

SOCIAL INCLUSION, HOUSING AND VOLUNTARY SECTOR COMMITTEE

Wednesday 27 September 2000
(Morning)

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SOCIAL INCLUSION, HOUSING AND VOLUNTARY SECTOR COMMITTEE

30th 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

Pat Bagot (Scottish Homes)

Hugh Hall (Scottish Homes)

Councillor Michael McGlynn (Convention of Scottish Local Authorities)

Mark Turley (Convention of Scottish Local Authorities)

John Ward (Scottish Homes)

CLERK TEAM LEADER

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 27 September 2000

(Morning)

[THE CONVENER opened the meeting in private at 10:06]

10:21

Meeting continued in public.

Housing Bills

The Convener (Ms Margaret Curran): I formally open the public part of the meeting and welcome the representatives of the Convention of Scottish Local Authorities.

You will know the matters that we are addressing. We are grateful for your written submission, which has been extremely useful as we have tried to focus on the issues that we have to consider. For some time, we have had a good relationship with COSLA, which has helped us a lot with our work. We expect that to continue as we consider housing legislation in future. We look forward to an interesting dialogue with you, as I am sure that this will be the first of a few visits to us on one subject on another.

Please introduce yourselves and give a brief introduction to your paper. We will then ask you questions.

Councillor Michael McGlynn (Convention of Scottish Local Authorities): I am COSLA's housing spokesperson and chair of housing in South Lanarkshire Council. On my left is Mark Turley, who is director of housing in City of Edinburgh Council and a member of the homelessness task force. On my right is Fanchea Kelly, who has just been appointed as COSLA's adviser on the forthcoming housing bill. The fact that we have appointed someone of eminence within Scottish housing to lead our submission on the housing bill shows that we take it very seriously.

We are grateful to the committee for inviting us to contribute to your discussion and to answer questions. You have our submission on the Family Homes and Homelessness (Scotland) Bill and the Mortgage Rights (Scotland) Bill, which also gives you a flavour of what our position on the housing bill will be.

The two members' bills seek to prevent homelessness. We fully support that aim, and had the housing bill not been in prospect, we would have endorsed almost all the individual provisions of the bills. However, it is clear that many of the positive aspects of those bills will be included in the housing bill that will be introduced in the next few months and in the work of the homelessness task force.

The provisions in the housing bill have emerged from the work of the task force, which is chaired by Jackie Baillie. Mark Turley is a member of the task force and Councillor Rita Miller from Ayrshire is COSLA's social work spokesperson on it. We believe that, rather than creating additional legislation that may be overtaken by the housing bill after consultation, it makes sense to consider adopting certain aspects of the members' bills in the housing bill.

We would like to make four key points. We welcome the development of the Government's thinking since the green paper, "Investing in Modernisation: An Agenda for Scotland's Housing", was published last year. In particular, we welcome the decision that councils should have the lead responsibility within the community planning framework for preparing comprehensive housing plans in their area and that they should have a greater role in housing investment.

We broadly welcome the proposed single tenancy, which we would like to be adopted for all tenants in affordable rented housing. The only change that we would like there to be is intended to safeguard the supply of affordable rented housing to meet local housing needs: the maximum discount in the modernised right to buy should be reduced from 50 per cent to 33 per cent. We also want pressurised areas to be determined in the single housing plan rather than by a separate bureaucratic system.

We have a range of concerns about how the new executive agency will operate. Its role in community regeneration appears to overlap with that of local government. More needs to be done to ensure the independence of the regulation role. COSLA will present its views on that.

We are disappointed by the Executive's proposals on repair and improvement grants. Our response will suggest some new ways in which councils can be empowered to work with owners to tackle poor housing. We feel that the Executive's proposals in that area are probably the weakest part of the housing bill.

I will be happy to answer members' questions.

The Convener: Thank you. You have raised many issues. Our questions this morning will focus on homelessness. Although other matters may not be raised today, we will certainly pursue them with

you on another occasion, because we are interested in your views on the right to buy and so on.

I will kick off by asking about the current state of play, and then look at the direction in which various proposals will take us. What are the strengths and weaknesses of local authority provision at present? Do the changes that are recommended by the homelessness task force and the members' bills take us in the right direction?

Mark Turley (Convention of Scottish Local Authorities): The work of the homelessness task force has been split into two phases. The contents of the consultation paper reflect only the first phase, which was deliberately geared to producing quick fixes for the perceived weaknesses in homelessness legislation. The task force and COSLA think that the proposed measures, including the two members' bills, take us in the right direction, but none of them will address fundamentally the serious, and probably worsening, homelessness position in Scotland. The legislation is cumbersome and is an administrative burden. Huge resources are tied up by councils and voluntary organisations in propping up a system that started as an exceptional route for those in the greatest housing need but became the mainstream. The system is not fit for its purpose.

In the second phase, the homelessness task force intends to examine more fundamentally the reasons why homelessness is increasing. There are two questions to address. First, what measures can be taken to balance the supply and demand of affordable housing? There is clearly an imbalance at present. Secondly, what examples of best practice could be adopted to alleviate homelessness? No matter how good the supply and demand match is, it is probable that some people will still become homeless. The answer to that question could involve improved joint assessment by the different streams of housing, social work and health.

The Convener: That was a comprehensive answer. I would like to unravel part of it before we move on. Are local authorities frustrated about the services that they have to deliver? Do they need fundamental change to enable them to deliver a better service? Are things difficult out there?

Mark Turley: If I may use one example to illustrate that point, section 5(4) of the Family Homes and Homelessness (Scotland) Bill says that in allocating permanent housing, councils should take account of, for example, the need of the household to be near schools and employment. There is not a council in Scotland that would not want to do that.

It is common sense that we would love to have the housing to meet people's needs in that way, but the reality is that it is becoming progressively harder to find housing that meets people's needs, even in its size. There has been a problem in terms of location for years. There is frustration. One can go on tweaking and improving the legislation, but is that just shuffling the deckchairs on the Titanic? It might improve a difficult and unsatisfactory situation, but it will not necessarily tackle the fundamental problems.

10:30

The Convener: On average, how much of a housing budget is given over to homelessness services?

Mark Turley: It is a small proportion. Within grant-aided expenditure, which is the grant settlement for local councils, the line called homelessness is one of the smallest of 30 or 40 indicators that determine overall grant levels to local authorities. The grant for homelessness is measured on historical levels of presentations, so the councils that have the most presentations get the biggest GAE award, and most councils spend up to GAE on homelessness. However, there is much hidden homelessness expenditure.

One of the work streams of the homelessness task force is to try to quantify the hidden costs. For example, in their landlord role, most councils will provide an advice service to anyone who calls at a local housing office. Many of those advisory services are geared towards the prevention of homelessness, so someone who comes in looking for a house because their parents want them out, for example, will receive advice from a council in its landlord role. Generally, those costs are not identified as a homelessness service, but they exist and they are substantial. That is why COSLA and the homelessness task force are anxious that in the debate on stock transfer there is some quantification of those services, because if they cannot be funded through councils' housing revenue account, it is difficult to see where they will be funded from in future.

The Convener: I appreciate that it is difficult, but can you give a Scotland-wide figure for how much local authorities spend on homelessness?

Mark Turley: I could not, but that will be one of the products of the next phase of the homelessness task force.

The Convener: You were just beginning to touch upon the services that local authorities provide over and above their statutory duties to meet the homelessness need. What do local authorities do over and above the call of duty because they think that it is the right thing to do? Can you give us a flavour of that?

Mark Turley: By “the call of duty” do you mean the statutory remit?

The Convener: Yes.

Mark Turley: A huge amount is done. For example, through the rough sleepers initiative, a number of councils have set up innovative cross-cutting services, mainly with social work and health, to tackle homelessness jointly. Councils already do a heck of a lot of work for the single homeless. One of the biggest weaknesses of the current legislation is that it seems to be okay to be homeless if the person is single. Perhaps that was acceptable 40 years ago, but it is difficult to reconcile with the social inclusion agenda now. Councils do a lot of work in providing hostel accommodation or supported accommodation for single people, who have little in the way of statutory rights.

The Convener: Has some of that good practice informed the homelessness task force?

Mark Turley: Yes. The work of the rough sleepers initiative advisory group and the homelessness task force is coming together, and it needs to.

The Convener: You mentioned that homelessness is a profound and complex problem, and that it has been increasing. Why is it increasing, given that we have seen efforts to begin to tackle it?

Mark Turley: One of the reasons for the problem increasing is actually good news. Through the rough sleepers initiative, but in particular through the improvement of services, people who historically have felt that the system had nothing to offer them, especially single people—who are some of the most excluded—are beginning to approach councils. That is out of a belief that for once councils might be able to help them, whereas in the past they were alienated. The statistics show that the largest increase in homelessness presentations comes from single people. That is good, because it means that we are at least engaging with people who previously have been excluded. The issue is whether we can do so properly and effectively.

The causes of homelessness are great and complex. There are two categories. Undoubtedly it is the case that if we could respond better through a more joined-up response when the problem arises, it would help to tackle homelessness, but fundamentally, most people are presenting as homeless when, to be honest, 20 years ago they would just have gone through the normal council waiting list route. People leave their friends, relatives or parents, but good-quality affordable housing is not available to them. What was meant to be an exceptional route is now the mainstream.

The Convener: Thank you. That is extremely helpful.

Karen Whitefield (Airdrie and Shotts) (Lab): I would like to focus on mortgage repossession, because that features in both members’ bills. To what extent do you perceive mortgage repossession to be a problem in homelessness?

Councillor McGlynn: The contribution of mortgage repossessions to a council’s homelessness presentations is small. The experience of my council, and of councils throughout Scotland, is that there are different categories of homelessness, as Mark Turley has explained, for example, people leaving accommodation and partnerships breaking down. The effect of mortgage repossession is quite small, but any improvement would be welcome.

Karen Whitefield: Do people seek advice from local authorities when they are facing mortgage repossession? Would a local authority’s housing service be seen as the first port of call?

