part of the building during future sale or rental. The value of the certificate will come not from the requirements for new build—new

buildings need to meet our standards anyway, so we know that they meet an acceptable level—but from the fact that they will be displayed on the property when it is put up for sale or rental. We hope that the energy performance certificates will become part of the house buying process.

Scott Barrie: The new regulations will require architects and builders to take account of the impact of new buildings on the stability of existing properties. Does that not happen at the moment? What effect will the new requirement have on building design and construction?

Dr Stollard: That almost certainly already happens. Most codes of practice and the British standards to which civil engineers and structural engineers work require such impacts to be taken into account. Therefore, the requirement is already part of the design process for most, if not all, structural engineering projects.

By including the requirement in the regulations, we are permitting verifiers—normally, the local authorities—to check matters at the design stage. If people did not already take into account the impact of new buildings on existing buildings, I would be very concerned. However, we have no reason to think that that does not happen except in exceptional cases. We wanted to give local authorities the power to check such matters. In England and Wales, local authorities have had such a power available to them for some time. The regulations simply fill a gap.

Christine Grahame: What resource implications, if any, will the regulations have for local authorities when they implement them?

Dr Stollard: The fees for warrants are set by statute under the building fees regulations. The fees are set as a percentage of the building cost and rise in proportion with construction costs. We keep the fees under review. However, the local authorities might have a different view.

Len Murray (Scottish Association of Building Standards Managers): There is no doubt that the placing of additional duties on local authorities has implications for resources. At the present time, the SABSM and a number of local authorities are involved in trying to provide training on the new regulations before they come into force in May 2007. If the new regulations have monetary implications for local authorities, each authority will need to handle those through the normal budgetary processes.

Christine Grahame: I should perhaps declare that I have a love-hate relationship with the City of Edinburgh Council's building control officers. I had a war about a ground-level ventilator, but we reached a compromise on the matter. I think that we could solve Iraq after that.

Do local authorities have enough building control officers to implement the new regulations? Have the views of the building control officers, who will police the regulations, been taken sufficiently into account?

Len Murray: We were certainly consulted on the new regulations, and some local authorities also responded to that consultation.

On the issue of resources, we have a number of vacancies for building standards officers in Scotland. Authorities have taken various initiatives to increase the number of officers available but, like the rest of the construction industry, we face pressures in filling vacancies. I know that my authority and a number of others have introduced trainee posts, although those will take some time to come to fruition. However, local authorities have handled changes before. We have just gone through the biggest change in building standards since 1959. I believe that local authorities have handled that well.

Christine Grahame: We have talked about building standards officers and building control officers. Are they different people or are they one and the same?

Len Murray: Having spent 28 or 29 years working in building control, I have taken some time to get used to calling it building standards. We are now known as building standards officers.

Christine Grahame: So my battles will now be with building standards officers. I just wanted to get the terminology right—I do not intend to have any battles in early course.

Dave Petrie: On the human resources issue, does the level of vacancies vary throughout Scotland? As a Highlands and Islands representative, I would like to know whether local authorities have difficulty in attracting people to work in more rural areas. Are there more vacancies up there than down here?

11:45

Len Murray: I am sorry, but I cannot speak for that area in any great detail. I know that there are a number of vacancies throughout Scotland. Most local authorities face pressures in trying to recruit construction professionals because of the volume of work that is being carried out by the construction industry.

Dave Petrie: So the issue is serious.

Len Murray: Yes.

John Home Robertson: Who will be responsible for the production of energy performance certificates?

Dr Stollard: The duty to produce the certificate will fall on the property owner, who will probably need to take advice and use someone who is competent to produce the certificate. In the construction process, the certificate will be produced by the builder or designer and will be handed to the verifier, who will check it at the end of the process. When houses are sold or rented, the certificate will become part of the single survey process that is currently being discussed and debated. We will combine the certificate with the survey so that only one obligation is placed on the seller.

John Home Robertson: Who will be the verifier?

Dr Stollard: The Scottish ministers have appointed each local authority as the verifier for its geographical area. The local authority will check that the certificate is true and valid.

John Home Robertson: That is my next question. How on earth can verifiers ensure that an individual building's certificate accurately represents the energy performance of that building? I understand that building control officers—or whatever they are now called—can look at a set of plans and specifications for the building that might, on paper, comply perfectly with the regulations and should produce a very energy-efficient house. However, building control officers do not have X-ray vision. They cannot see whether there are heat bridges in the cavity walls, whether gaps exist in the roof insulation or whether there are draughts and other problems and defects. How will building control officers ensure that a good design is actually built?

