

SOCIAL INCLUSION, HOUSING AND VOLUNTARY SECTOR COMMITTEE

Wednesday 13 September 2000
(*Morning*)

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SOCIAL INCLUSION, HOUSING AND VOLUNTARY SECTOR COMMITTEE 28th Meeting 2000, Session 1

CONVENER

*Ms Margaret Curran (Glasgow Baillieston) (Lab)

DEPUTY CONVENER

*Fiona Hyslop (Lothians) (SNP)

COMMITTEE MEMBERS

*Bill Aitken (Glasgow) (Con)

*Robert Brown (Glasgow) (LD)

*Cathie Craigie (Cumbernauld and Kilsyth) (Lab)

*Mr John McAllion (Dundee East) (Lab)

*Alex Neil (Central Scotland) (SNP)

*Mr Lloyd Quinan (West of Scotland) (SNP)

*Mr Keith Raffan (Mid Scotland and Fife) (LD)

*Mike Watson (Glasgow Cathcart) (Lab)

*Karen Whitefield (Airdrie and Shotts) (Lab)

*attended

WITNESSES

Robert Aldridge (Scottish Council for Single Homeless)

Lorna Clark (Shelter Scotland)

Alice Ann Jackson (Scottish Council for Single Homeless)

Liz Nicholson (Shelter Scotland)

CLERK TO THE COMMITTEE

Lee Bridges

SENIOR ASSISTANT CLERK

Mary Dinsdale

ASSISTANT CLERK

Rodger Evans

LOCATION

Committee Room 2

Scottish Parliament

Social Inclusion, Housing and Voluntary Sector Committee

Wednesday 13 September 2000

(Morning)

[THE CONVENER *opened the meeting at 10:02*]

The Convener (Ms Margaret Curran): Are members agreed that we should take item 3 of this meeting and items on questions for witnesses and the draft report on drug misuse and deprived areas at our next meeting in private?

Members *indicated agreement.*

10:03

Meeting continued in private.

10:18

Meeting continued in public.

Housing Bills

The Convener: I invite the witnesses to take their places. Before we start, I believe that Robert Brown has a declaration of interest to make.

Robert Brown (Glasgow) (LD): I would like to note my membership of the Law Society of Scotland and my consultancy with Ross Harper & Murphy. I do not think that in this context that constitutes an interest, but for reasons of transparency I will state it, just in case.

The Convener: These days we all cover our backs.

I thank the witnesses for appearing before the committee today. We are very much looking forward to hearing your evidence and are grateful for your written submissions.

Before I invite you to make your opening statements, I will clarify how we intend to proceed. We have formally reached stage 1 in the consideration of the two members' bills that are before us—the Family Homes and Homelessness (Scotland) Bill and the Mortgage Rights (Scotland) Bill—and our questions will reflect that. We will report on those bills at the beginning of November. The committee asked me to secure from the Parliamentary Bureau an extension of the timetable for consideration of the two bills and I have to some extent succeeded in doing that, as we have secured another couple of weeks.

Although we will take evidence—such as that submitted in your papers—on the Executive housing consultation document, that is not a substitute for the formal stage 1 process on which we will embark when the housing bill is published. We look forward to a robust and, I hope, lengthy stage 1 process in which we debate the strategic principles of the bill.

Today, we will use your expertise to begin to think through some of the issues. We welcome your comments. We have not detailed the list of organisations that we will hear from formally at stage 1, but I am sure that we will engage with you on a number of occasions to obtain your views, so please do not feel that you have to say everything today. We are clear that we will not be able to ask you everything that we want to ask you today, so we will return to the issues when we come to stage 1 of the housing bill.

Thank you for your documents, which were extremely useful. You have been here before, so I think that you know the set-up. We ask a representative of each of the organisations to make a formal presentation of no longer than five minutes. We will then have a series of fairly focused questions, as we are at stage 1 of the members' bills. I ask you to introduce yourselves and the staff that you have with you. Who is going to go first?

Liz Nicholson (Shelter Scotland): My name is Liz Nicholson. I am from Shelter Scotland. My colleague is Lorna Clark, who is Shelter Scotland's campaigns manager. Thank you very much for inviting us to give evidence. I know that I am restricted to five minutes, so I will talk very briefly about the two bills and the consultation paper and draw out some of the points. I am sure that we will cover other issues in questions.

We very much welcome Cathie Craigie's bill, the Mortgage Rights (Scotland) Bill—we discussed its contents with her early on. We welcome in particular the increased protection for home owners. There is little in the consultation paper about owner occupation and there is nothing on sustainable or flexible home ownership, so the bill is a welcome addition to legislation. The bill gives home owners the same protection that they have in England, giving sheriffs the power to suspend possession orders.

We had discussions early on about Robert Brown's bill, too. Some of the proposals in the consultation paper of the homelessness task force cover many of the areas covered by the Family Homes and Homelessness (Scotland) Bill. The two areas that it does not cover, which we would like included in legislation, are the definition of what a sheriff should consider as reasonable before proceeding with an order for eviction and the right to appeal a homelessness decision to the

sheriff court. Shelter proposed that to the homelessness task force, but the task force did not accept it and it is not included in the consultation paper.

The consultation paper contains many issues about which I would like to talk, so I will summarise. We welcome the single social tenancy—a single package of rights—but we are disappointed by the inclusion in the consultation paper of two extra grounds for eviction of tenants. Those grounds are persistent arrears and grounds under heritable security.

We are opposed to any extension of the right to buy that restricts people's access to social rented housing. I am sure that members will want to go into that in more depth. Our major concerns are around the proposals for a short version of the single social tenancy, which is confusing; we would not like to see it in the legislation. I will cover that in more depth in questions.

We were not successful in all our proposals to the homelessness task force, but we welcome the fact that much of what Shelter put forward is included in proposals. However, we should be aware that the proposals are very broad and that we will have to rely a lot on secondary legislation and guidance. At the moment, we have a good code of guidance, but practice varies considerably across Scotland. When the housing bill is passed, we will have to identify where secondary legislation is needed and where there will need to be clear, strong guidance for the proposals to be effective.

Another question concerns resources. Considerable resources will be required if local authorities are to meet their duties to provide temporary accommodation for non-priority need cases.

We have concerns about the stock transfers and the protection of homeless people where a local authority has transferred its stock. We would like clear, strong guidance on that and monitoring by the regulator to ensure that registered social landlords meet their duties under the new legislation.

Finally, there are the gaps in the bill—there is nothing on fuel poverty or the private rented sector. If the bill is aimed only at the social rented sector, that is fine, but we need to ensure that there is a commitment to address the problems of fuel poverty and housing conditions in Scotland as a whole. The access of all tenants in the social rented sector to the same rights and security must be extended to the private rented sector, which includes the worst housing conditions and where tenants have fewer rights.

The Convener: Thank you. That was a punchy five minutes. We will explore a lot of those issues

in our questioning.

Robert Aldridge (Scottish Council for Single Homeless): I am Robert Aldridge, the director of the Scottish Council for Single Homeless. Next to me is Alice Ann Jackson, the convener of the organisation. I was going to cover much of what Liz Nicholson has said, so I shall say what I endorse before giving other details.

We endorse the aim of Cathie Craigie's bill. Elements of Robert Brown's bill have the same aim of giving greater protection from repossession to mortgage holders, which we also endorse. I hope that some means can be found to reach that outcome.

We support the provision in Robert Brown's bill for a direct right of appeal on homelessness decisions and the description of some criteria that sheriffs will have to take into account in determining reasonableness. We welcome especially the criterion for considering whether a household will become homeless, and the access to financial advice. We have not fully consulted our members on the proposals for a housing court, so we do not have a clear view on that yet.

We welcome the introduction of the first substantive housing bill in Scotland since 1988. We have several concerns, nevertheless. We welcome the fact that the single social tenancy will be based around the secured tenancy; we asked for that in our original response to the Government's green paper. However, like Shelter, we have concerns about the new grounds for repossession that are to be included within that, according to the Executive consultation paper. Those grounds are both unnecessary and unhelpful.

We have some concerns about the introduction of a 12-month qualifying period before people who have given up accommodation to look after a carer can succeed to a tenancy. It is our view that the length of time that someone has spent in a tenancy is less important than the fact that they have given up secure accommodation to care for that person. I hope that that issue will be addressed.

We would like to ensure that the rights of cohabitees are the same as those of married couples and that the definition of cohabitees includes same-sex couples.