Mark Turley: Yes. That is an area in which the members’ bills will help, because often people come to us relatively late in the day, when it is difficult to persuade lenders to change their course of action. If sheriffs have a clearer set of criteria to take into account, and that helps to delay the process at a crucial stage in the proceedings, that will directly help the household because it will give it more time; it will also help councils in trying to respond. It is common for people to come to us having received little or no debt advice.

Karen Whitefield: Do people come to you when court action is imminent and when time is short, and not when they first get into difficulties and can see that they are going down that road?

Mark Turley: It varies. A significant proportion of people wait until the eleventh hour. They bury their heads in the sand because the situation is too horrible to contemplate. However, there are people who anticipate what will happen and who come to us because, due to a change in their circumstances, they can see that their current home is not sustainable.

Karen Whitefield: If courts are given a statutory duty to ensure that personal circumstances are taken into account when they make their decisions, do you foresee local authorities having an extended role in providing those households with assistance and advice on how to prepare for court action?

Mark Turley: Not just in respect of mortgages, but across all the tenures that are affected by the two bills, councils, as landlords, will want to review their recovery procedures to ensure that they take into account the points that the sheriff takes into account. I do not think that that will be a huge

burden on councils—in fact, I do not think that it will be much of a burden at all, because most councils already apply best practice as landlords and would not get to the court stage until most of those points had been resolved. One exception might be the requirement to take into account an outstanding housing benefit claim; we might wish to return to that topic later. However, councils will want to align their procedures with the criteria that the sheriff is using.

Once the sheriff has said, “Right, I am going to take account of this person’s personal circumstances,” I am unclear about the impact of that. The sheriff may take account of the fact that a decision to repossess will result in a family becoming homeless, but does the sheriff not grant repossession in such a case? I am unclear about that.

Karen Whitefield: If there is a statutory duty on local authorities to provide advice and support, do you agree that they will need increased resources, or do you think that most local authorities already deliver those services through their consumer rights services?

Mark Turley: In its response to the Executive’s consultation paper, COSLA will attempt to put some rough figures on the financial implications of all the recommendations for dealing with homelessness. Those implications will include the requirements for additional advice and assistance.

Cathie Craigie (Cumbernauld and Kilsyth) (Lab): Under homeless persons legislation, how many people have applied to local authorities for housing because of mortgage default?

Mark Turley: The figure varies across Scotland, but in most councils I think that between 5 per cent and 10 per cent of applications are related to repossession on the ground of debt. We could attempt to break down the figures between the tenures. I do not have that information to hand, but I think that it would be available.

Cathie Craigie: You said that there was great demand on housing because of the number of applications from homeless families. If it became law, would the Mortgage Rights (Scotland) Bill ease that demand, because families would not have their homes repossessed, would not be made homeless, and would not have to apply to local authorities for housing?

Mark Turley: Yes, the bill would reduce that demand; it is therefore certain to be welcomed. The extent to which it reduces demand will depend on how sheriffs apply the criteria in both bills. However, there is no doubt that both bills will reduce the number of people who have to go through homelessness.

Cathie Craigie: We know that mortgage

repossession is a problem for local authorities as they try to meet the demand for housing. Do you know who the people are who need housing? Are they former council tenants, former Scottish Homes tenants, or former private home owners?

Mark Turley: I expect that that information will come out of the second phase of the work of the homelessness task force, but my understanding is that people in the true private sector—by which I mean people who have bought a home that was not their former council house—account for the bulk of cases.

Cathie Craigie: Local authorities have the power to buy back houses of which they were formerly the landlord. Does that happen often?

Mark Turley: No, it does not. Any buy-back counts against a council’s borrowing consent. In the same way as it is not viable for councils to build new houses, it is not viable for us to buy back houses. It happens in only one or two cases a year in one or two authorities. The number is tiny.

Cathie Craigie: Does COSLA feel that a system should be put in place to make that easier, or is the present situation adequate?

10:45

Mark Turley: In specific circumstances, a greater facility to buy back homes would be helpful. For example, it is difficult within the restrictions of the grant regime to involve owners in trying to put together regeneration programmes or packages for former council estates that are now mixed-tenure estates. Sometimes the only way to make a programme work is to buy back the homes of people who have exercised the right to buy, because otherwise the people will not have the resources to take part in the common element of any refurbishment programme.

The limiting factor for councils is the availability of resources. To buy back a house at £20,000 or whatever may mean that 10 other families will not get central heating. Councils have to balance such decisions. They increasingly have to spread their resources thinly.

Cathie Craigie: Is COSLA involved in any way in the mortgage rescue schemes that some housing associations operate?

Mark Turley: Through the empty homes initiative last year and the year before, a number of councils put together various schemes that were designed to achieve mortgage rescue. Most of the implementation of those schemes has been done through housing associations. Where a deal is done, the delivery is usually through a housing association, but councils have the role of bidding for resources for their area.

Cathie Craigie: I appreciate that this may not be your specific field of expertise, but can you comment on how successful or otherwise the mortgage rescue schemes have been?

Mark Turley: I cannot—but the committee will have access to a report that will be completed shortly. The report will review the empty homes initiative and will contain a robust evaluation of mortgage rescue schemes.

Robert Brown (Glasgow) (LD): I thank the COSLA representatives for their paper; their input has been helpful. We have heard evidence that the number of people whose homes are repossessed, as opposed to those who give up the ghost and move before that stage is reached, is disproportionate. When you talk about the figures for mortgage repossession and for the use of councils' homelessness services, are you talking about people who have been the subject of court actions or about people who have upped stumps earlier on after perhaps having recognised the inevitable?

Mark Turley: The figures to which I referred would be applications from people whose last settled accommodation involved that mortgage. They will include more people than just those who had left as a result of a court order, but will not include people who, as you suggest, give up or surrender the mortgage, move into some other accommodation, and then come to us at a later stage.

Robert Brown: You rightly made a distinction between the formalities and procedures of the law and the good practice of councils at an early stage. At what point do people come to councils for advice? Do people come only at the last minute, when things are about to fall round their heads or when they are already homeless, or do they come at an earlier stage? Can we encourage people to come for advice earlier?

Mark Turley: Are you asking that question specifically in relation to mortgage repossessions?

Robert Brown: No, I am asking about homelessness issues generally.

Mark Turley: Generally, people approach the council at quite an early stage. By far the most common reasons for people seeking homes, or applying as homeless, are that they have had to leave friends or relatives, or that their relationship has broken down, which may or may not have involved domestic violence. In most of those cases, people approach the council at an early stage.

Most councils put in a substantial effort to prevent homelessness from materialising. They will usually speak to the friends or relatives who are currently accommodating those concerned to

negotiate a stay of execution, in the hope that, by buying some time, either alternative housing options can be considered or housing in the area of their choice can be secured.

Robert Brown: I was struck in your earlier evidence by how few people had received debt advice before you had to deal with them when the crisis arose. What might be done about that? I am interested in the extent to which councils and voluntary organisations such as citizens advice bureaux and housing advice centres give advice. Can we do anything to ensure that advice is provided at a much earlier stage?

Mark Turley: Citizens advice bureaux have been under such pressure in recent years that it is difficult for them actively to promote their debt advice services. When people approach councils in that situation, we act as a referral agency. Most councils, especially outwith the cities, have a limited debt advice service and will use CABx or other organisations. It comes under the heading of homelessness prevention. We are talking about promotion and campaigning, which could be improved. It does not have to be councils that do that promotion and campaigning: it would be better if other providers were able to do it. We must recognise the constraints that CABx have been operating under for many years.

Robert Brown: In your paper you mention the number of housing benefit claims that have not been processed because of failures by the claimant to supply the necessary information. There appears to be scope for enhancing performance in dealing with people who are not very good at filling in forms or who are in a chaotic life situation where documents are not available.

Mark Turley: The process through which people go when making a benefit claim is not easy and it is getting tougher. The tightening up that is taking place, including recent requirements on proof of identity, do not make it easier for people to claim benefit.

I do not take pleasure in saying this, but it is well documented that councils' performance on processing housing benefit claims has deteriorated significantly since local government reorganisation. Before 1996, a relatively high proportion of claims were processed quickly; now, right across Scotland, only around 50 per cent are processed within 14 days. Something must be done to address that. I do not want our response to overstate criticism of people for not claiming and for not supplying all the relevant information. There is clearly some responsibility on the Government to streamline the system and on councils to run their management operation more slickly.

Robert Brown: That is an important point.

When it comes to court action, have councils managed to excise out of the system cases that are not real debt cases but where housing benefit has not been sorted out? Are a significant number of people evicted or put under significant pressure of eviction against a background of unprocessed claims?

Mark Turley: People are put under pressure of eviction because early stages of repossession can take place when there is an outstanding benefit claim. That is regrettable but, I have to be honest, I believe that it happens. However, I am also confident that when cases reach the serious stage of court, every council has a fast track mechanism to ensure that no one is in court with an outstanding claim that is the fault of the council. It is quite common for there to be an outstanding claim, but there can be 101 reasons for it.

Robert Brown: I have two other points. First, with regard to consideration by the courts of mortgage repossession and evictions for rent arrears, it has been suggested that it would be helpful if a reasonably lengthy stated number of criteria had to be considered. My bill deals with that to some extent in relation to personal circumstances and the like and the need to prevent homelessness. Shelter suggested that the position of children and various other criteria should also be considered. People on the mortgage side have suggested that a criterion should relate to the history of the debt, such as how the situation has been arrived at and debt arrangements that have not been met. Would that sort of indicator help the courts to achieve a better result? If so, what criteria should be included in those discretionary considerations?

Mark Turley: A balance must be struck. People pay for their housing through a mortgage or a tenancy agreement. In that sense it is a contract. In any contractual situation, there must be a sanction when people are in breach of the contract. You must bear in mind the interests of both parties. There is a concern, of which I am sure the committee is aware, that if the system is made very onerous, especially in the private rented sector, that will act as a disincentive to landlords and hit supply. We must be aware of that. Having said that, it is generally COSLA's view that there must be more consistency among sheriffs as to the grounds that they take into account when considering whether to grant possession. It seems to be hit and miss. We welcome the criteria.