Dr Stollard: We have a two-stage process. First, the design must be approved before the builder can start building on site. Secondly, before the building can be occupied, a certificate must be submitted to the verifier to confirm that the building complies with the regulations. The verifier can choose to accept or reject that certificate. If the verifier rejects it, the building cannot be occupied.

To enable them to decide whether to accept or reject the certificate, verifiers can use any reasonable means of inquiry. Normally, that means site inspections. Depending on the scale of the job, the verifier might inspect a building throughout the construction process. Probably the largest number of complaints that I receive are from householders who feel that too much inspection is carried out by local authorities during the process.

We are concerned about the fact that, as the regulations become more complex, the inspection duties on local authorities will become greater. Therefore, especially on the issues of energy efficiency and disability, as properties are built

under the regulations, we will monitor the effectiveness of the regulations to ensure that the things that appear on plans are actually put on site.

John Home Robertson: You have made the point that householders—and, no doubt, builders—are not too happy about the burden of inspection. Another complaint that I often receive from constituents, perhaps because there is a lot of new build on my patch, is that they often find defects of one kind or another after they have moved into their new house and subsequent to the completion certificate and approval certificate being provided by the local authority. In many cases, people think that the local authority should be responsible for the defects because the local authority has signed off the certificate. How on earth can we ensure that the people who are responsible for any defects—the house builders—actually get things right?

Dr Stollard: The Building (Scotland) Act 2003 made it unambiguously clear that the duty lies on the owner of the property. Until the property is sold to the house buyer, in law the duty falls on the developer or house builder. One issue that the 2003 act tried to resolve was the tendency of some conveyancing solicitors to transfer property to the house buyer before the property had been fully signed off. We now require a completion certificate for every separate house. That should—I stress the word “should”—ensure that those issues do not arise. That is the first part of the process.

Secondly, when someone takes out a mortgage on a property, the Council of Mortgage Lenders requires a warranty system, through either the NHBC or another suitable route. That means that some financial comeback is available for the house purchaser should a defect occur. A lot of the defects that get mentioned are not to do with building standards. They can just be cosmetic, such as bathroom tiles not being put on straight or staining on the brickwork. If issues that affect building standards are identified afterwards, a building regulations enforcement notice can be served to put the matter right.

John Home Robertson: Do you mean put right by the person who has bought the house?

Dr Stollard: The notice can only ever be served on the owner. It is a form of civil redress. That is why we worked with the CML to ensure that there was some form of insurance system.

John Home Robertson: That is clearly a problem area.

Dr Stollard: I recognise that.

Tricia Marwick: You partly answered a question that I was going to ask about the point at which the

purchaser owns a building once it is built. Is there not an anomalous situation, with an increased tendency among people to buy off plan—that is, before a house is actually built? If people buy off plan, do they become the owners before the building is built? Does that not negate the developers' responsibility?

Dr Stollard: I am not a lawyer but, from our discussions on the matter and from the terms in which the Building (Scotland) Act 2003 was couched, I understand that someone who buys off plan has not legally bought the property; they have bought the right to buy it.

Christine Grahame: So they do not actually have it.

Dr Stollard: Yes.

Cathie Craigie: It will probably take me a wee while to get used to the term “building standards officers”, so I will stick with building control officers for the moment. I know that building control officers multitask. Unlike Christine Grahame, I have not had to lock horns with any before, but I know that the service that they provide to us is very much needed. How will building control officers be able to monitor compliance with the new and continuing air conditioning inspection requirement?

Len Murray: If I am at a bit of a loss in answering that, it is because continuing requirements are a new requirement under the 2003 act, and authorities will have to address the issue with protocols and procedures. Whether that will be done through the purchase of the property, I really have no idea. I apologise if I seem a bit reticent in answering that question. As authorities, we see the continuing requirement as being the vehicle for addressing the matter, but time will tell how that approach will impact on practice.

Cathie Craigie: Perhaps Paul Stollard could help. There is to be a requirement to inspect air conditioning systems at regular intervals. I do not know how building control officers will have the skills to do that. Will you need to have a new type of officer with the right skills?

Dr Stollard: The continuing requirement to inspect is imposed on the person who owns the property, not on the building standards officer. Their duty will simply be to check that the inspection has taken place. The obligation to do that will become part of the title to the property, so if the property is sold on, there will be an awareness of that duty.

In a sense, we, too, must wait and see how the system will work in practice, but I stress that the requirement relates to very large buildings that will normally have an inspection regime in place. The local authority will ask for confirmation that

inspection has taken place and, if there are any concerns, the authority will request the details of the inspection. We do not anticipate that individual building standards officers will go into the St James centre and inspect the air conditioning plant, for instance. That work is too specialised.