We are concerned about the short tenancy, under which three different kinds of tenancy are proposed. One is related to current exemptions from the secured tenancy, which will improve the rights of people in those circumstances. However, in those cases, support would not need to be a condition of having the tenancy. In the other two cases, we endorse the idea that some element of support should be a condition of holding the

tenancy.

We feel that probationary tenancies—the first category—should not be perpetually renewable. Somebody cannot be on probation all their life. Some of the original proposals for probationary tenancies suggested that they should be for a fixed period, after which the tenancy should automatically convert to a full tenancy or be ended. We think that that is the correct way forward.

10:30

The third type of tenancy is described as a transferable tenancy. We believe that support would need to be a condition for the existence of such tenancies and that they should be renewable for people who are not yet ready to move on to a permanent tenancy. However, that cannot go on in perpetuity, so there must be some time limit.

I am sure that there will be lots of questions about the right to buy. We have always believed that the right to buy should be allowed to wither on the vine. Those who have the right to buy should continue to have it, but new tenants should not have it.

We endorse what Liz Nicholson said about homelessness. Although the proposals to increase the package of rights to all homeless people are extremely welcome, we must ensure that the quality and location of temporary accommodation are considered in guidance. We must not move backwards to the poor standards of old-style hostels and increased use of bed and breakfast, but that will require resources.

Priority need categories should be extended along the lines proposed in the English green paper and the National Assembly for Wales's current consultation document. We endorse the view that an awful lot depends on practice on the ground rather than simply on legislation.

The Convener: Thank you for that contribution. We do not explore matters in depth as much as we would like to, but we will return to you on some issues and particularly on the consultation document, "Better Homes for Scotland's Communities".

Let me begin with a fairly broad question. One of the good things about the first year of the Scottish Parliament has been that we have talked a lot about homelessness. It has been a big policy issue and there has been a public debate about it. I sense that there is real energy to get moving and solve the problems, but then I hear statistics and radio reports that tell me that homelessness levels have gone up. There has been a 6 per cent rise in homelessness applications. Why is that and what needs to be done?

Liz Nicholson: We do not think that the proposed legislation on homelessness will solve the problem in any way. Prior to the establishment of the homelessness task force, we called for a review of homelessness because of the escalating statistics—applications to local authorities are now at the highest level ever. We hoped that such a review would, in some cases, prevent homelessness from occurring and would fix fairly quickly what we knew had to be fixed. We had a fairly short time scale in which to make proposals for legislation.

We knew that there were various areas in which legislation could deal with problems. For example, it could ensure that people in priority need had a right to permanent housing. That right had previously been removed by a House of Lords decision. To stop the numbers increasing and to reduce the current level of applications, a lot more work must be done to find out about the pathways into homelessness and the outcomes of the homelessness process.

Many of the reasons for the rise in homelessness are outwith the control of any local authority housing department. Often it is due to structural or economic factors. Nevertheless, there are many ways in which we could reduce homelessness. Although it is outwith the remit of the Parliament, we should not lose sight of the fact that housing benefit is responsible for a lot of homelessness. The whole welfare benefits system has a lot to answer for when it comes to levels of homelessness among young people. Housing benefit problems can lead to rent arrears and evictions.

There is a lot still to be done before we can really prevent homelessness. We will never prevent it completely, but we need ways of alleviating it and of ensuring that the period of homelessness is as short as possible.

The Convener: But are we moving in the right direction?

Liz Nicholson: I hope so.

Robert Aldridge: We see the proposed housing bill as a first step in the right direction, but by no means the end of the story. We hope that there will be further legislation a few years down the line as a result of the further work of the homelessness task force.

We have not been able to gauge clearly the proportion of the increase in the homelessness statistics that is due to uncovering a problem that had remained hidden. As services improve, people are more prepared to come forward.

The proposed bill will emphasise the prevention of homelessness, on which we have a long way to go. The homelessness strategies that local

authorities will be required to draw up should, if they are effective, lead to early intervention and the prevention of people getting into the cycle in the first place. I hope that, with local authorities forming part of the engine for change, a lot can be achieved from the limited proposals in the bill.

The Convener: We will now consider the members' bills and then explore some of the other issues.

Bill Aitken (Glasgow) (Con): You have stated that you welcome both the members' bills—there is probably also a fair level of support for them around this table. What would you say to those who suggest that, apart from the fact that the two bills would remove an anomaly between Scots and English law, there is no real need for them, given that mortgage lenders usually take every reasonable step to prevent repossession?

Robert Aldridge: I was tempted to leave that question to the witnesses from Shelter Scotland, as through their Shelter housing aid centres they have more experience of people requiring advice. It is important to provide a safety net in legislation to ensure that the proper steps are taken. There may be good practice on the part of a large number of mortgage lenders, but the safety net is necessary to ensure that those who are not adopting best practice are required to do so.

Liz Nicholson: I would endorse those points. It is true that some mortgage lenders follow good practice but, in our experience, many of them do not. One of the current problems with tenants who are in arrears is that sheriffs have to decide whether it is reasonable to evict. In our experience, in many cases where a tenant is not represented, the decision is just a rubber-stamping exercise. In considering whether it is reasonable to evict a tenant—the same powers can be used with mortgage lenders on the question of suspending a possession order—sheriffs do not take into account the circumstances of the tenant or the background to the arrears. The factors that sheriffs need to take into account ought to be laid down in legislation.

Bill Aitken: Could you give some examples—both your organisations usually give valuable ones—of your involvement in specific cases in which someone has been in danger of having a house repossessed or has actually had their house repossessed and in which you would feel that the Mortgage Rights (Scotland) Bill would act as a safety net?

Liz Nicholson: I cannot give you a specific example, but we can provide you with some later if you wish.

Robert Aldridge: I do not have an example to hand.

Bill Aitken: We are all keen for a safety net to be in operation. In what respects could we tighten that net to minimise repossessions—outwith the bills?

Liz Nicholson: Outwith the bills?

Bill Aitken: Yes.

Liz Nicholson: At the moment, sheriffs do not have the power to suspend a possession order. That is a real gap. I do not think that we can tighten up the safety net without legislation. When it comes to tenants being evicted and the test of reasonableness, we need it to be set down in legislation what that reasonableness should cover. I do not know what the process would be—perhaps it could be done through the Justice and Home Affairs Committee—and I know that we cannot instruct sheriffs, but somehow we have to ensure that sheriffs consider the details of individual cases before making an order for eviction.

Bill Aitken: Although there is currently no statutory definition of reasonableness, case law will, over a period, have established what the Court of Session on appeal or what sheriffs in practice have decided is reasonable. Do you know of instances where something has been considered reasonable by one sheriff but unreasonable by another?

Alice Ann Jackson (Scottish Council for Single Homeless): Sometimes sheriffs will look at the level of arrears and decide that it is too low. They may consider whether any arrangements have been taken into account and they may consider advice received prior to repossession being sought. Some sheriffs will consider a variety of factors. However, to reiterate what Liz Nicholson said, a lot of sheriffs do not consider reasonableness; there is a rubber-stamping of decrees in many sheriff courts throughout Scotland. A framework for defining reasonableness would assist in ensuring a fairer hearing for tenants—when they are defended or when they are not.

Bill Aitken: You are saying that such a framework would remove inconsistencies.

Alice Ann Jackson: It would remove inconsistencies and ensure a fairer hearing for tenants and owner occupiers when they present in court.

Mr John McAllion (Dundee East) (Lab): Cathie Craigie's bill seems to be in the fortunate position of having the support of the Executive and the Opposition parties—at least, I think that Bill Aitken was supporting it there.

Bill Aitken: Yes—which is the kiss of death.

Mr McAllion: It also has the support of all the people who normally criticise the Executive and what it is up to. Who is likely to be affected by the bill? We have heard that homelessness now stands at record levels—46,000 for 1998-99. How many people—what percentage of that figure—do you estimate would be prevented from becoming homeless by Cathie's bill?

Liz Nicholson: According to the statistics, homelessness caused by the eviction of owner occupiers is relatively low, although I do not think that that is necessarily the issue. The issue is that those people will be able to stay in their homes and pay off their arrears. In many cases of mortgage repossession, people hand back the keys before the process goes as far as eviction. From the homelessness statistics that we get at the moment, I do not think that we can quantify the number of people who will benefit. However much we say that homelessness is increasing, we know that the statistics that we get are inadequate in giving us the details of the circumstances around homelessness. In Scotland, homelessness caused by mortgage repossession is relatively low, although the number of arrears cases seems to be increasing.