The criteria that are in your bill are reasonable. What worries me is that I am not sure that it ties a sheriff down to making a specific decision. If the sheriff takes into account the fact that someone may become homeless, that has to be a good thing, but how would that influence their decision?

I do not think that the bill goes as far as to say that they would not grant possession. It would be impractical to suggest that they would not grant possession if it would result in homelessness. It is one thing to take account of those criteria, which are reasonable, but the sheriff still has a huge amount of discretion.

Robert Brown: I suggest that that is the idea of judicial discretion; it is tailored to individual circumstances. However, that it is perhaps also about shrieval training, to ensure that sheriffs have the expertise required to deal with housing cases.

Mark Turley: I accept that. We are trying to put the parameters on judicial discretion. I would like there to be a statement about people's ability to pay. However, that is a difficult one. I hope that someone's inability to pay would lead a sheriff to be more sympathetic towards them. On the other hand, if they are unable to pay, what is the point in prolonging the agony?

Robert Brown: The other matter that I will deal with is the procedure for appeals against homelessness decisions. We all accept that by far the best solution is to sort the procedures out and to have a supply of good housing. I propose an appeal to the sheriff as a last resort, which has been given a modified welcome. Does that have a part to play in safeguarding people's rights? How do you see it relating to other methods, such as going through tribunals and internal appeals? Is the court one option or are there better solutions?

Mark Turley: COSLA's reservations are about the principle of the introduction of an appeal system rather than the details of its application.

As the bill is drafted, people could appeal about almost every aspect of their homelessness determination. It could be an appeal against the decision about whether they are homeless, whether they are in priority need, whether they are intentionally homeless and whether there is a local connection. They could then appeal on whether the offer of housing that has been made is appropriate and whether all the criteria that are in your bill have been taken into account. That is an open-ended opportunity for people to seek an appeal.

Morally, COSLA has some difficulty saying that people should not have a right of appeal, as it sounds like a good idea in principle. Our concern is that it would change the outcome for only a very small number of people but could tie up a huge amount of resources in administering the appeals system and, as I have already said, too many resources are already tied up in administering a bureaucratic system. These proposals add yet more bureaucracy to a system that is creaking. I would prefer staff time to be used to give advice on housing options rather than to fight the legal

technicalities of an appeal in court.

11:00

Robert Brown: I want to make one more point about the effect of the European convention on human rights. Do you accept that having a remedy in cases when people disagree with council decisions is an important aspect and that, regardless of the difficulties that having such a remedy brings—to some degree one accepts that it does—it is important that people have an effective right to appeal? I link that to the reference to section 8 of my bill, which is designed to speed up the procedure, bringing into place a quicker procedure for getting decisions in that kind of case and, for that matter, in cases of eviction. The time is the *quid pro quo* for the slightly greater rights.

Mike Turley: The proposals for summary proceedings in section 8 probably take us in the right direction on both fronts. However, I put the question back to the member. Which is most important? Is it to resource a cumbersome appeals system to ensure that people get their entitlement under what I still consider to be unsatisfactory legislation? To take the example of a single person, single people have very few rights and will continue to have limited rights. Even under the Executive's housing bill proposals it will still be quite possible for single people to be homeless.

Which is more important: spending our time trying to find somewhere for single homeless people to live or arguing about whether different groups have received adequate treatment—in a very technical sense—under increasingly complicated legislation? If someone is homeless, they need a house. Most councils—all councils—want to achieve that outcome. If they do not, I doubt that it is because of a deliberate misinterpretation of the legislation. It would be for reasons other than legislative ones.

Robert Brown: I have a final question, because I do not think that I got an answer to the central issue. Given that there must be some mechanism for dealing with people's rights and that you do not go for the idea of a sheriff court appeal, what do you think is the mechanism for giving people rights to challenge the council's decision? Most of us accept that councils have good intentions, but people can occasionally end up the victim of the bureaucracy that exists in any large organisation.

Mike Turley: We are not starting from a blank sheet. Most councils have internal review and appeal mechanisms of one sort or another. I accept that that does not satisfy the need for independence from the human rights perspective. There is no easy answer. For years, people have been saying that we should have a housing

tribunal or a housing court. It does not matter what it is called, if the summary proposals in Robert Brown's bill work, that system could be as quick and straightforward as anything. To be honest, I do not see any point in setting up a dedicated system. If the view is that there should be an independent appeal, I do not feel that there is too much to quarrel about in Robert Brown's proposals. The concern is, will it contribute to tackling homelessness? I believe that it will do so only in a very small number of cases.

Cathie Craigie: I want to push a bit further on the appeals systems that most local authorities have in place. What percentage of applicants who are deemed not to be in priority need would take the case to appeal?

Mike Turley: I do not have statistics, but I am sure that in those specific circumstances the number would be small. How the code of guidance is applied varies across councils. Some councils have a more liberal policy than others on, for example, people with an offending history. We might therefore find a small number of people challenging authorities that take a tough line on particular groups. By and large, I am not aware that a significant number of people challenge the decision about priority need through internal mechanisms.

Robert Brown: I should have made my usual declaration at the beginning about my involvement with Ross Harper and Murphy and my membership of the Law Society of Scotland. I do not think that it is an interest, but in the interests of transparency, I want to repeat it.

The Convener: That is on the record. Thanks very much.

Fiona Hyslop (Lothians) (SNP): I would like to discuss with you how you think we should deal with the bill. It is clear from your evidence that you are warning us against over-legislating in this area and saying that homelessness will not be tackled simply by introducing legislation. Your submission is frank in saying that it would be appropriate to consider these two members' bills with the proposed housing bill. Do you think that we should put these two bills on the back burner?

Councillor McGlynn: We are not necessarily saying that. The important aspects of both bills could be incorporated into the housing bill—that is COSLA's view. The problem is that neither of the members' bills deals with the structural difficulties of homelessness. We are dealing with the difficulties and problems that people face on their way to mortgage repossessions, but the members' bills do not deal with those: they deal with the end of the process, rather than the start.

Fiona Hyslop: We do not have copies of the housing bill, but there will probably be little in it

about the private sector—it is more likely to be a social housing bill. There may not be anything in it about the private sector for us to amend, and it would not therefore be wise for us to prepare any amendments in advance. If there is nothing in the proposed housing bill about the private sector, we might proceed with the proposed mortgage rights bill.

Councillor McGlynn: It is always wise to prepare. COSLA is concerned that the consultation paper has a narrower focus than the green paper, as it focuses on social housing. The housing bill should take account of housing quality rather than housing tenure.

It is possible that the best aspects of both members' bills could be incorporated in the housing bill and in the work of the homelessness task force, to ensure qualitative discussion on where we are going.

Fiona Hyslop: Which are the best aspects of Robert Brown's bill that you think should be incorporated in the housing bill?

Mark Turley: One of the areas of difficulty concerns the right of appeal, which the homelessness task force considered dealing with but declined. If the committee felt that that was a cornerstone of the bill, it would have to go through a different route. I also think that the requirement to take into account, when providing housing, people's need to be in a specific location is unrealistic. The wording that is used by the task force is less specific than the wording in Robert Brown's bill.

The task force refers generally to the need for improved advice and assistance for people who are presenting from whatever tenure, and the strength of the two members' bills is that they are much more focused and require new tests for sheriffs to apply. They also require councils to provide advice and assistance in those areas. That is a much more focused requirement than that in the consultation paper, and in that area the two members' bills could be brought together.

This is a presentational point—COSLA would not want to overstate it—but it would not be customer friendly to introduce three pieces of legislation that cover similar ground. It would be easier to provide clear and simple advice to citizens if there were some form of consolidation.

Fiona Hyslop: Some of the witnesses from whom we have taken evidence have suggested that the homelessness legislation may not be consolidated in the proposed housing bill and that there may be a need for subsequent legislation. You talk about what the task force will do in phase 2. Is it unlikely that there will be one consolidated piece of homelessness legislation? Is it likely that there will be a roll-out of legislation over the

coming years?

Mark Turley: Jackie Baillie has assured us that she will do everything possible to ensure that there will be a second bite at the cherry concerning the work of the homelessness task force. I hope that, in a couple of years' time, there will be new homelessness legislation.

We are talking about consolidation in the next year to 18 months, when three pieces of homelessness legislation would be welcome. However, that may not be the simplest way in which to present the legislation.

Fiona Hyslop: Let us move away from the legislation and to your comments about the strategic role of local authorities and the housing regulator. You refer to homelessness provision by councils and seem quite critical of the potential role of the new agency and regulation. If councils are not direct landlord managers—if a central agency monitors and regulates homelessness and if a range of provisions are employed in tackling homelessness—how will that regulation work in practice, and what would be the best way forward?

Mark Turley: Our concern is that, in regulating councils' housing functions, Scottish Homes will monitor and regulate only a part of the homelessness strategy. COSLA welcomes the fact that the Executive's consultation paper puts great weight on the fact that homelessness strategies should not be regarded simply as housing issues or entirely corporate issues for councils, but should be entirely multi-agency and link with initiatives such as health improvement plans. That is symptomatic of a bigger issue.

Several strands are developing in the monitoring and development of local authorities' work, and the risk is that that process could become fragmented and overcomplicated. For example, we are monitored according to the Accounts Commission's key performance indicators, one of which is to reduce rent arrears—which does not sit entirely comfortably with the aims of the legislation that we are talking about—and in service areas such as education through the proposed inspection of the education function. There is also inspection of the housing function and the best-value reviews. We are in danger of having a fragmented and not entirely coherent monitoring regime. If homelessness must be tackled in a multi-agency way, we must find a multi-agency way of monitoring and regulating.

Fiona Hyslop: Regulation is an issue on which we should perhaps liaise with the Local Government Committee. How can a local authority carry out its strategic role in tackling homelessness if it is not a landlord provider?