Cathie Craigie: That is the point that I was making—those responses have been very useful. I presume that the person who carries out the inspection and leaves a certificate or whatever must have some professional standing.

Dr Stollard: That is exactly why we are working with the Heating and Ventilating Contractors Association. We are working with the association to agree a protocol whereby its members will undertake additional training to make them aware of the law. That will allow us to recommend that trade association. We are not doing anything exclusive; there are other trade associations and if they came to us we would establish a protocol with them as well. We would then say that there was an open market and that different trade associations could be used. However, the HVCA is the lead trade association and we expect its members to do most of this work.

Cathie Craigie: I have another question—I hope that the answer will not be too long. How will the regulations improve the accessibility of buildings?

Len Murray: The regulations can only be good in that respect. The SABSM welcomes enhancements in access standards and other improvements for disabled people. Facilities for disabled people have come a long way over the past 20 years. I can remember having huge arguments with builders and developers when I was a building control officer and such issues were first being introduced. By and large, those arguments have now been won. Any improvements are welcome.

Dr Stollard: I will give the committee a couple of concrete examples. In the domestic sector, we introduced the idea of visitability under the most recent changes. In other words, people with mobility impairments or who were disabled in some other way had to be able to visit someone in their home. We are now suggesting what we call “livability”. New houses should be capable of being lived in longer even if people’s mobility or physical senses become weaker.

The most important changes are that we require, on the same level, a room large enough for someone to use as a bed-sitting-room even if they are in a wheelchair, a kitchen that is large enough for a person in a wheelchair to use and a room with sanitary facilities that does not have to be fitted with a shower initially but must have the plumbing so that a shower can be put in later.

It will depend on the configuration of the building—for example, it could be a mews house, a flat or a traditional two-storey house—whether those rooms are on the first floor or the ground floor, but they must be in proximity to one another. If there is movement between floors within the building, there must be space to fit a stairlift at a later stage. The approaches to the stairs must make that feasible.

In the non-domestic sector, as Heather Fiskien said, we have increased considerably the areas to which people with impaired mobility should be able to get to. In effect, they should be able to get to all parts of public buildings—not just part of a restaurant but all of it. Also, the requirements for the provision of sanitary facilities are significantly more advanced than before. Even the smallest premises must make provision.

We have also considered people with a hearing impairment or a visual impairment, to improve things for them; we are not considering only people with mobility impairments. As Heather Fiskien said, this is about inclusiveness: we want more buildings to be usable by more people.

Cathie Craigie: Heather Fiskien also highlighted the problems of people with a sensory impairment gaining access to buildings by using intercoms or other entry systems. Is there anything in the regulations to improve such access?

Dr Stollard: We have not gone so far as to require video entryphones. It would be nice if they were fitted, but for cost reasons we did not yet feel able to justify that for every new apartment block. However, audio entryphones are required.

Patrick Harvie: Dr Stollard mentioned the European directive and explained that several things had been included in the new building regulations because they had to be. How will the implementation of the new directive impact on Scotland? Is the Executive going further than the directive requires in some areas, or is it simply doing what has been imposed on it?

12:00

Dr Stollard: We were already doing many of the things that the directive required. We already set energy standards for buildings, had a methodology for doing that and had enforcement procedures. We were already compliant with most of the articles of the directive.

Three big issues have come in under the directive. The first is certification, which we have talked about. The second is to do with the maintenance of domestic boilers, which the directive enables to be addressed either through a system of inspection of domestic boilers or by the giving of advice. Perhaps not surprisingly, we have

opted for the latter option. In May this year, we began a programme of giving advice on boiler maintenance through as many vehicles as possible. The third issue relates to article 9 of the directive, which deals with air conditioning, which we have discussed. Those are the three aspects of the directive that have had the main impact and which we have had to take steps to address.

The directive is useful because rather than set standards that we must achieve, it raises awareness. We have promoted that awareness. Through the regulations, we are setting the highest levels of thermal insulation and energy efficiency for new buildings in the whole of the United Kingdom. The levels are commensurate with those in a country such as Finland, which has much colder winters than we do. We are setting energy performance standards that are significantly higher than they were five years ago. We reckon that there has been about a 40 per cent drop in CO₂ emissions from new buildings between the issuing of the 2002 amendment regulations and the 2007 amendment regulations.