Mr McAllion: You say in your briefing to the committee that a small number of people each year will be affected. Are you saying that that is according to the statistics, but that the real problem may be much bigger and not recorded? Perhaps we should consider the way in which we record homelessness figures.

Liz Nicholson: The number of people in arrears is far higher than the number of evictions.

Mr McAllion: Robert Brown's bill deals with other issues. You have made two major criticisms of that bill, the first being that the sheriff does not have to take sufficient criteria into account when granting an eviction order under the definition of reasonableness. You have added eight other criteria, which you have said are not intended to be an exhaustive list. What are you telling the committee? Are you saying that other criteria should be added to Robert's bill?

Liz Nicholson: Yes.

Mr McAllion: What others?

Lorna Clark (Shelter Scotland): We need to ensure that a sheriff can, without having legislation that is pages long, consider all the facts of the case. We do not want a sheriff to find himself confronted by a set of circumstances that are not covered by the bill. We want to ensure that the safety net is in place so that the sheriff can consider whether granting an eviction order is appropriate.

10:45

Mr McAllion: So it may be the role of the committee to listen to everyone who comes up with additional criteria and to consider including those in the bill.

Lorna Clark: Yes.

Mr McAllion: In its submission, Shelter refers to guidance. I take it that that would be statutory guidance—based on what appears in the bill—which the sheriff would be required to take into consideration when dealing with eviction orders. Is that what you are suggesting?

Liz Nicholson: Are you referring to the guidance on reasonableness?

Mr McAllion: Yes. You say that guidance on reasonableness is required. That guidance would be there for sheriffs to consult when they were dealing with eviction orders and it would be statutory.

Liz Nicholson: Yes.

Mr McAllion: Sheriffs would not be able to choose whether or not to follow it.

Liz Nicholson: No.

Mr McAllion: You criticise Robert Brown's bill because it restricts to 14 days the time within which an individual may appeal against a local authority decision and you suggest a two-strand treatment, with an internal local authority review followed by an appeal to the sheriff court. What time scale are you suggesting for that?

Liz Nicholson: The code of guidance contains guidance on appeals. We have heard that one should allow sufficient time for all the evidence to be gathered to avoid contravening the European convention on human rights. At the moment I am a bit nervous about saying how much time should be allowed, but it should be at least 28 days. Fourteen days is not long enough.

Alice Ann Jackson: We agree.

Mr McAllion: So a limit of 28 days would be more acceptable to the organisations represented here.

Karen Whitefield (Airdrie and Shotts) (Lab): This morning you have all mentioned definitions of reasonableness. However, Robert Brown's bill and Cathie Craigie's bill deal with those differently. What do you think the right approach would be? What are the implications for repossession?

Liz Nicholson: I think that Robert Brown's bill covers definitions of reasonableness more thoroughly than Cathie Craigie's bill does. However, as we have said, we would like coverage of those to be much more extensive than it is at the moment. At the moment we are not

satisfied with either bill and want them to be extended.

Karen Whitefield: What would you like to be added to the bills?

Liz Nicholson: The grounds that we have listed in our submission on Robert Brown's bill.

Robert Aldridge: We endorse that. We are keen that, whichever route is taken, there should be legislation that covers mortgage repossession. We want the best outcome.

Karen Whitefield: If both bills are passed, do you think that that will have implications for lenders, who might act at an earlier date? Would that have an impact on owner-occupiers?

Liz Nicholson: It is in the interests of lenders and landlords to ensure that their arrears are repaid and that they do not need to resort to eviction. We should not forget that the homelessness section of the consultation paper proposes to extend the period of time during which a person is threatened with homelessness from 28 days to two months. That should mean that, before eviction proceedings are reached, people can seek help and advice from their local authority. We want to prevent cases from getting to the sheriff court. I do not think that lenders will act prematurely. It is not in their interests to do so.

Robert Aldridge: In addition, I hope that local authorities will work closely with mortgage lenders in drawing up the homelessness strategies as part of that preventive strategy. That will mean that, with luck, judgment and good planning, the emphasis on prevention would apply equally to mortgage lenders.

Cathie Craigie (Cumbernauld and Kilsyth) (Lab): I want to take this opportunity to put on record my thanks to Shelter Scotland for the help that I received when drawing up the Mortgage Rights (Scotland) Bill. Perhaps that will make it obvious that any negative comments on the bill will be listened to.

The lenders are asking why we need change; they point out that they have a code of practice that 98 per cent of high-street lenders have signed up to. They also offer counselling and advice to borrowers who are experiencing problems with arrears. However, we know that people do not respond to their letters and do not get in touch with the lenders. My bill says that the court should be able to take into account all the circumstances of the borrower, both financial and personal. Do you think that that goes far enough or should further measures be included?

Liz Nicholson: I am surprised that high-street lenders would use the argument that the code of practice covers that issue and that the big lenders offer services throughout the UK. The legislation

exists alongside the code of practice in England, so why should homeowners in Scotland not have the same protection? I do not accept that the argument is valid. All financial and personal aspects should be taken into account when the sheriff considers whether it is reasonable to suspend the possession order.

Robert Aldridge: I find the argument strange—if a lender is already signed up to a code of conduct that goes further than the bill, they will have nothing to fear from the bill.

Cathie Craigie: I will follow up on a question that John McAllion asked about the number of people who would be helped by my bill and Robert Brown's bill. I was working with figures for 1998, when around 900 families in Scotland were rehoused by local authorities. They were in priority need because of mortgage repossession. Do you accept that figure?

You made a point about the hidden figures—families who simply hand back the key to avoid the humiliation of a black-and-white court case that will obviously result in their being thrown out because they are in arrears. Would you agree that that figure of 900 masks a greater number?

Liz Nicholson: Yes.

Robert Brown: I wanted to stress that point. There is a gross underestimation under that heading. There has been a big increase in the homelessness figures. It is interesting that the number of people who are regarded as priority homeless has gone up by a significantly lesser percentage. Have you any understanding of the reasons for that?

Robert Aldridge: One of the most straightforward reasons is the growth in single-person households. Single people who do not have an additional need, such as a physical disability, mental health problems and so on, are not included in the priority categories. One of the first steps in the Scottish Executive proposals is to give a minimum package of assistance to every homeless person, regardless of their priority need status. That is the beginning of a recognition of the demographic change in Scotland—the huge growth in single-person households.

Robert Brown: Have you any feel for the percentage of those single people who have mental health problems or learning difficulties and the extent to which that is picked up by councils in assessing the applications? Have there been any studies on that?

Liz Nicholson: I cannot give you any figures. However, I can tell you about our work with rough sleepers. The advice that we give through the Glasgow housing aid centre where we deal with rough sleepers is that many rough sleepers should

be assessed as being in priority need of housing because they have mental health problems, physical health problems and addiction problems. All those problems make them vulnerable and mean that they have a right to housing. However, until rough sleeping recently received a lot of publicity, local authorities did not see such people as being in priority need of housing. The assessments do not cover the vulnerability of single rough sleepers in terms of their mental health and alcohol and drug addiction.

Robert Aldridge: We must consider the ability of local authority housing workers to make judgments about whether people have mental health problems—that is quite a sophisticated judgment to make. Everyone does their best in the circumstances, but on an initial assessment they may not recognise a mental health problem.

Robert Brown: You have touched on the question of training and procedures. Both members' bills deal with the legal aspects of the matter. Is it worth putting pressure on local authorities to do things better rather than face the problem in court later on?

Liz Nicholson: Homelessness has changed significantly. It is no longer simply a housing problem—people have many social problems as well. Robert Aldridge is right; we cannot expect housing officers to do everything. There is a huge need for training for housing officers. We need joint assessment to ensure that the local authority's responsibilities under community care, the housing legislation and the Children (Scotland) Act 1995—which is currently being ignored—are all covered. It is becoming more apparent that joint assessment is needed to deal with the problems that homeless people face.

Mr Keith Raffan (Mid Scotland and Fife) (LD): I want to ask about the relationship between homelessness and addiction. To what extent has the increase in homelessness—particularly single homelessness—over the past few years been linked to the growth in drug misuse?

Robert Aldridge: It is very difficult to ascertain a clear link. Sometimes an addiction arises as a result of a person's homelessness, rather than being the cause. The general, broader abuse of drugs may be reflected in the homeless population. We do not have clear research evidence to demonstrate the relationship between addiction and homelessness. That is an important area of work.

Mr Raffan: Do you have any idea of the percentage of those who are homeless who have drug and alcohol addiction problems?

11:00

Alice Ann Jackson: Such information is not usually recorded.

Mr Raffan: I would have thought that it was crucial.