Councillor McGlynn: The proposed housing bill provides the opportunity to create a single housing

plan or a local housing strategy. As the democratic organisation in any geographic area, the local authority would take the lead position over the housing associations, the registered social landlords, the private sector and other interested organisations. The local housing strategy would determine the parameters for housing quality in a geographic area. Homelessness, new build, reconstruction, regeneration and all the things councils are now getting involved in—rather than just being landlord providers—would have to be taken into account. Homelessness would be a key part of the local housing strategy.

Councils would also be much more widely involved in the community planning aspect, and health, education, social work and all the different interested parties would be key partners in that work. Housing is only a part of that jigsaw; it is an important part, but it is reliant on the work of others.

Mr John McAllion (Dundee East) (Lab): Let us move away from the members' bills to the homelessness dimension of the Executive's proposed housing bill. You said that you welcome the fact that the Executive proposes to strengthen local authorities' duties towards homeless people. Do you think that the Executive's proposals go far enough and give you sufficient powers to carry out those new duties?

Mark Turley: COSLA welcomes the fact that there will be some statutory powers of enforcement. If, when dealing with RSLs, we are struggling to fulfil our duties, there is scope for statutory intervention to force RSLs to take a responsible attitude towards delivering on the homelessness strategy. The task force was quite clear that this is the first phase. COSLA believes that to tackle the fundamental problems of homelessness there will have to be new powers to change and influence future supply. There is nothing in the consultation paper that will do anything to increase the supply of affordable housing. Unless something is done, none of the other measures will be sufficient. I am sure that COSLA will seek additional powers to increase supply, hopefully in the next phase of the task force's work. They do not exist now, but it was never claimed that they would.

11:15

Mr McAllion: What additional powers would COSLA seek?

Mark Turley: Any powers that would allow the supply of good-quality, affordable housing to be increased in an area where that is necessary. That is likely to be a debate about resources. It might be a debate about the shape of the right-to-buy proposals which, one might argue, will influence

supply around the edges. I am talking about fundamental powers or resources that would allow the provision of new affordable housing.

Mr McAllion: In your written submission, you say that you are concerned about the financial implications of the new responsibilities that are being placed on local authorities. You mention the need to increase the number of temporary accommodation units and estimate that that would cost £15 million in addition to what local authorities receive at the moment. Can you expand on that? What is the cost of the other new duties likely to be? Homelessness services—homeless units and so on—are currently funded from the housing revenue accounts of most councils. If whole stock transfers take place, they can no longer be funded in that way. Where would the funding for those types of services come from in future?

Mark Turley: Most temporary accommodation is accounted for through the housing revenue account, but most services are effectively self-financing. Income from rents, the vast bulk of which comes from housing benefit, covers the cost of providing the service.

Mr McAllion: After stock transfer, councils could not do that.

Mark Turley: No, but the net cost of the service is in most cases nil or low. Regardless of who the provider is, theoretically we should be able to get to the point where the income from rents covers the cost of providing the service. However, one reason it is difficult to quantify all the implications is the uncertainty surrounding the supporting people fund. It is not yet certain that temporary accommodation schemes will be funded once the transitional supporting people scheme finishes. It is not definite what level of subsidy councils will receive on housing benefit that they pay out of the supporting people pot after the transitional period. That makes it very difficult to quantify exactly the cost to councils and other providers of temporary accommodation.

The other difficulty is that the bill will probably be drafted at an enabling level. Only when we see the detail of the guidance or the secondary legislation will we be able to say what the impact will be. Let me take the example of the duty to provide temporary accommodation while advice and assistance is provided to those not in priority need. The extent to which temporary accommodation is needed will depend on how much advice and assistance is required. If the guidance or secondary legislation states that advice and assistance must be sufficient to ensure that a non-priority need person secures housing, somebody could be in temporary accommodation for a long time, until that objective is secured. We are not trying to be awkward, but we cannot physically quantify these things until we have seen the

secondary legislation.

Other aspects of the bill will have financial implications. Some councils, particularly small councils that do not have much capacity for strategic work, believe that even the production of a homelessness strategy will be onerous for them. Most councils believe that the new monitoring and regulation requirements will have a financial impact on them. However, until we know exactly what the regulation will be, it is very difficult to say what the cost will be.

Mr McAllion: In Dundee, which I know better than any other part of Scotland, the council owns homeless units, which it pays for through housing benefit claims. If it retains the statutory responsibility for dealing with homelessness, it will not be able to transfer homeless units to a new registered social landlord. After a whole stock transfer, it would still have to run the homeless units and find a way of funding them, would it not?

Mark Turley: That depends on what is in the bill. If the bill states that councils must provide the temporary accommodation, they will have to retain that accommodation and continue to charge rent on it.

Mr McAllion: Could councils do that if they were no longer landlords?

Mark Turley: There are two scenarios. The bill could say that councils should continue to be the landlord of homelessness units. Alternatively, it might say that councils have the duty to ensure that temporary accommodation is provided but not to do the providing. In that case, councils would presumably transfer temporary accommodation units, along with the rest of the stock, to the new landlord, who would fund the service in the normal way. I do not think that that raises an issue of principle. Provided that the management costs are not excessive, and subject to developments with the supporting people fund, the income should cover the costs.

Mr McAllion: One of the new duties that is being placed on local authorities is to provide people in priority need with permanent accommodation not only of a size that is appropriate for the homeless family in question, but that meets the special needs of applicant households. You have already mentioned the need to be near a school, for example. Is it realistic to place that duty on local authorities if they have no means of meeting it?

Mark Turley: We are concerned about how achievable that is. It is a more modest aspiration than is in the Family Homes and Homelessness (Scotland) Bill, but there is concern about our ability to meet people's needs, whatever form they may take. This applies to people who have physical needs, perhaps because of disability. It is

becoming increasingly difficult to find suitably adapted housing for some people. I would not be relaxed about saying that councils will be able to meet this duty. However, it does not seem inappropriate to set some standard for accommodation. This part of the proposals appears to be concerned more with the permanency than with the nature of accommodation.

The people on the task force who felt strongly that something about this needed to be included were trying to address the Awua judgment in England, which led to some councils trying to discharge their statutory duties through the provision of temporary rather than permanent accommodation. The standard of accommodation offered was a secondary issue.

Mr McAllion: However, if such a provision were included in legislation, a homeless person might, in the context of the European convention on human rights' being incorporated into UK law, say that a council was in default of its statutory duties by not offering their family a house that met their needs.

Mark Turley: That is a fair point. The task force's concern was to ensure that people being housed through the homeless route were not dumped in the worst accommodation and did not have less choice than people taking the mainstream rehousing route.

Mr McAllion: The provision will be meaningful only if resources are made available to allow local authorities or registered social landlords to meet such needs.

Mark Turley: It would be easier for local authorities to do that if more affordable housing were available.

Mr McAllion: If a whole stock transfer has taken place in a local authority area, defining a pressured area that is exempt from the right to buy—at least for a period—becomes critical, does it not?

Mark Turley: Yes.

Councillor McGlynn: Based on the Highland pilot, we have relaxed our position. It was a good idea for that pilot to address the issue of exemptions and designations, which is becoming a monster in terms of paperwork. COSLA believes that pressured areas should be determined by the local housing strategy.

Mr McAllion: By councils?

Councillor McGlynn: By councils and their partners. It should be up to the Scottish Executive agency and the Scottish Executive to reject or amend such strategies.

Mr McAllion: My understanding, from the

briefing paper that you made available to us, is that local authorities are suspicious of the role of Scottish Homes as an executive agency in that respect.

Councillor McGlynn: No, I do not think that we are suspicious of the agency in that respect. We want to make it clear that the housing bill must determine everyone's role in Scottish housing. At the moment, the roles are blurred between Scottish Homes and local authorities. We want to know what the Scottish Executive and its executive agency are responsible for. We want to know the parameters of the local housing strategy and what the councils' responsibilities are. That is the key. If everyone knows their place in the jigsaw of Scottish housing, we will be much better off.

Over the years, there has been tension between local authorities and Scottish Homes. From day one, everyone's role and who they are responsible to must be worked out, and it must be ensured that there is no blurring at the edges and that everyone is clear about their responsibilities; in that way, the position of local authorities, the executive agency and the Scottish Executive will become clearer.

Mr McAllion: Given that there is sometimes a need for a regional plan strategy, rather than a local authority-led housing plan strategy, should not the Scottish Executive and its agency, Scottish Homes, be able to override local authorities? There are regional implications in the housing strategies of Dundee, Angus, and Perth and Kinross. Those authorities sometimes have to be forced to come into line with the regional needs of their areas, including tackling homelessness, rather than developing their own housing plans. What I am getting at is that we cannot allow local authorities to determine the housing strategy for their area without taking in the regional dimension. That would suggest a role for the Scottish Executive and its agency.

Councillor McGlynn: You are absolutely right. We are clear that the local housing strategy that is determined by the council and its partners would have to be approved somewhere, so that a local authority could not create an RSL then move all the money towards it. Some people are saying that that could happen, although I find that hard to believe.

We must work out the roles of the Scottish Executive and its agency. At the bottom end, a number of local authorities in a region may get together and draw up a plan, or if a local authority is big enough—North Lanarkshire, South Lanarkshire or Glasgow, for example—it may decide to have its own plan. That is part of the detail that has to be worked out. Some local authorities may be happy with the joined-up

approach, with two or three local authorities together.

Mr McAllion: Some local authorities tend to be less happy with that if they are controlled by one party and another local authority is controlled by another party. That can lead to problems. It will be interesting to hear what Scottish Homes has to say about that.

Councillor McGlynn: Do you mean political parties?

Mr McAllion: Politics comes into it.

Councillor McGlynn: Absolutely. COSLA is interested in housing quality, whether in the private, public or the private-rented sector. The role of the housing plan is to ensure that we give people the houses that they deserve. If people want to play politics with that, that is their business.

Mr McAllion: That would suggest that Scottish Homes and the Executive should have overriding powers in some respects.