Patrick Harvie: I want to press you a little further on reductions in CO₂ emissions. We have been told that the Executive hopes to achieve a saving of between 18 and 25 per cent on CO₂ emissions from domestic buildings. That is in the context of the target for cutting carbon emissions across the economy by 60 per cent by 2050, in meeting which it is expected that domestic property should play its part. New build accounts for about 1 per cent of the housing stock per year. By 2050, there will be some properties that will have been built way back in 2007 or 2008 that will have been making carbon emission savings throughout the whole period. There will be other properties—those that will have been built in 2048, 2049 or 2050—that will have made very little savings. The majority of the housing stock will be completely unaffected because it will not have been constructed in the period between now and 2050. We are looking for a ballpark reduction of between 20 and 25 per cent, but it seems to me that we will need to halve that figure because, on average, only half that period will be covered, given that some of the buildings will have been built more recently than others. The figure will need to be halved again because most property will not have been built during that period. In other words, we are talking about a reduction of about 5 per cent or so, if we are lucky.

Dr Stollard: The percentage that we gave related to individual buildings—it was not the percentage for the whole of Scotland.

Patrick Harvie: So across the housing stock, we might be looking at a reduction in CO₂ emissions of 4 or 5 per cent, if we are lucky.

Dr Stollard: You are quite right that the housing stock changes by only 1 per cent a year, which is a small percentage. I agree that the long-term issue is how we achieve improved energy efficiency in the existing stock.

Patrick Harvie: Do you agree that the Executive might have taken the opportunity of amending the regulations in response to the European directive to go further and to introduce some of the consequential improvements that I mentioned earlier? For example, it could have required that when money is spent on extensions to or redevelopment of existing buildings, some of that money should be spent on improving the energy performance of the existing structure.

Dr Stollard: The building regulations are about new buildings and new building work. Existing buildings are a different issue that requires a slightly different approach. We need to provide financial incentives to encourage people—especially owners of large properties—to make progress and I do not think that the building regulations are the correct vehicle for that.

We have a building regulation system that is lean and effective and which satisfies our concerns about the delivery of safe and increasingly accessible energy-efficient new buildings. You want to know how we should deal with the existing stock, which is not primarily an issue for these building regulations.

Patrick Harvie: We were told that zero-carbon and very low energy systems would be included in the regulations. Why were they not included?

Dr Stollard: We included a trade-off in early drafts when we were considering whether a property in which someone was prepared to install low or zero-carbon technologies could be allowed to have slightly lower thermal insulation properties, so the standards would be about as bad as those in England and Wales, rather than the higher standards.

We experienced quite good lobbying from groups such as Friends of the Earth, which said that such a trade-off would be unwise and that they were keen for us not to do it. We did not include that trade-off in the final guidance. That will not stop people installing such technologies, which we are keen for them to do, but the feeling of that group in particular was that we should not offer a trade-off to a lower thermal standard and that we should have the higher thermal standard for everyone.

Patrick Harvie: You may be right that Friends of the Earth was against the trade-off, but it is clear from its briefing that it was not against including measures on zero-carbon and low-carbon technologies.

Dr Stollard: We are keen to encourage low and zero-carbon technologies and we were keen to give incentives. The industry is still very small and we want it to grow. At the moment, half a dozen technologies—including solar panels, photovoltaics and ground and air-source heat pumps—are vying with one another. We would like to ensure not that one has a market advantage but that all have the opportunity to thrive and develop.

To include a requirement on that at this stage in building regulations was not really practical. However, as I am sure you are aware, we have discussed with colleagues who work in planning including a percentage requirement in planning. I believe that that is still out to consultation, or the consultation may just have finished.

Patrick Harvie: We are still waiting for that.

Do you agree that the regulations could have gone further on air-conditioning units? Could the requirement for regular monitoring and reporting have been applied to other systems, such as those for heating and lighting? If we think that we can improve—

Dr Stollard: The air-conditioning requirement concerns a particular issue with very expensive kit for very large buildings.

Patrick Harvie: Those very large buildings also use expensive kit for heating and lighting.

Dr Stollard: We take an holistic approach to calculating energy consumption in large buildings, which becomes part of the package. If someone were considering the air conditioning for the Parliament building, they should also consider the lights. This room probably has enough lights to heat it. That ought to be part of the package that is considered. In the regulations, we simply implemented the requirements of the directive without gold plating.

Patrick Harvie: Without gold plating—that seems clear.

If you disagree that the regulations could have gone further on all the issues that I have mentioned, I will ask one final question. Michael Levack agreed that it would be useful to know more about compliance. Does the Scottish Building Standards Agency have a research budget? Has it considered commissioning research on compliance, so that we have a more accurate picture and know whether compliance in Scotland is as bad as it is in England?