Alice Ann Jackson: It may be noted when someone is being assessed for homelessness. Drug or alcohol dependency will not give someone a priority need status in many local authorities. Some people with high levels of dependency will not be able to access accommodation. However, much of that information will not be recorded, so those people will not show up on the available statistics. Some of the information will be recorded through rough sleepers initiative services, but that is not comprehensive.

Liz Nicholson: Much of the growth in single homelessness must be attributed to the benefits system and how that works for young people. Homelessness is a complex problem and we should not think that all single homeless people have drug problems. However, a person who ends up on the street is far more likely to develop a drug problem; drug problems happen in the hostels and on the street. It is important to prevent people from getting on the street in the first place. The Big Issue in Scotland has figures to show how long people tend to survive on the street before they start taking drugs.

Robert Brown: I want to move on to some of the details of the two members' bills. I would like to thank Shelter and the Scottish Council for Single Homeless for their help in drafting my bill.

Cathie Craigie touched on the question of reasonableness. In different ways, both bills say that the sheriff should consider all the circumstances. My bill mentions

"the personal and financial circumstances of the debtor"

and the specific issue of whether people become homeless as a result of an order being made. Do you think that that is adequate to direct the sheriff's attention towards the main things about which he must be satisfied? What would be the practical effect of including a list of other factors, rather than the general reference that is currently made in both bills?

Lorna Clark: It is clear from our experience of sheriff courts—listening to the deliberations—that the guidance needs to be detailed if there are specific matters that we want the sheriff to consider, such as the responsibilities under other legislation, the amount of time that a tenant has been in rent arrears and why they arrived at that situation. Much work needs to be done. The more detail that we include, the more likely we are to have an end result that is of benefit to the people whom we are trying to help.

Robert Brown: Do you accept that part of the answer to the problem lies in training sheriffs and alerting them to the issues that are involved? Perhaps the problem could be got round by paying more attention to that aspect.

Lorna Clark: Partly. However, it is easier to ensure that sheriffs cover all the points if we train them on specific aspects of the bill, rather than on the general points.

Robert Brown: One thing that we have not yet discussed is the burden of proof. My bill aims to ensure that there are no evictions until or unless the sheriff is satisfied about X, Y and Z. The Mortgage Rights (Scotland) Bill puts it the other way round—the sheriff would usually be asked to make an order unless there were specific reasons why he should not. Is it important that the sheriff be positively satisfied about various factors before proceeding to eviction?

Alice Ann Jackson: That is important.

Robert Aldridge: It is particularly important in the many undefended cases that go to court.

Robert Brown: You mentioned the Shelter housing aid initiative. Can you tell us about the arrangements in Glasgow and Edinburgh sheriff courts, the number of people who are not represented and what you are able to do for them?

Liz Nicholson: We do not have that information at the moment; however, we are monitoring the situation and will be able to supply it. Such information is important for your bill and for the Executive bill.

Robert Brown: There is an issue about pressuring people to do things properly before the situation reaches the point at which we would have to consider the right of appeal. However, how important is the right of appeal in decisions on homelessness?

Alice Ann Jackson: It is very important. Many homeless applicants who receive a negative decision from their local authority do not consider appealing because either the local authority does not have an internal appeals system or the applicants themselves are unaware of judicial review, if that is the only other option available. The ability to appeal to the sheriff court will make the right of appeal much more local and accessible. Moreover, local authorities must be clear in their information to homeless applicants about their rights, because many applicants are unaware of their ability to appeal internally or of any external appeals systems. Aside from changing the whole process, part of the local authorities' advice and assistance should include good information about how to appeal.

Robert Brown: Where a tenant has fled, is it common for people who are not the initial

titleholder, such as tenants of the mortgage holder, family members of the initial tenant and other cohabitants—Tommy Sheridan mentioned same-sex partners—to lack rights in eviction procedures?

Liz Nicholson: I could not tell you how many such cases we are dealing with. However, those people have no rights and need protection. For example, we have had cases where people do not know who the landlord is and the house has been mortgaged. These measures will protect such people and should be included in any legislation.

Robert Brown: I have a final point about the grounds for eviction in the proposed housing bill. In existing legislation, there are several mandatory grounds for eviction where the sheriff has little if any discretion over whether an eviction takes place. As the housing bill does not contain any proposals to do away with such mandatory grounds, might not there remain situations where the sheriff has no such discretion to refuse evictions on other general and financial grounds?

Robert Aldridge: My understanding of the new single social tenancy is that there will be a number of mandatory grounds for eviction, most of which will be clearly measurable and objective.

Robert Brown: Do you regard mandatory grounds for eviction as a good idea in such situations?

Robert Aldridge: No. The element of reasonableness is very important.

The Convener: I am going to leave the two members' bills for now and move on to explore the consultation document.

Mike Watson (Glasgow Cathcart) (Lab): Will both organisations comment on the strategic focus of the proposed housing bill? How do you relate what the bill is trying to achieve to what you think the bill should be doing?

Robert Aldridge: Our paper refers to some aspects of the Executive strategy that could be extended. The bill is very much restricted to the social rented sector, but it is important to recognise that, as two thirds of houses are now owner-occupied, with the private rented sector accounting for 6 or 7 per cent, a large proportion of Scotland's housing is not addressed in the bill. However, the Executive's consultation document makes it clear that the bill's focus is on the social rented sector. We would like housing legislation to consider owner-occupiers in due course.

Furthermore, we have highlighted the growing problem of disrepair in the owner-occupied sector. We are particularly concerned about people who, having bought their homes through right to buy, are now at the very margins of what they can afford and find it difficult to maintain their houses

and carry out the essential repairs. The backlog that will build up in Scotland's housing stock will need to be addressed, if not in the proposed bill, then in future legislation.

Our submission also highlights the fact that the Executive has noted the aspiration of around 80 per cent of Scots to own their homes. However, we are not yet clear whether the Executive is planning to move towards that aspiration. We believe that such a strategy would lead to an unsustainable level of social renting; the social rented sector needs to be larger than that.

Liz Nicholson: I endorse Robert Aldridge's comments on a strategic view of what the bill is trying to achieve. We need parity across the social rented sector and must ensure that tenants receive a high quality of service—hence the emphasis on single housing plans and the role of the regulator. However, the bill contradicts itself. It talks a lot about prevention of homelessness while proceeding with an extension on the right to buy. If, by 2020, the social rented sector accounts for 19 per cent, that is not sufficiently sustainable to meet the needs of people who want to or have to rent from that sector.

Mike Watson: You have both commented on the 80 per cent figure for home ownership, which the Minister for Communities says has emerged from polling and surveys. What would be a sustainable split between the home ownership and rented sectors?

Robert Aldridge: It is difficult to put a percentage figure on that. However, I think that we would need a rented sector of at least 30 per cent.

Alice Ann Jackson: We need to unpick that 80 per cent figure. People should be able to go into and out of different tenures and sectors. Of course, people always aspire to get out of the social rented sector. However, there is an assumption that owner-occupiers do not aspire to get into the social rented sector. If we mean the total rented sector—including the private rented sector—a figure of about 20 per cent is in no way sustainable without further marginalising the social rented sector, with all the resulting problems.

Mike Watson: That is very clear.

Liz Nicholson: At the moment, two thirds of homes are owner-occupied and homelessness applications are at their highest, so we obviously do not have enough good quality social rented housing to meet demand. We have not reached that figure yet, so we do not want it to be reduced.

11:15

Mike Watson: I would like to ask about homelessness. I do not want to go into details as we have heard the figures. Robert Aldridge said

that it might be that more people declare themselves to be homeless now than in the past. Is the current system for dealing with homelessness applications appropriate? Are applications broken down according to gender, race, disability and so on?

Robert Aldridge: It has emerged in various pieces of research that significant numbers of homeless people do not approach their local authorities and therefore are not recorded as being homeless. In the national inquiry into youth homelessness—which was conducted by what was then called the Campaign for Homeless and Rootless People—evidence from services for young homeless people showed that up to 50 per cent of such people had not approached a local authority but had gone directly to other services. Similarly, Department of the Environment, Transport and the Regions research on single homeless people in England found that about 30 per cent had not approached the local authority.

I suspect that the proportion may be lower in Scotland, but there is still significant under-reporting of homelessness. Part of the reason why people—in particular single homeless people—have not approached local authorities has been the expectation that they will not be housed, so the homeless wonder what the point is in approaching them.