Councillor McGlynn: Over the past year, with the creation of the Scottish Executive, and its joint work with Scottish Homes, many of the fears that there would be tension between local authorities and Scottish Homes no longer exist.

The Convener: Thank you. I am sure that that dialogue will continue.

You will appreciate that we hope that our role in finessing legislation is helpful. However, you will also appreciate that we do not want to make life more difficult for local authorities in relation to their housing provision and the way that they meet the needs of homeless people. We also want to ensure—especially through the two members' bills—that we make our contribution to the homelessness debate. As you outlined, sometimes there is a tension between the needs of homeless people and local authority provision.

Considering the legislation that is in front of us, what is the one thing that you would advise the committee to do?

Councillor McGlynn: COSLA is good at giving advice—that is all we do. We try to influence people. It depends where the housing bill goes. We would support and push forward as best we can the key elements of both members' bills: the Mortgage Rights (Scotland) Bill and the Family Homes and Homelessness (Scotland) Bill.

You asked what our advice to the committee would be. We think that the housing bill should be consolidated to widen its aspects, especially on homelessness; that may give us greater value than individual members' bills. However, in most respects we welcome the bills.

11:30

The Convener: We will take that on board and look forward to meeting you again when we talk about further issues in the housing bill. I am sorry that we did not have much conversation with you, Fanchea Kelly. However, thank you for your time—that was very helpful.

I welcome the representatives of Scottish Homes. You have been here before, Pat, have you not?

Pat Bagot (Scottish Homes): No.

The Convener: John Ward and Hugh Hall have been here a few times. I am in no doubt that we will have a long dialogue with you when we consider the housing bill. However, we are here to consider the two members' bills and what we expect on homelessness in the housing bill. Thank you for all the work you have done to help us come to terms with our responsibilities. We look forward to continuing that. Thank you also for your paperwork. You know the routine—I invite you to introduce yourselves and to give a brief introduction.

John Ward (Scottish Homes): Thank you. We are delighted to join you again.

Hugh Hall is director of strategy and regulation and Pat Bagot is policy practice manager and our representative on the homelessness task force, which is relevant to today's discussion.

I had not planned to say much about the bill. If there are questions, we will be delighted to respond to them. We will publish our response to the consultation paper tomorrow and, by and large, it will be supportive. We have in place significant work on many aspects, with partners such as COSLA—Michael McGlynn has just given evidence—the Scottish Federation of Housing Associations and the Council of Mortgage Lenders. It is important to us that there is as much consensus as possible on what is included in the bill. At the end of the day, what is in the bill is one thing, but we have to make it work. That understanding is important.

The two private members' bills include many good, supportive and interesting elements, but I agree with Michael McGlynn's comments. We are concerned about the overlap between the three pieces of legislation. As Michael McGlynn commented, we would rather see the good elements incorporated into the housing bill. Many aspects of homelessness are already accommodated. Pat Bagot could comment on that, if there are relevant questions.

When things are included in the bill, they become rather inflexible. We can give sheriffs judgmental responsibility, but that has never worked particularly well. We believe that best

practice and regulation can accommodate many of the softer edges and grey areas. We are trying to second-guess what the future will be and that often creates other fault lines that are in themselves difficult. It is important to consider how much has to go into the bill and how much can be accommodated through best practice and regulation, which can be extremely powerful.

I do not plan to say any more, but we will respond to members' questions.

The Convener: Thank you. That was helpful and focused, and will help us to think things through. I wish to establish what is happening now; that will help us, and those who read the *Official Report* of our meetings, to understand the present situation. What functions does Scottish Homes perform in relation to homelessness?

Pat Bagot: Scottish Homes aims to provide funding for the building of homes and supported accommodation for homeless people and for people who need a bit of support to get by in life.

We also use our powers to influence other people to treat homelessness as a serious subject and to devise policies that assist in reducing its incidence. As a result of the deliberations of the homelessness task force, we are assisting the Executive to prepare guidance for local authorities' homelessness strategies.

The Convener: Concentrating on the current, rather than the longer-term, situation, how satisfied are you with what you do now? Do your activities really help to solve problems? Are there big gaps? What are the strengths and weaknesses of your current role?

Pat Bagot: Our current role is limited, in that it is restricted to what I have just mentioned. We have some impact. However, our understanding is that homelessness is not simply a housing problem. Measures in the proposed housing bill and our activities can tackle some aspects, but so many things—relating to education, health and other social issues—need to come together to resolve homelessness problems, that we, through our work with our various partners, could probably achieve a lot more. In some ways, our powers are limited, because the statutory responsibility for reducing homelessness rests with the authorities.

Hugh Hall (Scottish Homes): Through our funding arrangements, we devote a significant amount of development funding to dealing with homelessness issues, and we work closely with local authorities to target that funding. That is still fairly limited, however. We also have an impact through our regulatory role, our performance standards and our raising of standards by best practice, which is defined jointly by Scottish Homes and the Scottish Federation of Housing Associations. We can also encourage, but no

more than that, housing associations to play their part in helping local authorities to fulfil their statutory responsibilities.

The Convener: As far as development funding and other types of funding are concerned, can you give us any figures or percentages about how much you contribute towards tackling homelessness?

Hugh Hall: In the past year, we contributed to the building or refurbishment of 6,700 houses. Of those, we believe that 1,100 were for people in homelessness situations, but I cannot specify a financial sum.

The Convener: That is all right; we can follow that up. As far as your regulatory role is concerned, you will know of the gargantuan housing stock transfer inquiry that we have now, thankfully, concluded, and of some people's real concerns about the transfer process, given the rights of homeless people: some people might feel that they will lose out in the transfer process. Shelter Scotland told us that it had concerns about relations with some housing associations. The Shelter witnesses felt that housing associations were not always at the front line, trying to provide for homeless people. How can you ensure that housing associations deliver? What is the record and the general picture on that?

Hugh Hall: The record of housing associations' contribution to local authorities' statutory obligations is quite good. There is a lot of co-operation, but it is simply co-operation—there is no robust statutory regulatory framework around it. A significant chunk of the proposed legislation deals with that.

Extensive discussion has taken place on that in the new housing partnership advisory group, which has representation from all the interested parties, and in the homelessness task force. The feeling is that the proposals in the consultation document, "Better Homes for Scotland's Communities", will put a much stronger emphasis and obligation on RSLs to play their part.

The Convention of Scottish Local Authorities and the Scottish Federation of Housing Associations have drawn up a form of model contract, which we hope will deal with most of the situations that may arise. The proposed legislation also allows for an appeals process in those few instances in which RSLs are not playing their full part in the overall arrangement.

The Convener: In your regulatory role, how do you deal with examples of bad practice?

Hugh Hall: We do not, as far as I recall from my relatively short time with Scottish Homes, come across examples of bad practice, but if we did, they, would be covered as part of our performance

monitoring arrangements. If we visited the premises of a housing association, we would examine such things as its nominations and allocations policies and suspensions from lists. We would check that the association was playing an active part in supporting the local authority through the performance monitoring process. We would report to the housing association if we identified any weaknesses.

John Ward: When a housing association is given a D grade, it is referred to the board of Scottish Homes, which then has the option of injecting members into the association's committee to correct the perceived problem. That can be done quickly to correct the problems as and when they are identified by monitoring, and it usually succeeds. In a more extreme example, we can transfer the association's assets to another housing association, but that takes a long time.

The Convener: Have you been successful in encouraging people to take the needs of homeless people seriously?

Hugh Hall: Yes, I think so. The best practice guidance that has been drawn up has certainly helped in the dissemination of that. I think that things are working effectively on the ground. Cases of housing associations that are referred to our board because of underperformance tend to relate to governance and finance; I have yet to see a case of failure on an association's homelessness functions.

The Convener: In that case, why is there a growing problem and an increase in the number of homeless people?

Pat Bagot: It was pointed out earlier that more homeless people are seeking services and applying for housing. There was a myth that, in certain authority areas, there was no point in young single homeless people even putting their names down for housing. A lot of work has been done under the rough sleepers initiative and through various advice services. More people are declaring themselves homeless.

However, an increasing number of young people are becoming homeless and that is not simply a housing supply problem. Part of the problem may be that some authorities do not have suitable accommodation, especially for young single people. Those young people may be unable to sustain living in the family home with their parents, or they may leave family homes at an early stage when the parents break up, especially when a parent remarries and the young person gets thrown out.

A considerable percentage of the people who become homeless leave school illiterate, and are unable to fill in simple forms for housing benefit or for housing applications. Various initiatives are

geared towards helping them. There are a large number of young people who are involved in drug taking, and who have chaotic lives and do not get their act together to get access to proper housing, even if it is available.

Family homelessness often occurs with dysfunctional families, who cannot cope with the system without support. We are beginning to identify such families, and to view them as being homeless and able to be housed, rather than simply as dysfunctional families.

Karen Whitefield: Can you outline your role in the homelessness advisory service?

Pat Bagot: Scottish Homes has several roles in relation to that service. Together with the Scottish Executive, we are a funder of the service; we fund jointly most of the services that Shelter provides to the other housing advice agencies.

We were instrumental in setting up and organising the service, and we are now involved in producing quality standards for advice agencies so that, when people seek advice—especially secure, independent advice, although several councils are on board as well—we can ensure that the advice they receive is of high quality, accurate, up to date and backed up, in some cases, by advocacy.

Karen Whitefield: Do you keep any records of the type of advice that is provided under that service? If so, are you aware that mortgage repossession is an issue on which people are seeking the help of the advisory service?

Pat Bagot: We receive breakdowns of the types of cases that advice centres and citizens advice bureaux deal with. Mortgage repossession tends to be a small element.

11:45

Karen Whitefield: What are the other types of problem, if mortgage repossession is a small element? What percentage of the overall problem does it constitute, and what are the other issues on which people seek advice?

Pat Bagot: I cannot give you a percentage for mortgage repossession. One of the major elements is debt problems; people seek advice because they are about to lose their housing or are unable to access housing because of multiple debts.