Dr Stollard: We have a limited research budget. We have said that we will consider not only how the energy standards work out in practice and how buildable they are, but issues that relate to disability, access and amenity, which we have discussed. We will certainly commission work on that.

Patrick Harvie: When might we hear about that?

Dr Stollard: As soon as buildings have been built under the regulations.

Dave Petrie: Does the Scottish Building Standards Agency or the Scottish Executive intend to take the requirement to produce energy performance certificates further by, for example, requiring them to be produced for existing homes that are the subject of refurbishment or significant building work?

Dr Stollard: We will require certificates to be produced on the sale or rent of a property. As I said, the sale requirement will form part of the single survey and the rental requirement will be adopted at about the same time. We will certainly implement that before January 2009, which is the last date for implementation under the European directive. We will comply with that.

Dave Petrie: So the measure will apply to existing properties.

Dr Stollard: Yes—what I described will apply to all existing domestic and non-domestic properties, which will include the Parliament building.

Dave Petrie: Does Len Murray wish to comment?

Len Murray: We welcome the requirement to provide an energy performance certificate. I picked up on the point that Scott Restrick made about the fact that when you buy a car costing £10,000, it must pass a series of tests and insurance must be provided, but you can buy a property at £100,000 and just pick the keys up. To my mind, there seems to be a contradiction in that.

A list of cost-effective improvements to the property will be listed on the performance certificate, and that will be of benefit. SABSM's view is that energy performance certificates are part of the long-term process of educating the general public about what goes on in buildings in terms of energy use, saving energy and so on.

Dave Petrie: What will be the practical effect of changes to building standards that govern access to and within buildings? Are there plans to do more work to improve standards in that area?

Dr Stollard: I have given a couple of examples of how the changes will change the nature of housing and non-domestic property. As I said, we have to watch the situation to see what happens. We did the last stage about five years ago, when we had the visitability standard, and we commissioned research to see how that went and what the costs for builders were. We are conscious that the costs of that standard hit disproportionately in respect of smaller houses. It is not difficult to meet that standard in building a

large five-bedroom house, but it can be quite onerous in building a two-person starter home. Our concern is to examine how the measures can be taken on board, particularly in respect of entry-level houses. We have already done some work with quantity surveyors to cost that, and we will carry on watching what happens. We have good dialogue with the Disability Rights Commission and other groups: we will maintain that and be responsive to what they suggest, but we have no immediate plans to improve the standards.

Dave Petrie: Elevators and fire escapes will obviously have a significant financial impact in relation to new-build flatted properties. What is your view on that?

Dr Stollard: We do not require lifts in the traditional walk-up blocks of two or three stories. I cannot see that changing because we do not want to drive that sector out of the market, although we will have to monitor that to see how we will maintain the standard.

The issue of fire escapes is interesting. We are now beginning to consider how, having permitted inclusive access for everybody, we can also ensure that there is inclusive escape. As part of the tranche of work that we will do next year, we will consider whether to amend our means-of-escape regulations to take account of the differing abilities of people in buildings.

John Home Robertson: I understand that there is a moratorium on changes to the building regulations following the Building (Scotland) Act 2003, while the 2004 regulations are bedding in. Does the Scottish Building Standards Agency intend to resume regular updating of building regulations and standards, as was the case before the passing of the 2003 act?

Dr Stollard: Yes. After the big procedural change with the 2003 act, the deal that the minister agreed with the industry was that, between 2002 and 2007, there would be stability on the technical side. We have managed to keep to that, which is why there is now such a large block of regulations being presented to Parliament for implementation in 2007. The agency's corporate plan sets out the three main topics that we wish to address next; we anticipate that they will come into force in about 2009. That may sound like a terribly long time, but we always give the industry six months to plan for changes, which is why we will publish the two handbooks as soon as Parliament agrees to that. There must also—in Europe—be three months' public consultation, so it takes us about two years to go through the full discussion. I am happy to say what the three main areas are, if that is of interest to the committee.

John Home Robertson: Briefly, yes.

Dr Stollard: First, there is sustainability. It encompasses a wide range of issues, from whether primary schools should have sprinkler systems to stop them being burned down, to water usage and space standards. Secondly, there is means of escape, which we have just talked about. Thirdly, there is noise. There is a lot of concern about noise in flatted developments, including the problems that are caused to neighbours by laminate floors, by lifts going up and down and so on, so that is another area that we are considering.

12:15

John Home Robertson: Constituency MSPs would welcome attention being paid to that issue; it cannot come soon enough. The changes are, no doubt, something to look forward to for the industry—or perhaps not.

I think you said that you expect updates every two or three years. Is that the timescale that you have in mind?