Alice Ann Jackson: There are also issues surrounding the process of application. At the outset, some homeless people are screened out and are not given a full homelessness assessment—in making their initial approach to a local authority they might not get past the front desk. The assessment of homeless applicants varies considerably. It has been demonstrated clearly that more joint assessments are required. There is inconsistency in the delivery of that service.

The recording of information is probably better than it was, but information is still not being broken down in the most useful way. For example, the Scottish Executive's statistics do not provide a gender breakdown, although the way in which local authorities gather information makes it possible to do that. The Scottish Executive's figures show no ethnic breakdown. There is much more that could be done with homelessness statistics, both in what is recorded and in what the Executive publishes.

Liz Nicholson: We are also losing from the system many people who are assessed as homeless, but who do not follow through their application to take up an allocation from the local authority. That is often because the property that is available is unsuitable for their needs or is of poor quality. One of the reasons why we set up our families project in Edinburgh—which deals

with repeat homelessness—was that about 66 per cent of applications were not being followed through.

Mike Watson: Did not those applicants reapply on other occasions?

Liz Nicholson: After they have been assessed as homeless, they are lost from the system and we do not know where they go. Such people are homeless and are in priority need.

Mike Watson: We will follow up those points when we come to the bill. I did not want to be specific, but my final point relates especially to Shelter. Shelter thinks that 50 per cent of all tenants should be in favour of the housing stock transfer proposals before the transfer takes place. I am surprised because such a stipulation is not usually regarded as a progressive step. If we leave aside the analogy of all MSPs having to win 50 per cent of the vote in their constituencies—which would leave this room quite empty—examples of such a requirement include the bogus barrier that was put up at the 1979 devolution referendum and the trade union requirement that 40 per cent of those who are eligible to vote should support a proposal before the union will recognise it. Is not it the case that if people are not sufficiently interested in an issue, they will not vote, but it is surely enough that they have the opportunity to vote?

Liz Nicholson: Much of the discussion has been about communities. We propose the requirement that 50 per cent of tenants support stock transfer because we think that communities include owner-occupiers and people who want to rent in the future and are on waiting lists. We thought that if the ballot was restricted to tenants, the proposals should require the support of 50 per cent of all tenants rather than 50 per cent of those who vote. We think that something that affects the whole community should involve the whole community.

Fiona Hyslop (Lothians) (SNP): It is difficult to ask specific questions because we have the consultation document rather than the bill—we are guddling in the dark. However, we can try to understand some issues.

The green paper was published back in February 1999. Do you agree that, since then, the significant changes have been the move to 80 per cent private ownership and 20 per cent rented, the extension of the right to buy, and measures to support stock transfer?

Liz Nicholson: Yes.

Fiona Hyslop: What should the purpose of the single social tenancy be, and what do you think is the purpose of the single social tenancy as presented in the Executive's proposals?

Liz Nicholson: The purpose of the single social tenancy should be to give all tenants the same rights and security. The purpose started that way, but that has been lost a bit because of the extension of the right to buy and efforts to accommodate the rights and responsibilities of existing tenancies. The proposals are now pick and mix. For example, the new provision on persistent arrears as a ground for eviction comes from the regulations on assured tenancies. Landlords do not use that ground, but it exists in assured tenancies. Why has that provision been included?

Fiona Hyslop: I would like to pursue the issue of grounds for eviction. The proposals involve a move to a rented sector that comprises 20 per cent of the total number of homes, but you say that an 80:20 split is unsustainable. Has the single social tenancy been compromised by moves to extend the right to buy and by provisions on the grounds for eviction—particularly the lenders ground, which I will address next?

Liz Nicholson: Yes.

Robert Aldridge: Yes.

Fiona Hyslop: Let us explore the business of introducing everything in a big bang approach. I want to consider the new grounds for eviction. You say they are more important to assured tenants because they weaken their rights and could cause European convention on human rights problems.

One of the three new grounds that you have concerns about is the protection for lenders when a house is subject to heritable security. That has just appeared—it did not exist before—and has great significance for stock transfer. During the stock transfer inquiry, lenders were saying, "What needs to be protected? The returns need to be protected." If business plans are failing, landlords may have to move people out of properties to realise the potential of the property through private build, or whatever. Do you think that the protection for lenders when a house is subject to heritable security is desirable? Why does that protection exist and is it necessary?

Robert Aldridge: I suspect that it is not necessary. We discussed that ground for eviction this morning. It is an amendment of a ground for repossession under the assured tenancy, which—I think, but cannot guarantee—had more to do with the private sector, as assured tenancies apply to the private sector as well as to the housing association sector. We understand that discussions are taking place with the Council of Mortgage Lenders. I do not know the conclusions of those discussions, but the general information that we have received is that the council is not especially worried about that ground.

Fiona Hyslop: Why does it exist?

Robert Aldridge: I do not know. We would urge that it be dropped because it does not add anything to the single social tenancy. If it helps to prevent a single social tenancy from being brought in in one go, it should be dropped.

Fiona Hyslop: Why should the single social tenancy be brought in in one go?

Robert Aldridge: It would be simple for tenants to understand that everybody has the same rights in the social rented sector. Several parallel systems working at the same time is complicated for both landlords and tenants.

Fiona Hyslop: Let us move on to the strategic role of local authorities. Shelter's document mentions duties on landlords. Rather than a strategy, you want a duty to prevent homelessness, which is much stronger. Can you explain why you have put that in your paper?

Liz Nicholson: We want a corporate duty to prevent homelessness to be placed on local authorities. In that way, if people were becoming homeless because of the finance department's administration of housing benefit, social work or education—for example, if children in temporary accommodation were having problems attending schools—that would be challenged.

The Executive would argue that the duty to provide a strategy would cover that eventuality, because the local authority would have to consider all those areas. However, children's plans, under the Children (Scotland) Act 1995, sit on a shelf—they are not active documents. We are concerned that the strategy would become a paper exercise.

The homelessness task force report said that the regulator would have to monitor local authorities and their strategies. That poses difficulties, because the regulator would be responsible for monitoring the landlord role and the homelessness service. We are talking about a corporate responsibility on the local authority. The regulator cannot monitor the education department or social work, because it is restricted to monitoring of the landlord role and the homelessness service. There is a real contradiction—the process has not been thought through.

The duty to produce a strategy might be considered as part of a local authority's strategic role, within its single housing plan. That housing plan must be submitted to the regulator, but those plans are not as actively monitored as the homelessness service and the landlord role. Another problem occurs because the regulator has authority only over housing, but not over social work or education. A corporate duty to prevent homelessness would mean that challenges could be made to all functions of the local authority if that authority did not meet its duty to prevent

homelessness in its area.

11:30

Fiona Hyslop: I have a final question for the Scottish Council for Single Homeless, on the issue of homelessness and housing management. One of the measures that you propose, but which does not seem to be forthcoming, is the extension of the legal obligation to all landlords—not only local authorities—to give reasonable preference to homeless people. Why has that measure not been implemented? What are the barriers to its implementation, and is it a feasible proposition?

Robert Aldridge: It is reasonable, especially for stock transfers in which new registered social landlords take on the stock that local authorities have at present. It is not unreasonable to expect registered social landlords to adhere to the basic framework for allocations that local authorities must adhere to—what they are or are not allowed to take into account and a broad framework of whom they should give preference to. Some representatives of the social landlords might say that that matter is already dealt with in the good practice standards that they have developed and which Scottish Homes will monitor and regulate. However, it is an important point of principle to ensure that there is a basic framework in primary statute to which all social landlords should adhere.

Fiona Hyslop: What are the barriers to that, and why is it not in the proposals?

Robert Aldridge: One proposal is that reasonable preference should be given to people who are homeless, which we welcome very much. I cannot say why the extension of the framework to all social landlords has not been included; we hope that it will be.

Mr McAllion: I would like to pick up on some of the gaps that have been identified in the submissions that the committee has received.

We touched on the right to buy and I am encouraged by what you have had to say about that. The Executive suggests that that is a universal right, which is available across the social rented sector. That is not true, is it? There are tenants in the social rented sector who do not have the right to buy, even under current legislation, and who will not have the right to buy after the proposed housing bill has been introduced. Can you say something about that?

Robert Aldridge: The consultation paper makes clear the fact that there are tenants of charitable housing associations—tenants of housing co-operatives and others—who do not have the right to buy and who will not have the right to buy.

Mr McAllion: Another example might be those who are on benefits and living in the social rented

sector. They would have the right to buy only on paper; in reality, they would not have it.

Robert Aldridge: That is correct.