Karen Whitefield: Can you provide debt advice to those people, or is there a shortfall in the provision of suitable advice on debt problems and debt prevention?

Pat Bagot: The advice network is not consistent throughout Scotland. In some areas there are concentrations of advice agencies that can deliver good debt advice; in other parts of the country,

such agencies are few and far between or have a low capacity and cannot deal with the work load. The purpose of the Scottish homelessness advisory service is to extend that network and provide the tools to advisers throughout the country to enable them to give better advice.

Karen Whitefield: Cathie Craigie's bill would change the legislation and require the provision of more advice. Who should be responsible for providing that advice? You have spoken about quality, standards and the lack of provision. What input should local authorities have? Should they be the providers, as they have a strategic role to play, especially in the light of the proposed housing bill? Is there a role for advice agencies such as citizens advice bureaux? Who should take the lead?

Pat Bagot: In the consultation on the proposed housing bill, it is the clearly stated duty of local authorities to secure that advice, not necessarily to provide it. The consultation also emphasises the need for the advice to be independent. If a council repossesses a property, it will give advice through its housing service, but there may be a need for independent advice. The homelessness strategies that local authorities are drawing up will have to address the provision of advice services in council areas.

Some of the advice can be provided very well by councils, but there is a big advice industry out there, although it is not evenly spread. Approximately 80 small agencies in Scotland provide housing advice. The idea is to harness the resources of those agencies and to provide funding for them so that they can continue to provide services. If the courts took up the provisions of Cathie Craigie's bill, they would need to have a view on what constituted adequate financial and housing advice, as well as assurance that somebody had received that advice from an agency that was committed to giving quality advice, which may subsequently be accredited.

Karen Whitefield: I spoke recently to the citizens advice bureau in Perth about the difficulties that it faces in comparison to those that are faced, for example, by the citizens advice bureau in North Lanarkshire, which feels that it is supported much better by the local authority. How can we ensure consistency of service and will there be financial implications? Will funding need to be increased or does it need to be better spent? If so, how could it be better spent?

Pat Bagot: The local authorities, within their strategies, will have to consider who can best provide the service locally. That may be a citizens advice bureau or some other advice agency. If such agencies are not statutory, they need to be funded, and it is the role of local authorities to provide funding for voluntary agencies to provide

those services. If those agencies have a strategic role, that must be backed up by funding, and they will require to be properly funded.

Citizens advice bureaux are represented strongly in some areas, but in other areas there are none. Through Homepoint, Scottish Homes is examining the gaps in the service and ways in which those gaps might be filled, either by the creation of a new agency or by the extension of existing agencies into wider areas.

Karen Whitefield: My next question focuses on Robert Brown's bill and the concern that you raised in your helpful briefing about the possibility of the bill allowing for an increased level of rent arrears. Can you explain that concern?

Pat Bagot: We measure the efficiency of landlords against their ability to recover rent, as do local authorities. That is one of the indicators that shows that they are performing well as landlords. If the court takes time, by assessing the case for several weeks, a debt is still incurred to the landlord. In a tiny number of cases, tenants will play the system. Those are the cases in which there are high rent arrears and in which any delays to the legal process mean that local authorities and housing associations will incur additional rent loss, which they may not be able eventually to recover.

If the process is prolonged further—it usually takes quite a long time before a case comes to court—and the tenant does not take the opportunity to make reasonable repayment arrangements or to try to remedy the situation, there will be an increase in rent arrears.

Karen Whitefield: What could be done about that? Very few people will not pay their rent because they do not want to; the vast majority of people who do not pay their rent do not have the money—they have increasing debts for other things and pay whatever bill is most urgent, and their rent may not be regarded as most urgent. What do you suggest? How should we tackle those arrears?

Pat Bagot: In such cases, landlords must assess what is recoverable rent and what is irrecoverable. If the tenant arranges to pay the rent plus a small amount of their arrears, the landlord should be able to sustain that, as the rent money would be returned in due course. I support the provisions of the bill that would allow people a reasonable amount of time to try to remedy the situation, which would also allow the landlord to recover the money. Once the tenant has been evicted, the chance of recovering the money is reduced considerably.

Karen Whitefield: That also comes back to providing better debt services and giving people access to good advice on how to tackle such

problems.

Fiona Hyslop: I want to ask about nomination arrangements between local authorities and housing associations. What has your experience been? Are you pleased with the arrangements so far?

Hugh Hall: Yes.

Fiona Hyslop: Have there been any difficulties with any housing associations or councils?

Hugh Hall: I suspect that there have been difficulties, but that they have been resolved at local level, without the intervention of Scottish Homes as regulators.

Fiona Hyslop: John Ward referred to the fact that Scottish Homes could put people on the board of a housing association if that association was not discharging its functions, particularly in relation to homelessness and so on. Has that ever happened?

Hugh Hall: Not that I am aware of.

John Ward: Does Fiona Hyslop mean with specific reference to homelessness?

Fiona Hyslop: I mean with reference to homelessness and nominations.

Hugh Hall: No—there have been no such cases.

Fiona Hyslop: How do you regulate the performance of housing associations in accepting nominations from councils?

Hugh Hall: We expect housing associations to have appropriate arrangements in place, which are consistent with best practice as published by the Scottish Federation of Housing Associations and Scottish Homes.

Fiona Hyslop: How do you know that they are doing that?

Hugh Hall: We carry out performance visits from time to time. We examine how that process is operating in practice.

Fiona Hyslop: I am trying to find out whether there has had to be some kind of change in practice between housing associations and councils. Can you give me an example of where that has happened? What would be done to rectify such a problem?

Hugh Hall: I am not aware of any such examples. If we had identified a shortcoming in the practice, we would have brought it to the attention of the housing association in a formal report. We would expect the association to devise an action plan then and we would ensure that it acted on that plan.

Fiona Hyslop: As you might be aware, one

hears different sides of the story in relation to the practice of nominations. If Scottish Homes is to have responsibility for regulating local authorities on their homelessness service, people must be absolutely convinced that Scottish Homes is able to carry out that duty. I have some concerns about that, as I said to the COSLA representatives. How will a national housing agency deal with regulating homelessness strategies in local authorities where, for example, a social work function was not being carried out? Would that be an appropriate role for a national housing agency?

Hugh Hall: The proposals recognise that there are potential difficulties; either duplication of effort between different regulatory bodies or matters falling between the different regulators. That is why it will be important to have a memorandum of understanding between us and the Accounts Commission—we must work closely with the commission to ensure joined-up thinking. First and foremost, we must avoid duplication, but we should also ensure that we benefit from the different regulatory arrangements.

John Ward: I want to return to the dialogue that Fiona Hyslop had with Michael McGlynn. Regulation and audit are fundamentally different. Regulation and monitoring is about helping, improving and moving things forward. Auditing is about going in, finding out about a situation on a given day, producing a report and walking away. I agree that it is a highly complex area—the sources of problems such as homelessness are huge. We can hold a profitable dialogue with several agencies—health authorities, COSLA and so on—on the matter. How do we do that? At the end of the day, our objective must be to reduce the number of associations that do not meet standards. The purpose is to achieve improvement. Taking an holistic approach is a challenge that faces all Scotland.

Fiona Hyslop: You said that regulation is about providing for improvements. I tried to get you to give an example of when Scottish Homes has taken action to improve homelessness services that are provided by housing associations—in particular, to ensure that they meet nomination rights. However, you have failed to provide one.

What experience do you have of pursuing homelessness proactively—as part of your current regulatory function—in a way that could be extended to any new function? There seems to be a gap. Can you provide some examples of how you have acted to improve local arrangements?

12:00

John Ward: Regulation takes place on a broad front and homelessness nominations are one element of that. The main area in which problems

tend to come back to the board from housing associations is governance—that is to do with tenant participation and a community's ability to run itself. We also get some complaints about sectarian problems—of bias in the allocation of housing or in the way repairs are carried out. Nothing has come back to us through the regulatory process that suggests particular failures in tackling homelessness that need to be dealt with by the board.

Hugh Hall: I mentioned in passing that we have a best practice guide, entitled “Raising Standards”, that is owned jointly by the Scottish Federation of Housing Associations and Scottish Homes, and which is used by housing associations as the basis for going about their business. We measure their performance against that. I have not given specific examples, but Pat Bagot might be able to provide some.

Pat Bagot: We receive regular returns through a process called the Scottish continuous recording system, which tells us how the nomination system is working and what categories of families are being housed by housing associations. We are able to examine year by year how associations perform in housing the various categories of applicant. Our regulatory staff go to housing associations armed with the figures to ask questions if the number of homeless applications to an association drops, or if that association is not housing homeless applicants. However, housing associations are dependent on the local authority's nomination of homeless people to them.

Fiona Hyslop: That puts the ball back in councils' court. We will want to pursue the question of appeals.

Robert Brown: It will be accepted readily that the two members' bills and the Executive's proposed housing bill will not solve the problem of homelessness, but that they are intended to make a contribution by homing in on the legal and administrative framework that is associated with homelessness.

I would like to touch briefly on advice services. Pat Bagot mentioned the need for funding. Have you been able to make an assessment of the extent of the need for additional funding? I speak as the former chair of a citizens advice bureau which, like most, has had endemic funding problems throughout its existence. Would significant moneys be required?

Pat Bagot: We have tried to quantify how much money goes into housing advice in Scotland, but have never succeeded. We have asked a number of local authorities how much money they put into it. They have been able to give us figures for their funding of citizens advice bureaux, but they do not have a separate record of funding for housing

advice. In addition to the money that we put into the Scottish homelessness advisory service—which is considerable—we have funded individual projects in advice agencies.

However, we do not provide core funding for those agencies. To become sustainable, they must find additional funding, such as lottery funding and funding from other trusts. Housing advice services are an insecure business and it is difficult to make an assessment of how much funding is required to make them work effectively. We need to identify the gaps in funding, to work out an approved strategy for funding agencies and to cost that strategy. At the moment, we do not have the information to do that.