Dr Stollard: We made an agreement with the industry that we would, in order to provide absolute consistency, make changes on 1 May every year. It looks as if there will be updates every second year. The procedural changes were made in 2005, so we expect more changes in 2007 and 2009.

John Home Robertson: Are there in the pipeline any other building-related European directives of which the committee ought to be aware?

Dr Stollard: There are lots. I do not know how detailed you want my answer to be. The two big ones are the construction products directive, which provides that we must not erect barriers to trade in construction products—we will have to be careful about using particular materials—and the energy performance of buildings directive, which is, as we have discussed, likely to be revised. I am happy to provide the committee with the whole list of directives on particular products, such as low-voltage electromagnetic capability, passenger lifts and F-gas, but they are fairly technical.

John Home Robertson: It would be helpful if you could provide us with that information in writing.

Dr Stollard: We will write to the committee with that list.

John Home Robertson: I hope that the list is not too long.

We had interesting discussions about building materials for the Parliament building. We were particularly anxious to have Scottish granite cladding the building, but were told that there had

to be fair competition. Luckily, we ended up with the Scottish granite, so we were all right.

Tricia Marwick: I am glad that Dr Stollard mentioned noise because I intend to ask him about it. As he said, it is a huge problem. You said that work was being done on noise. When can we expect to see results?

Dr Stollard: We expect to have measures in force in 2009. We have to develop additional specifications for how to design walls and floors to provide sufficient noise reduction, which is not simple. We have to resolve the difficult issue of how far we control what people put in their flats in the way of laminate floors.

John Home Robertson: And sound systems.

Tricia Marwick: On the size of rooms, you said that every apartment will ensure the welfare and convenience of all occupants and visitors. There have been a lot of complaints, although perhaps more in England than in Scotland, about the size of rooms that are being built. Do you envisage any minimum standard for individual rooms within houses or apartments?

Dr Stollard: We have very simplistic and basic guidance on minimum standards, along the lines that it must be possible to fit two or three normal pieces of furniture in a room. On the liveability standard, we are now saying that one apartment at least must be big enough to have a reasonable range of furniture in it and that a person in a wheelchair must be able to go into it and move around. That is what we call an enhanced apartment, which is bigger. It is still not enormous, but at least it is guaranteed that a person who uses a wheelchair can live in it. We have no plans at this stage to go further than that.

Sustainability, which includes people's ability to stay in their homes, is a big issue for us. We might consider space standards, which were part of our regulations until about 1990, when a previous Administration removed them. There has been lobbying from people who say that we should put them back in, which might be worth considering.

Tricia Marwick: I am lobbying you for that because it is important that we set down minimum standards for the amount of space that people have in their homes.

Dr Stollard: People often mention storage, which we will consider. One of your colleagues talked about the need to provide segregated storage to permit recycling, which we will certainly consider. Another issue is the provision of enough storage in the kitchen to allow people to separate their solid waste, rather than have soggy bags outside in the garden.

Tricia Marwick: Can I wash up, as we say, on a final point that I raised with our previous witnesses

about the reference in the regulations to

"an accessible space ... provided to allow for the safe, convenient and sustainable drying of washing"?

Can you explain to me simply what that means and what the practical effects of that will be in new-build housing?

Dr Stollard: There is a page on that in the guidance, which I will happily give you. Basically, it means that a property will have to contain a space where it is possible to dry washing without a tumble dryer. We want to permit drying of washing to be done in a low-energy way. That designated space could be over the bath or it could be a wall-mounted unit, but a property will have to have a designated space. Most important, it will have to be a space that can be ventilated. The key problem has been how such spaces could be ventilated. The space may just be a fitment over the bath, but there must be adequate ventilation to cope with it.

Tricia Marwick: That was the point that I was coming to next. Paragraph 3.15 of schedule 5 to the regulations talks about condensation. Is there a conflict between the need for

"safe, convenient and sustainable drying of washing"

and the need to ensure that condensation is not a threat to occupants' health.

Dr Stollard: The drying space must have adequate ventilation and must not cause condensation.

Tricia Marwick: We are not necessarily talking about a separate room for drying.

Dr Stollard: It could be a separate room, but it is very unlikely that people would wish to use a separate room.

Tricia Marwick: I remember pulleys in kitchens. I am not terribly happy about going back to those.

John Home Robertson: What was wrong with them?

Tricia Marwick: I hated them.

Patrick Harvie: I have a quick supplementary question on solid waste and segregation for recycling. I am puzzled by what Dr Stollard said. It is intended to provide space for that, but it is not being done in the amendments to the building regulations. Local authorities are currently designing their recycling services and are saying—certainly in Glasgow—that we cannot have proper door-to-door collection because of the building stock. Why cannot we just crack on and include in the regulations provisos that would enable such collections?