Mr McAllion: You mention also the exclusion from the proposed housing bill of the private rented sector. I consider that to be an especially worrying aspect of the bill. Because of the way in which the council sector has developed, in recent years people have been evicted because of rent arrears, anti-social behaviour or simply because they do not have benefit entitlement and have not been able to access council housing. Some of the poorest and most vulnerable families in Scotland are in the private rented sector.

Robert Aldridge: That is correct. Another aspect of the problem relates to what Liz Nicholson said about the benefits system. It has become increasingly difficult for young people, for example, to gain access to the private rented sector because of the single room rent requirement. That puts additional pressure on the social rented sector. It is important that a global strategy that deals with the entire rented sector is sorted out.

Mr McAllion: In its submission, Shelter mentions that some of the rights that have been made available to the social rented sector tenant, under the single social tenancy, should also be made available to tenants in the private rented sector. Can you expand on that? Which of those rights should be extended and should they be included in the bill?

Alice Ann Jackson: I support Shelter in saying that some of the rights that would be extended to all social tenants should also be given to tenants in the private sector. In particular, we should do away with the mandatory ground for eviction of three months' rent arrears—that would be important for private rented sector tenants. The new succession rights are slightly amended, but there is no reason why they should not also apply to the private sector. The right to consultation is also worthy of note. Why should not private sector tenants have consultation rights?

Mr McAllion: It would be helpful if, for stage 1 of the housing bill, those rights could be detailed and submitted to the committee so that we can study detailed suggestions for what should be included in the bill.

Liz Nicholson: One of Shelter's main concerns is that some of the most vulnerable people are in the private rented sector—we encounter cases of illegal eviction time and again. At the moment, the police have to bring a case of illegal eviction, which has to go through the procurator fiscal. We would like local authorities to be able to bring cases, as they do in England. There are no criminal cases of illegal eviction coming through

the courts, but we know that such evictions happen daily.

Mr McAllion: Are you suggesting that, as part of the bill, local authorities should be given a power to prevent illegal evictions in the private rented sector?

Liz Nicholson: Yes.

Mr McAllion: If you could develop that suggestion and submit it to us, I would be interested in reading it.

Liz Nicholson: It is an area that we are considering in detail.

Mr McAllion: The other area that I am interested in is fuel poverty and you have suggested how the bill could be used to tackle that problem. We recognise that the main effort in tackling fuel poverty must lie with the Westminster Parliament, which must try to control the power companies and the use of power cards, which is a national disgrace that should not be tolerated in a civilised society.

However, within the powers of a housing act that this Parliament could pass, there could be—as you suggest—an energy audit when occupants change houses. A similar suggestion was made by representatives of the Communities Against Poverty Network, when the committee met them on Monday. They suggested that no tenancy should be allowed until an energy audit was carried out by an independent inspector. Do you think that that is a practical goal and one that should be pursued seriously as part of the housing bill? It would, obviously, have huge financial implications for the social and rented private sectors.

Liz Nicholson: Yes, it would, but I would like it to happen in the owner-occupied sector as well. An energy audit should be carried out so that people know exactly what they are taking on.

Mr McAllion: Is any work being done on how such a scheme might be phased in to make it practical as well as desirable?

Liz Nicholson: Not as far as I am aware, but that is something that we need to look into.

The Convener: If witnesses have views on any of those points, we would like them to be submitted to us.

Alex Neil (Central Scotland) (SNP): On the single social tenancy, you suggested that the balance between primary and secondary legislation was a bit worrying. You seemed to suggest that some of the provisions that are likely to end up in secondary legislation could perhaps be considered for inclusion in the primary legislation to ensure that there is proper, systematic and consistent implementation. Can

you expand on that?

Liz Nicholson: My concern is not so much about the inclusion of proposals in primary legislation, but that the proposals in the consultation paper are not sufficiently detailed. I am especially concerned about the new package of rights for hostel dwellers and the duty to provide housing advice. The consultation paper states that that will happen, but it relies on secondary legislation. Secondary legislation has the advantage of being easier to change and adapt to changing circumstances, but as the bill proceeds through Parliament, we must ensure that those areas are identified and that secondary legislation is scrutinised in the same way as primary legislation.

Many of the proposals rely on secondary legislation and guidance. I am more concerned about the distinction, not between primary and secondary legislation, but between secondary legislation and guidance. We need those issues to be covered in the legislation. We have seen what has happened to the code of guidance on homelessness. It was a good document, detailing what local authorities should take into account in implementing homelessness legislation, but we know that there are inconsistencies throughout the country and that local authorities do not meet the requirements of the code of guidance. We must be clear about what can be dealt with through guidance and what needs to be covered by secondary legislation and scrutinised by Parliament.

Alex Neil: When we come to consider the legislation, we must be aware of that. It would be useful to get some additional information and suggestions about that. There is clearly no point to a bill that cannot be implemented properly.

At the moment, it looks as if fuel poverty will not be included in the bill, although I have heard rumours that it might be. What key priorities on fuel poverty are within the powers of the Scottish Parliament?

Liz Nicholson: It is good to hear that that there might be something in the bill about fuel poverty. The consultation paper is weak on house conditions. We have still to see a new measurement for stock condition. We have talked about a revised below-tolerable-standard measurement and I would like to see energy efficiency included in the standards for housing in Scotland. That is within the Scottish Parliament's remit. We should also be able to set a target for eliminating fuel poverty in Scotland and to measure our performance against that target. We need an energy efficiency standard for all housing, not just new housing. Those should be our fuel poverty priorities.

Alex Neil: What about the extension of the warm deal programme?

Liz Nicholson: The warm deal programme is not meeting the needs of people in Scotland. There is a huge gap between the targets of the warm deal and the number of people living in fuel poverty, which is the biggest housing problem in Scotland.

Alex Neil: Do you think that the bill should tackle that?

Liz Nicholson: Yes.

Cathie Craigie: I would like to concentrate on the gaps and to leave the provisions that will be in the bill for another day. I agree that we should work towards an energy efficiency target for all homes. That would start to address some fuel poverty issues. As John McAllion said, there are many people on very low incomes who would be as well sitting with the fire on and all their windows and doors open for all the good that the fire does them. I hope that we can work towards better energy efficiency.

Your contention is that the private rented sector has been omitted from the bill. Although we should not, we all generalise from time to time. Most people in the private rented sector are poor. They pay high rents for poor quality housing, which is being run by poor quality landlords at the public's expense. We should look for ways to address that problem.

We have started to license private houses in multiple occupancy. Do you think that that is a first step towards addressing some of the issues that you raise in your submission? Should we look to a form of licensing for landlords who rent out more than one property? As part of such a licence, should landlords have to submit to the local authority or another regulatory body details of their management codes and letting practices? Is that a reasonable suggestion?

11:45

Liz Nicholson: The HMO legislation has dealt with some of the issues, but it has not dealt with the whole of the private rented sector. There should be a quality mark—a sort of licensing scheme—approved by the local authority for the private rented sector, whatever the size of the property.

Robert Aldridge: We have to be careful. The licensing of HMOs raises the need to ensure that we do not price private landlords out of the market. We must ensure that there is a high quality of accommodation and management. However, there are concerns about the high price that private landlords may have to pay for a licence for HMOs. Cathie Craigie suggests licensing for landlords

with more than one property, but the vast majority of the private rented sector is made up of individuals with one property, which is not their main business. We must ensure that they can afford to maintain what is an important sector.

Cathie Craigie: Are you saying that the vast majority of private landlords have only one property?

Robert Aldridge: Yes. They have one or two properties—a small number.

Cathie Craigie: I will check that and follow it up. I may be totally wrong, but it seems to me that the market in the private rented sector is growing, with people buying up cheaper properties, which may have been repossessed and sold under the hammer. I am therefore surprised by what you say.

Liz Nicholson: It varies from city to city.

Cathie Craigie: I agree with the section on owner-occupiers in Shelter's submission. We need to consider a two-way system with different tenures, so that people can move between tenures when it suits them. I know that pilot mortgage rescue schemes have been operating throughout the country, none of them too successfully. Can you comment further on that? Are we aiming at the right level or have the people operating them got it wrong?

Liz Nicholson: Mortgage rescue schemes have not taken off here. They have been more successful down south, probably because they have had to be, owing to the rate of repossessions. We should focus not on mortgage rescue schemes, but on flexible tenure, which allows people to move in and out of owner-occupation according to their income and circumstances. Some people might prefer to be in the rented sector as they get older—so that they do not have the responsibility of maintaining a home—and when they are younger, but in their middle years they may want to have security and to fulfil the aspiration of owning their own home. Mortgage rescue schemes should be available to prevent homelessness, but at a wider level it would be more suitable to develop flexible tenure.