Robert Brown: Everybody—the sponsors of the members' bills and the Executive—accepts the need to fill geographical gaps and to provide more advice, not least on housing. Placing a duty on local authorities is one thing, but they need to be funded—in addition to their existing resources—to implement that duty. Is not there an issue about new duties being placed on local government resources?

Pat Bagot: Yes. Money must be prioritised for that new duty. Councils may be able to do that through making efficiency savings in other services, but more money needs to be provided for the advice service.

Robert Brown: The second area that I wish to address is the legal framework. We are looking for sheriffs to have discretion in repossessions or evictions. The desirability of having a list of criteria has come up—Shelter touched on that. The criteria in my bill are personal financial circumstances, the potential for homelessness, the opportunity to gain advice and housing benefit issues. It has been suggested that there should be a countervailing obligation to look at the history of a situation, such as promises to make payments, arrangements that were entered into and the extent to which they were met.

It also has been suggested that there should be additional criteria, for example on the needs of children. That was also mentioned by Shelter. Does Scottish Homes have any advice on that? Do you support the idea of having reasonableness criteria? I think that you do, but what should those criteria be?

Pat Bagot: The criteria that are outlined in the Family Homes and Homelessness (Scotland) Bill cover most circumstances. I would like to see an extension that would allow a sheriff to consider other issues, because once one starts to make a list, discretion is limited to the criteria that are on the list.

Robert Brown: With respect, it is not. The bill says “all the circumstances . . . including”, and

then lists criteria. The principle is one of wide discretion and not all criteria are listed in the bill.

Pat Bagot: Yes, but there is an argument about whether other criteria can be included. It is difficult to include everything, because we cannot make predictions. I think that children are covered by the wording of the Family Homes and Homelessness (Scotland) Bill—they are included as members of the family. Therefore there is no need to mention them specifically. If I were a landlord, I would be concerned if it was said that homelessness would result from my actions. A number of people who have their homes repossessed make other satisfactory arrangements for their housing. The fact that they do not appear to defend the case often suggests that they have managed to make arrangements.

I can see a delay such as we discussed being caused by people saying, “This action will result in homelessness.” Such a situation would have to be investigated and I am not sure how it would be proved whether those who were being evicted had made other housing arrangements. It would be difficult for the court and the landlord to debate the issue and come to a sensible conclusion.

Otherwise, Robert Brown's bill is to be welcomed. It would give people a fair chance to retain their house if possible, but it would require them to make an appearance in and put their suggestions to a court, which the majority of people who have been repossessed do not do.

Robert Brown: Rent arrears were touched on previously. Would it be fair to say that the key issue is the speed of the court process and the ability to provide enforceable orders on a short to middle-term basis?

Pat Bagot: Yes, that is correct. In some areas it takes a long time to get eviction proceedings to court—the proceedings become protracted. Sometimes that is good because it gives tenants the opportunity to demonstrate that they are serious about clearing their arrears, but it can be a long time for a landlord who is trying to resolve the situation.

Robert Brown: Do you accept that there is a duty on the court to make an order on interim rent payments in the context of assured tenancies? My bill would introduce such a duty for secure tenancies and in cases of mortgage repossession. Is that an adequate short-term safeguard or are there ways in which that could be strengthened?

Pat Bagot: Some private tenants have assured and short-assured tenancies. I would like the same duty to be extended beyond the social sector to private tenancies.

Robert Brown: We have had some discussion of rights of appeal—which is a feature of the

Family Homes and Homelessness (Scotland) Bill—being a supplement to or substitute for internal mechanisms, regulatory arrangements and so on. The table in briefing note 3 suggests that rights of appeal will not be included in the proposed housing bill because of the regulatory powers that it is proposed will be given to Scottish Homes. However, will not Scottish Homes's proposed regulatory powers be more general, rather than designed to address what happens to a particular tenant in a particular situation?

Pat Bagot: When the issue was debated by the homelessness task force, nobody was sure what the regulatory powers of Scottish Homes would be, or whether there would be scope for appeal to the regulator. We have not mentioned the ombudsman, either. There seemed to be a number of appeal systems: the authorities' appeal systems; appeals through the ombudsman; and the possibility of appeal to the regulator. That meant that that we were not able to develop our thinking.

People's rights under human rights legislation have been mentioned and that must also be taken into consideration. The issue has not been debated properly.

Robert Brown: Would I be right to say that the human rights element—the need for independent machinery of some sort—would not necessarily have to be a court, but that it could be a tribunal or something else outwith the council system?

Pat Bagot: If the regulator was, or was seen to be, independent, that might well fulfil the requirement.

Cathie Craigie: Most of the points that I wanted to raise have been covered, but I would like to focus on my member's bill—the Mortgage Rights (Scotland) Bill.

Pat Bagot was right to say that the majority of people who face repossession do not go to court to defend the action, because they see that as hopeless. They think that there is no defence—that the situation is black and white. My bill offers a final stage so that people could face up to their difficulties and go to court. My hope is that a sheriff would take into account all the circumstances of people who faced repossession. The briefing note from Scottish Homes highlights clearly the consequences of repossession on people's quality of life. I thank Scottish Homes for its support, although that support is now qualified and Scottish Homes says that it would prefer that the good elements of my bill were incorporated into the proposed housing bill.

My bill proposes changes to legislation on conveyancing and standard securities, which would give more rights to tenants. The proposed housing bill—which everyone who has been

involved in housing over the years is looking forward so much to—does not deal with that. Why, therefore, would Scottish Homes prefer that my proposals were included in the proposed housing bill?

Pat Bagot: The mortgage repossession elements of the Mortgage Rights (Scotland) Bill will not be included in the proposed housing bill, but it might be a good idea to do that. There is a need, whether by amendment of existing legislation or otherwise, for sheriffs to have such powers. We support any measure that would make it more difficult for people to lose their homes because of the system and a lack of reasonable consideration of their plight. If there were no scope to include that in the housing bill, we would support its inclusion in separate legislation to ensure that people had such rights.

Cathie Craigie: On a more general point, the Scottish Parliament has given MSPs greater opportunities to introduce members' bills. If distinguished organisations such as COSLA and Scottish Homes say that they would prefer provisions in members' bills to be included in Executive legislation and that they hope that members' bills are scuppered early on, what scope is there for members of this new modern Parliament to introduce legislation?

The Convener: You tell them, Cathie.

John Ward: Cathie Craigie refers to a comment that I made. Clearly, the aspects of her bill that relate to the private sector—lawyers, conveyancing and so on—do not overlap or conflict with the proposed housing bill, but there are some areas that overlap. In particular, many problems are in right-to-buy areas, which at one time were in the rental system. The business of maintaining tenancies should be thought through—that was Pat Bagot's point. There should be continuity of thought.

Our view, which is consistent with COSLA's view, is not that there should not be members' bills. However, having two bills tramping the same territory is not the best way to introduce legislation for which there is a huge need in Scotland.

12:15

Cathie Craigie: My bill does not tramp the same territory as the proposed housing bill. It deals with conveyancing and standard security.

You said that you were concerned about the lack of guidance for courts and about the way in which courts would exercise discretion. Could you elaborate on that? It is a matter to which I have given much thought and on which I would welcome your input.

Pat Bagot: At the moment, some sheriffs

exercise discretion that they do not have. That has happened in some courts, very often to the benefit of the tenant or the person whose home is being repossessed. There is a need for guidance and some kind of awareness-raising sessions, so that sheriffs can understand the system and decide on a consistent approach.

Cathie Craigie: Robert Brown discussed reasonableness with you. Should the bill define what is reasonable? Is there a definition of what is reasonable or should that be left to the reasonableness of sheriffs?

Pat Bagot: One cannot legislate for reasonableness because there are so many individual circumstances. A sheriff might make a decision based on whether a person is unfortunate. One must allow human elements to be considered. If a ground was based on what is reasonable, but reasonableness was defined, that would be a welcome way forward.

Robert Brown: On the social theme that John Ward mentioned, is not there some advantage in examining both of the homelessness issues that emerge in that area? Would not it be beneficial to have a common framework of rights that must be applied across the board, whether people are evicted for rent arrears or affected by mortgage repossession? In effect, the situation of both categories of people who lose their homes is the same.

Pat Bagot: The issue needs to be looked at across the board. That is why there is a need to integrate the proposed housing bill and Cathie Craigie's bill. Inequity would result if the sheriff could consider different grounds for the two categories.

Members should bear in mind that not all repossessions are made on the ground of debt. In cases of repossession on the ground of anti-social behaviour, the whole community must be considered. One must consider the rights of other tenants to enjoy their tenancies. That is a much more complicated issue than the matter of resolving repayment of a debt.

Cathie Craigie: I have one more quick question—Pat Bagot has raised an interesting point. Are you aware of lenders who seek repossession on the ground of anti-social behaviour? My experience relates only to financial grounds for repossession.

Pat Bagot: I have seen no evidence of lenders seeking repossession on the ground of anti-social behaviour. I know of lenders who have considered use of the old Scottish procedure of irritating the feu in cases of anti-social behaviour or when somebody has used their house for business purposes without permission. The length of legal proceedings that would be required has always

discouraged lenders. My information is anecdotal, but I have been told that proceedings might take three years, while the nuisance continued to irritate the feu.

Mr McAllion: I wish to return to the proposed housing bill.

Cathie Craigie: You irritate the many, John.

Mr McAllion: I will try my best to irritate everybody here.

I think it was Hugh Hall who said that Scottish Homes had never had occasion to appoint anybody to the board of a registered social landlord because of failure to deal with homelessness. Is it fair to say that the main reason for that is that until now, registered social landlords have never had any duty or responsibility to house the homeless?

Hugh Hall: That is an aspect of the reason.

Mr McAllion: It is probably the main aspect.

Hugh Hall: The obligations on registered social landlords—

Mr McAllion: There would be no reason to appoint someone to a housing association board because it had refused to house the homeless if it did not have a duty to house the homeless.

Hugh Hall: If there were problems with a housing association's allocations policy, or if it failed to observe best practice in relation to homelessness obligations, the need to appoint someone to the board would arise. However, John McAllion makes a fair point.