Dr Stollard: It is a question of how many square metres are needed to install such a facility, where

it should be sited and its cost. Each square metre of house is quite expensive. It is a question of finding the space, costing that in and seeing what the regulatory impact assessment says about it. We have already added about 2.5m² to the starter home to allow for disability access. The cost of adding space for recycling might be another £5,000 for 2m². The issue is how to balance the cost, although it is an issue that we want to take on board.

Patrick Harvie: You just do not want to take it on board yet.

Dr Stollard: Not quite yet.

Dave Petrie: Certain councils, including the City of Edinburgh Council, seem to have an aversion to allowing external drying areas. What is your experience of that with regard to the building regulations? Do you allocate certain areas in housing developments for external drying, or are there problems with the councils?

Dr Stollard: We tend not to cover external spaces. That would be an issue for planning rather than building.

Dave Petrie: In your experience of planners, is there a problem with planning authorities not allowing external drying areas?

Dr Stollard: I could not comment on that with any competence.

The Convener: That concludes the committee's questions to you. Thank you very much for your attendance. I suspend the meeting briefly to allow our witnesses to leave.

12:23

Meeting suspended.

12:24

On resuming—

The Convener: Following the evidence that we have heard, do members have any comments to make on the Building (Scotland) Amendment Regulations 2006 (SSI 2006/534)? I remind members to have regard to the distinction between whether we want to agree to the regulations and any desire that we might have to see them go further. We can consider whether to write to the minister or to Dr Stollard about things we think the Executive should be doing.

Patrick Harvie: Some of the witnesses said that they had been fully involved in the process, but I am concerned that they are still slightly confused about what some of the terms will mean in practice. I am thinking particularly about terms such as "convenience" and what is meant by a "sustainable" drying space. I am concerned that

people who have been involved in the process are still slightly unclear about what some of the wording in the regulations means.

I am keen for us to express, in some way, my concern about the number of missed opportunities. Dr Stollard described the document as not being gold plated—that is about as generous as one could be about it. There are many aspects on which existing Executive and UK Government policies should be informing the regulations and resulting in a much stronger document.

Tricia Marwick: I support what Patrick Harvie said, although the regulations are better than what we have at the moment.

Dr Stollard gave us several commitments on noise and timescales. It would be useful for the committee to write to Dr Stollard, asking him to put down in writing exactly when we are going to get those things.

I am concerned about what some of the witnesses told us. I got the impression that Helen Fiskien was not speaking on behalf of anybody but herself. I feel that there is a lack of knowledge, especially among the first panel of witnesses, concerning what the regulations mean. I therefore wonder how useful was the evidence from the first panel. They said that they have not read the regulations, that they do not have expertise and that they had taken a broad-brush approach. Is that enough for us?

Cathie Craigie: I am happy to support the regulations, which go a long way. As one of the witnesses said, and as Patrick Harvie has highlighted, the regulations are not gold plated, although we should remember that they are the first amendment to building regulations for 50 years. We have come a long way and we cannot change things overnight. I am happy that we are going in the right direction and I want the regulations to be approved as soon as possible so that they can be sent to all those who have an interest in the matter, to ensure that they are more knowledgeable about what will be required of them when the regulations take effect.

I would like us to write to the minister again, highlighting some of the directions in which we want to go in the future, should there be further changes to the regulations. Space and the size of rooms is an issue. Noise insulation will be better and many people whom I represent will benefit from the new regulations when they buy properties in the future.

On energy efficiency, when we considered the regulations before, I had hoped that there would be something similar to what happens in respect of white goods in that we would see houses being rated for energy efficiency. I know that some will

be, but the regulations do not go as far as we wanted them to go. I would like to place a marker down with the minister that that is a matter to which we will want to return.

12:30

John Home Robertson: I hear what Patrick Harvie and Tricia Marwick are saying about the case for going further on some areas, but the options that are open to this committee are to support or reject the regulations. If we were to fling them out, not only would we lose them, we would have to start all over again consulting on something completely different, which none of us wants to do.

Tricia Marwick: I am sorry if I did not make myself clear. I am not—

John Home Robertson: There may in due course be a case for examining further the issues of sound insulation, better energy efficiency and so on. However, having got to where we are now, I strongly believe that the committee should endorse the regulations, which will improve building standards for new buildings in Scotland.

The Convener: There has been no motion to annul, so they cannot be annulled.

Patrick Harvie: I am not proposing that we should fling them out.