Robert Aldridge: I endorse that.

Robert Brown: Robert Aldridge talked about disrepair in the owner-occupier sector and the need to take a global view. The problem comes to a head in tenemental properties with mixed ownership. Changes to tenement law are coming down the line, but do you accept that there is a need for much improved arrangements for dealing with owners' contributions to repairs? Housing associations often have funds built up, but we need the same in the owner-occupier sector. Do you think building up a sinking fund over a number

of years to fund repairs is a valid idea?

Robert Aldridge: We have not considered that proposal in any detail, but it is a valuable idea. Disrepair is a growing problem and something will need to be done about it, whether through a sinking fund or another approach. I am not sure which is the best way forward, but work needs to be done. Perhaps that could be addressed in a future housing bill a few years down the line.

Robert Brown: Does Shelter or the Scottish Council for Single Homeless accept that the problem may be linked to the extended right to buy? More houses are going into private ownership at the limit of affordability, which is making the problem worse.

Robert Aldridge: Without doubt. People are encouraged to buy although they are at the margins of being able to afford it. They may have good reasons for buying—some people have thought that a mortgage would be more stable than rent. People are not given clear enough advice about the true costs of home ownership over the years and many do not have the financial wherewithal to put aside the money to carry out essential repairs. We are concerned about that.

Liz Nicholson: I endorse that. In addition, the repair and improvement section of the consultation paper is not adequate to deal with the problems of house conditions in Scotland. We need to consider a much bigger piece of legislation.

Robert Brown: That is the point that I wanted to follow up with. Are there concerns about the movement from a more broadly available repair and improvement grant—albeit with restricted finance—to a means-tested grant? Will the move cause problems in sustaining improvements, particularly in tenemental buildings?

Robert Aldridge: An essential component will be the reform of tenemental law, without which there could be considerable difficulty in achieving agreement in individual tenement blocks to get repairs and improvements carried out.

Alice Ann Jackson: A means-tested approach, if it works as means-testing usually does, could result in many owner-occupiers not being able to afford to repair their homes but not qualifying for grants either. That could raise real issues.

Karen Whitefield: We have heard a lot about homelessness being made worse because people have been unable to sustain their tenancies. Do the proposals in the consultation document go far enough in providing support to allow people to sustain tenancies? You mentioned the need for sustainable home ownership. Has that been missed out from the consultation paper? Is there anything that you would like included in the forthcoming bill to address those issues?

Alice Ann Jackson: I can comment on support for people in tenancies. There are real issues of sustainability, as local authorities have identified—they may be able to provide the accommodation but not the resources to provide the support required to sustain the tenancy. A lot of homeless applicants do not have furniture or furnishings, for instance; moving into accommodation without that form of basic practical support makes it very difficult for them to sustain the tenancy over any length of time. Some homeless applicants—not all, obviously—also require support when they move in. Often the resources are not there to provide such support. Sometimes when support is provided, it is provided through a service charge. That has severe poverty-trap elements to it, which mean that people who receive support through that mechanism find it difficult to access employment. There are many issues.

Robert Aldridge: At the end of the consultation paper, there are proposals on the supporting people fund, which will be important in assisting people to sustain tenancies. I am concerned that people are placing too much optimism in the size of the fund. As I understand it, it will not be more than is currently spent on support under housing benefit. We will need to examine how the fund can be expanded to meet the growing need for flexible, floating support to ensure that people can sustain their tenancies.

Liz Nicholson: I endorse what Robert Aldridge says about supporting people, but another element that is missing, in terms of support and preventing homelessness, is the issue of families who become homeless. A lot of the support has been focused on single homelessness. We have had 98 per cent success in preventing repeat homelessness of young families who have had, say, eight tenancies in the past two years. Support is necessary for the parents and children.

The problem with the proposals on supporting people is that support will be available for tenants, but not for children. Often those tenants are families who have behaved in an anti-social way and need to change their behaviour in order to sustain their tenancy, or women fleeing domestic violence. However, it is important that children receive support; if they do not, their parents will be unable to cope. That element of support is missing—if we do not have it, we will be unable to prevent homelessness from recurring.

Karen Whitefield: I am glad that you mentioned anti-social behaviour. In the document you sent us, you express concerns about the proposals contained in the consultation document. I fully appreciate that we have to be careful about the solutions we find to deal with problems of anti-social behaviour. However, I was interested that you suggest that it should not be a condition of

offering someone a continued tenancy that they access help and services. The quality of life for 30 other families in a street may be being destroyed because one family is unwilling to engage in mediation or work with social work and education services to try to address their problems. How do we solve that?

Lorna Clark: Support should always be offered, but it is difficult to say to a tenant that they have to take support. If we impose it on them, they will probably not engage in the process. The Dundee families project, which has considered anti-social behaviour, has made accepting the need to change an integral part of taking people on; the project has had some success in that. This is a difficult area. If people do not take the support, they might not change their behaviour and will end up unable to sustain their tenancy. However, if we impose something on somebody, they will probably not engage in the process. Could we be making better use of resources by helping a family that really wants to make a difference?

Karen Whitefield: My understanding of the Dundee project is that the families have to engage. If we do not get them to engage, we will not address the problem and it will continue in a family's current tenancy or any future tenancy.

Somebody has to play devil's advocate on the right to buy, so I will. I represent a constituency in North Lanarkshire that is unfortunately fairly deprived but that has some of the best council housing in Scotland as well as a high level of renting. Most of my constituents are happy to rent and are happy with their landlord, but they would be very unhappy if we were to take away their right to buy. Even though the vast majority of tenants—68 per cent throughout North Lanarkshire—have not exercised their right to buy and do not intend to, they still value it.

Were we to start with a clean sheet, I do not think that the Scottish Executive would introduce the right to buy; however, we have it now. You say that it is important that we start off with a big bang and that on day 1 every tenant has exactly the same rights. If the Executive's proposals are wrong, how do you suggest we address that? How do we weigh up the interests of my constituents, who regularly say to me that, even though they might not use their right to buy, they do not want to lose it?

12:00

Robert Aldridge: What we are all saying is that anyone who currently has the right to buy should not lose it. Their right to buy would be preserved.

Karen Whitefield: What about the succession rights of the families who go on to live in that house?

Robert Aldridge: The rights of people who currently have a secure tenancy and all the rights that go with that, including the right to buy, should not alter. Their right to buy should continue to exist. However, where a new tenancy is created, we have a fresh sheet of paper; we should ask whether the right to buy is required or whether it means that the supply of good-quality, affordable rented accommodation—of which there is a shortage in many parts of Scotland—will not increase.

We have to ask ourselves whether it is essential that a discount be given to people who have a social tenancy to help them into home ownership. We have taken the view that if people aspire to home ownership—and if it is the Executive's intention to encourage people into home ownership—whether they receive financial encouragement should not be down to whether they came through the social rented sector. Financial encouragement should be given to everybody. People who go straight from the family home to buying a house do not get a financial incentive. People who leave the family home and enter the social rented sector can build up a discount and get a financial incentive to purchase their house. Would it not be a clearer, fairer and simpler strategy to assist everybody who is going into home ownership on a level playing field?

The Convener: I am sure that that is a subject we will return to many times.

Cathie Craigie: Robert Brown talked about repair and improvement grants. I was surprised at your response. The consultation document contains good proposals on the operation of the repair and improvement grant system. It considers the definition of tolerable standards as well as those measures that do not require legislation, such as energy efficiency and central heating installation. I am sure that those areas can be addressed. Why do you think that the consultation document is weak in its proposals for improvements—as I see them—to the repair and improvement grant scheme? That was not addressed in any of the documents that we received before the meeting, so I assumed satisfaction.

Robert Aldridge: One concern that we have is that, although we welcome the extended range of issues that are to be covered by the repair and improvement grants, there is no commitment to additional resources. If the number of issues that can be addressed through the grants is extended without increasing the resources, the amount that is available to deal with the problem is diluted. We welcome the fact that the criteria are being extended, but the resources to match that must also be extended.

Cathie Craigie: The document does not talk

about resources for anything, though, does it?

The Convener: We have not covered everything today, but we can pursue the issue of resources at another stage, as we will come back to our witnesses for further evidence.

Bill Aitken: We licensed HMOs as a necessary response to tales of horrendous, exploitative landlords. However, there is recent evidence to suggest that we have reached overkill. Robert Aldridge referred to that in his testimony. Obviously, there will be a knock-on effect on homelessness, but do you think that the action that we took is likely to result in a reduction in available accommodation, particularly for the single homeless? Do you think that we might use the bill to effect a rescue package or to examine the issue again?

Robert Aldridge: I hope that there will not be a reduction. The one major concern is the cost of the licences, which may have to be addressed. We have welcomed the move towards mandatory licensing whole-heartedly, as it allows for the regulation of the management and the physical standards of a sector that has been difficult to regulate. That will lead to an improvement in standards. If it gets rid of some of the very poor landlords, that will not be a major loss. It should drive up standards and help landlords to provide the service that we need.

Liz Nicholson: I agree with Robert Aldridge. HMO is the bottom end of the market in private renting, which is often used by young people. There may be a reduction in supply—that has happened every time that there have been such changes in the private renting sector. It happened in 1988 with the housing benefit changes and with the single room rent. We should examine other ways of housing young people, such as foyers, although they are not the only option. Rather than putting up with conditions that could result in the loss of life, we should ensure that there is a high-quality option for all young people and single homeless people.

Bill Aitken: Our primary consideration was that there had been two instances involving loss of life. We were anxious to ensure that that did not happen again. In those cases, a landlord was letting out a number of flats to a large number of people. Is there perhaps a case—I put this forward as a suggestion that could obviate an increase in homelessness—for considering the number and criteria of residents in a flat prior to licensing and perhaps going above the current figure, if only marginally?

Robert Aldridge: The current system will probably work quite well because it is being phased in; the numbers will go down gradually. The local authorities will target the largest HMOs

first, which allows some time for those who are operating the smaller HMOs to get them up to standard before the licensing kicks in. I think that you have taken the correct route. I hope that the cost of licences can be looked at, as that seems to be the main drawback.

The Convener: We are rapidly running out of time. There are so many questions that we want to ask you that we will have to ask you back.

I have been struck by your comments that homelessness is not just a housing problem. We must deal with issues in relation to education and social work. Robert and Liz, you were both on the homelessness task force. What was your experience of that? Is it a useful model for tackling the big, thorny issues of homelessness, which will not be easy to resolve? Was your experience positive? You may answer in any way you like, as long as nothing that you say is libellous. I am protected, but you are not.

Robert Aldridge: Our experience was very positive. The task force was open to ideas and willing to explore new directions. In the first phase, we concentrated on producing legislative proposals, which limited the debate to some extent. We are now moving into the second phase, when I hope the task force will produce broader, more far-reaching proposals. The process has been useful. We are trying to ensure that it is as inclusive as possible. It is difficult to hear the user's voice effectively, but we want to ensure that we are listening to practitioners in the sector.

The Convener: Did the task force include health and social work? Was their role in resolving homelessness clear as a part of the process?

Robert Aldridge: Yes. Those sectors are both represented on the task force, which is important.

The Convener: We can follow up some of the other issues in relation to local authorities and so on. I thank our witnesses very much. This has been an interesting session, from which we have heard a lot of information that will be useful to our stage 1 consideration of the private members' bills. We look forward to a continuing dialogue about the consultation paper on the forthcoming housing bill.

Petition

The Convener: We will move on to item 5.

Alex Neil: Unfortunately, I have to go.

The Convener: You are a busy man, Alex.

Item 5 is the petition from the Campaign for Borders Rail. I remind the committee that we have dealt with this before. We asked for responses from the City of Edinburgh Council and Scottish Borders Council. Those responses have been supplied. Members have received all the papers, which I take it they have read. Are there general comments?

Fiona Hyslop: It was my suggestion to contact the City of Edinburgh Council. One aspect that concerns people in the Borders is employment. We should recognise that jobs represent one of the key solutions to improving the quality of life and tackling the problems of low incomes, social exclusion and poverty in the Borders. That is a strong argument—the connection with the need to expand the labour market in Edinburgh is significant.

Paragraph 4 in the note from the clerk—HS/00/28/1—states that

“no specific work has been commissioned examining the social inclusion issues arising from the lack of a Borders rail link”.

Perhaps what we have received from the City of Edinburgh Council represents the more positive aspects about how a link would provide a contribution to its labour market. We might be considering this matter from the wrong angle, by looking at what is missing as opposed to what would be added.

Mr Raffan: I will add a word of caution to what Fiona Hyslop has just said. I am not against the Borders railway proposal. However, we must learn from other major transport link improvements. The idea of the Kessock bridge at Inverness was that it would take employment out into the northern parts of Scotland—into Easter Ross, Sutherland and Caithness. The reverse has been true. Inverness is now a boom town. It has sucked people in because the bridge made commuting so much easier. I am not dissenting from the point that Fiona Hyslop has made, but my wish would be—I am not a Borders MSP, so I do not want to talk out of turn—to see employment growth in the Borders. That is crucial, especially after the factory closures and redundancies of the past year. Such transport links can be counterproductive in that respect; the Kessock bridge is a good example.

Karen Whitefield: I will make a general point on petitions. I am not necessarily opposed to the Borders rail link, but there are competing

demands. For example, my priority is the Airdrie to Bathgate rail link.

The Convener: I wonder why?

Karen Whitefield: It is a surprise. I would like to think that Fiona Hyslop might join me in wanting that as a priority.

Fiona Hyslop: I already have, Karen.

Karen Whitefield: There are social inclusion aspects to the transport agenda, but we must be clear about whether the committee should concentrate its efforts on one specific proposal or whether it should examine transport and social inclusion across Scotland, so that everyone feels that they are being represented.

12:15

Mr McAllion: I agree that more general issues arise from this petition. One of them is—given the events of the past few days—that we should not be so dependent on road transport. Moreover, those who say that it no longer matters whether rail lines are electrified and that what is important is train times should be reminded that whole areas of Scotland—such as the north-east and the Borders—are being excluded because they are not part of an electrified integrated railway infrastructure.

Mike Watson: I agree with John McAllion. The Borders does not have a rail link—that is an important point. I understand Karen Whitefield's argument about Airdrie and Bathgate. I made the same comment about the cross-rail link in Glasgow, which links the north and south of the city. Glasgow has rails. Airdrie has access to—

Karen Whitefield: It has no access.

Mike Watson: It has access to Glasgow, whereas the Borders has nothing. That is the point. Whether people are travelling from the Borders to Edinburgh, rather than from Edinburgh to the Borders, is for them to decide, but we must give them that option. The Borders is the most significant part of Scotland with no rail link, and we should put our weight behind the proposal, resources permitting. In fact, resources should be prioritised, because the Borders, although a major part of Scotland, is a blank in terms of rail travel.

Mr Raffan: I agree with a lot of what Mike Watson said. I am concerned that the Borders should have employment growth. John McAllion and I are involved with the Campaign for Rail Electrification Aberdeen to Edinburgh, which seeks to electrify the east coast line. John made a valid point about the current circumstances. We should be pushing the Executive to invest far more in rail—not just in passenger services but in freight, because of the impact that that has on our

motorways and the dreadful accidents that occur. When I was going down the motorway a couple of weeks ago, I saw a pantechnicon, underneath which was a car that had been completely squashed. Those are the kinds of things that are happening. It is unbelievable that the amount of freight on our roads has increased. I am pro-railways.

The Convener: I am trying to avoid getting into a competition. We will note what the Transport and the Environment Committee is doing and keep an eye on it. If we wish to contribute, we can do so at another stage, but it is proper that the Transport and the Environment Committee co-ordinates this matter.

Cathie Craigie: We should pass the petition back to the Transport and the Environment Committee and take note of what Karen Whitefield and John McAllion said. We should look at the wider picture. We cannot look at issues individually.

Mr Raffan: But it is a social inclusion issue.

Cathie Craigie: Yes, it is.

Robert Brown: Surely that requires us to say that we think railways in general are socially inclusive, in particular in the Borders.

The Convener: We will say that to the Transport and the Environment Committee.

Robert Brown: What else is there for us to say? It is not up to us to prioritise, although Mike Watson's point that the Borders is one of the only areas with no rail link is an important one.

The Convener: I recommend that we collate the views of the committee and submit them to the Transport and the Environment Committee so that it can use what we say when it communicates with the Executive. Individual MSPs can represent their own areas in the competition for resources.

Karen Whitefield: We should not be having a competition—that is inappropriate.

The Convener: None the less, we are persuaded about the principle of inclusion in the Borders and we agree that the Borders has significant needs, which impact on exclusion.

We will move now into private session to consider the draft drugs report.

12:19

Meeting continued in private until 12:53.

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