If we are able to report to Parliament on the matter, we could say that if this is a tentative first step, step 2 is looking pretty urgent. We could also say that we hope that the Executive is currently undertaking work on some of the issues that witnesses, including Dr Stollard, told us are in the pipeline, such as recycling of solid waste and consequential improvements that, while they cannot be made through the current amendments, could be made through some other mechanism.

Various issues that are not addressed in the document that is before us need urgently to be addressed if we are to meet the Executive's own policies on CO₂ reductions.

Tricia Marwick: I never meant that we should in our report suggest that the regulations not be accepted: they should be. However, Cathie Craigie's suggestion that we write to the minister to set out the areas in which we hope further improvements will be made and more work be done is sensible. I am happy to support that.

Dave Petrie: I agree with the general consensus, which is that the regulations should be accepted. However, I am intrigued by the fact that Dr Stollard would like a lot of things to be implemented in the near future and would encourage the minister to do something along the lines that he suggested. Finally, use of words such

as "convenience" in legislation leaves matters totally open because they are not specific.

John Home Robertson: I think we have consensus. However, an interesting point about education arose from our discussion today and I would like it to be flagged up in writing to the minister. When I was at school, we learned how to fix a fuse or a dodgy ball valve and things like that. It was part of the basic physics curriculum.

Tricia Marwick: My husband must have missed those lessons.

John Home Robertson: Those things are not being taught now. People are buying expensive houses that have a lot of complicated equipment that they do not know how to work. The need for basic knowledge about such things could usefully be brought to the attention of the Minister for Education and Young People.

The Convener: Patrick Harvie suggested that his concerns be reflected in the report to Parliament. Does the committee agree to that or should we write to the minister to make those points and simply recommend the regulations to Parliament?

Tricia Marwick: Can we say, in the report to Parliament, that the committee is satisfied with the regulations but that we consider that ministers need to examine how to progress them and that we have concerns about X, Y and Z?

The Convener: Would you be content with that, Patrick?

Patrick Harvie: Would Parliament see that form of words in the report?

The Convener: Yes.

Patrick Harvie: In that case, I am content with that.

The Convener: Do members agree to frame our report in those terms, to write to the minister with our concerns and to copy that letter to Dr Stollard for his information?

Members indicated agreement.

The Convener: Is the committee content with the regulations?

Members: Yes.

The Convener: Therefore, the committee will not make any recommendations in its report to Parliament. However, the concerns that were expressed in our discussion will be reflected in our report.

Patrick Harvie: When is it expected that that report will come to Parliament in the chamber?

The Convener: It will not come to the chamber, but will simply be laid before Parliament.

I ask members to agree that we report to Parliament on our decision on the regulations. Are we agreed?

Members *indicated agreement.*

Meeting closed at 12:35.

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

No proofs of the *Official Report* can be supplied. Members who want to suggest corrections for the archive edition should mark them clearly in the daily edition, and send it to the Official Report, Scottish Parliament, Edinburgh EH99 1SP. Suggested corrections in any other form cannot be accepted.

The deadline for corrections to this edition is:

Tuesday 12 December 2006

PRICES AND SUBSCRIPTION RATES

OFFICIAL REPORT daily editions

Single copies: £5.00

Meetings of the Parliament annual subscriptions: £350.00

The archive edition of the *Official Report* of meetings of the Parliament, written answers and public meetings of committees will be published on CD-ROM.

WRITTEN ANSWERS TO PARLIAMENTARY QUESTIONS weekly compilation

Single copies: £3.75

Annual subscriptions: £150.00

Standing orders will be accepted at Document Supply.

Published in Edinburgh by Astron and available from:

Blackwell's Bookshop

**53 South Bridge
Edinburgh EH1 1YS
0131 622 8222**

Blackwell's Bookshops:
243-244 High Holborn
London WC1 7DZ
Tel 020 7831 9501

All trade orders for Scottish Parliament documents should be placed through Blackwell's Edinburgh.

Blackwell's Scottish Parliament Documentation
Helpline may be able to assist with additional information on publications of or about the Scottish Parliament, their availability and cost:

Telephone orders and inquiries
0131 622 8283 or
0131 622 8258

Fax orders
0131 557 8149

E-mail orders
business.edinburgh@blackwell.co.uk

Subscriptions & Standing Orders
business.edinburgh@blackwell.co.uk

Scottish Parliament

RNID Typetalk calls welcome on
18001 0131 348 5000
Textphone 0845 270 0152

sp.info@scottish.parliament.uk

All documents are available on the Scottish Parliament website at:

www.scottish.parliament.uk

Accredited Agents
(see Yellow Pages)

and through good booksellers