Mr McAllion: Registered social landlords are to be given new duties to house the homelessness, both in allocating houses and accepting from local authorities the need to house homeless families. Given the proliferation of registered social landlords that will follow the stock transfer, is the issue of failure to fulfil obligations on homelessness likely to become a problem?

John Ward: How we form local housing strategies is fundamental. Today we are trying to find our way through that. You touched on some aspects of it. For instance, the Dundee and Angus or Aberdeen and Aberdeenshire travel-to-work areas are one aspect of the matter and the handling of the linkage between homelessness and educational and social problems is another. It would be wrong to say that we know exactly what we will do. We have to grapple with the problem of how the single housing plan can incorporate those elements and how we can regulate and monitor the plan to ensure that it delivers what it sets out to deliver. I am sure that our holistic approach to things happening in pipes creates many of the problems. We have to find our way through that.

Mr McAllion: I will return to the plans in a moment. I am interested in the proposals for dealing with cases in which registered social landlords refuse to meet their responsibilities to the homeless. Ordinarily, there will be model contracts, which are meant to be agreed between local authorities and registered social landlords, but it is accepted that they will not always be effective and that there will need to be a second level. Does Scottish Homes accept that the second level should not be based on the law of contract, because the law of contract would not properly defend the rights of the homeless?

Hugh Hall: Yes.

Mr McAllion: I am interested in whether such a second level, to which disputes would move, is desirable or workable.

I understand that someone must agree a list of arbiters. I take it that Scottish Homes will do that.

Hugh Hall: Not necessarily. That depends on the parties who are involved.

Mr McAllion: Could local authorities and registered social landlords in their areas draw up lists of independent arbiters without reference to Scottish Homes?

John Ward: They could draw up contracts, but we would want them to be subject to the regime that we would subsequently come to regulate.

Mr McAllion: You are talking about the contracts.

John Ward: Yes.

Mr McAllion: What about the lists of independent arbiters who are meant to resolve disputes between registered social landlords and the local authorities? Who draws them up?

John Ward: Today we have an ombudsman.

Mr McAllion: Does he draw up that list?

John Ward: Well, we have an ombudsman today.

Mr McAllion: I am talking about the bill. The bill is proposing that a list of independent arbiters should be drawn up. Who draws it up?

Hugh Hall: That issue was raised in new housing partnership advisory group discussions. It is expected that the list would be the product of an agreement between the local authority and the registered social landlords.

Mr McAllion: Who would those independent arbiters be? They could not work for the local authority or for the registered social landlords, could they?

Hugh Hall: It could be the ombudsman.

Mr McAllion: So it would have to be an ombudsman who has nothing to do with housing.

John Ward: Today we have an ombudsman for housing.

Mr McAllion: But that is one for the whole of Scotland. We are talking about lists for every local authority area. There must be lists of people who are available to be independent arbiters. Who are they? They cannot work for the local authority or for the registered social landlord, or they would obviously have vested interests.

John Ward: In my view, this would be an extension of the ombudsman role that would have to develop.

Mr McAllion: Would it be—God forbid—local lawyers?

John Ward: For preference, it would not be. The present ombudsman is not a lawyer.

Mr McAllion: Where are those people who will have to judge and make decisions between registered social landlords and local authorities? Where are they coming from? What is their expertise? What is their background? Has anyone given any thought to that yet?

Hugh Hall: Those are practical details that will have to be ironed out.

Mr McAllion: Could the tenants do it?

Hugh Hall: The arbiter would be an independent one, as in other forms of contract. It could be the president of the Institute of Chartered Accountants of Scotland, for example.

Mr McAllion: We heard that the Convention of Scottish Local Authorities believes the existing legislation on the homeless to be bureaucratically burdensome, diverting resources away from housing the homeless. Now we are setting up a system that is even more bureaucratically burdensome, because once the list is set up, the RSL and the local authority may not agree on the independent arbiter. Scottish Homes would then have to come in and appoint an independent arbiter from the list.

John Ward: We would want—although we would have to agree this with local authorities and the SFHA—to have a structure of who those individuals are, based on the ombudsman model. If there was an objection to them, we would clearly have to look at providing somebody else, but I believe that that structure should exist. One cannot suddenly winkle someone out and say, “You’re now an arbiter.”

Mr McAllion: As I read the consultation document, Scottish Homes will have responsibility for appointing someone from the list of independent arbiters where the local authority and

the registered social landlord fail to agree.

Hugh Hall: That would happen only in exceptional cases.

Mr McAllion: We are getting into new territory. Registered social landlords have never had that duty before, and may take badly to having to house certain people. Some homeless families are not the kind of people that one wants to move in.

John Ward: We are thinking on the trot, but the ombudsman today operates completely independently of Scottish Homes, although we fund him. We take no part in what he and his organisation do.

Mr McAllion: Are we talking about him and his organisation, or about separate lists of independent arbiters being set up in the 32 local authority areas?

John Ward: I am not sure that it would be helpful to set up 32 of those individuals, because we do not get that number of complaints. However, we certainly need more than we have today, which is the ombudsman and his team of three people. We would need more than that and we would need a greater geographical representation. That is the best structure to use, because it is separate and independent and can work quickly.

Mr McAllion: Is the only defence of that structure that it would rarely be used?

John Ward: It would rarely be used.

Mr McAllion: If it became common practice for registered social landlords to say, "We're not taking that family", and that became bureaucratically burdensome, what would happen?

John Ward: If we got to that point, perhaps because of bad behaviour, it would become a legal issue. Such cases would be few and far between.

Mr McAllion: What about the rights of the homeless?

John Ward: There would be absolute rights for the homeless, but there would be a requirement on RSLs, as Pat Bagot said, which we would monitor.

Mr McAllion: If the RSL challenges a homeless family and they have to enter into a bureaucratic procedure, an independent arbiter would have to be appointed. If they cannot agree on an independent arbiter, Scottish Homes would have to intervene and go to the list to appoint somebody. The independent arbiter would then set up a hearing. What would happen to the homeless family during that period?

John Ward: I did not say that we would appoint someone.

Mr McAllion: It says in the consultation document that you would.

John Ward: We would put in place a structure based on the ombudsman model. The current ombudsman's turnaround is rapid. We are speculating about what might happen in the future, but you are right to suggest that the turnaround must be rapid. If an RSL had refused to take homeless people, I would be upset if our regulatory process had not established that long before we got to the point of a complaint.

12:30

Mr McAllion: Local authorities often evict people. There will be homeless people whom RSLs could reasonably say that they would not take. The system may have to be put into effect rapidly and effectively across Scotland. It is not encouraging to hear Scottish Homes say that it has no idea how it will work, other than that it hopes that it will not have to deal with a lot of cases.

John Ward: I am not saying that we have no idea how it will work. We are talking about a consultation document. It is a long way down the road before we consider how we will implement it. The bill is nine months away. We must work it out, but we have a fairly general—

Mr McAllion: I thought that the bill was being introduced before the end of the year.

John Ward: The bill will be published by then; I am talking about it being enacted.

You ask a fair question and we will have to work out the answer. I am not going to define how we would work it out. I agree with your point on rapid response. My answer is that the ombudsman model is probably the best one to use.

Mr McAllion: Let me go back to the local authority duty to provide homelessness strategies. You have made it clear that you do not think that, under the bill, there should be 32 local authority strategies across Scotland for dealing with homelessness.

John Ward: Each local authority will have its local housing strategy, which will incorporate homelessness.

Mr McAllion: So Clackmannanshire will have a homelessness strategy independently from the surrounding local authorities, as will Dundee, Perth and Kinross, and Angus, for example.

John Ward: No. That is not what I said. I said that aspects will have to be dealt with in a multi-local authority area. You give the example of

Angus and Dundee, and there is a similar problem in respect of Aberdeen and Aberdeenshire, which relates to travel to work. Homelessness problems may arise from the fact that people move out of a rural community and into town. The family might move across local authority areas. We are having a dialogue with COSLA about how our regional structure would work with local authorities. I am sure that we will arrive at a reasonable means of handling the issue.

Mr McAllion: The consultation document places a duty on every local authority to have a homelessness strategy.

John Ward: Yes.

Mr McAllion: You are suggesting that, outwith that statutory duty, you will seek agreement between local authorities about how to develop the homelessness strategies.

John Ward: Not specifically on homelessness. The example that I used was travel to work. The example was given of people who live in Angus and travel to Dundee.

Mr McAllion: A great concern is that the homelessness strategy in Dundee should not be independent from the one in Angus. There should be co-operation between the two authorities.

John Ward: I agree with that.

Mr McAllion: However, if the two authorities do not co-operate, what is the mechanism for imposing agreement?

John Ward: As we have robust partnership agreements with all local authorities, I would expect that we would build such a mechanism into those agreements.

Mr McAllion: Would you use the carrot and stick of funding and say, "If you do not get into line, we will not fund your developments"?

John Ward: That is one possibility.

Mr McAllion: What happens if the local authority is already in charge of the development funding because it has transferred its stock?

John Ward: You must remember that someone from the Scottish Executive has to parcel the money up.

Mr McAllion: So even though the local authority had control of the development funding, the amount of funding it would receive would depend on the minister.

John Ward: Each year the development funding allocation would be decided.

Mr McAllion: Surely that should not be used as a lever on the local authorities. The funding must be based on need.

John Ward: It should be based on need.

Mr McAllion: You are suggesting that it would be based on which authority was doing what the Executive wanted.

John Ward: The need might be in another local authority. You are arguing against yourself. The need of one local authority may be generated in another local authority. That local authority would have no means of having a view of what the need generation was in the other local authority. Someone has to join that together.

Mr McAllion: You suggest that that someone would be Scottish Homes.

John Ward: We are talking about a partnership arrangement.

Mr McAllion: As an executive agency of the Government?

John Ward: The executive agency must, in partnership with the local authorities, consider this matter sensibly. As with the example of travel to work, we must have sensible arrangements, because people do not always live in an area where a problem manifests itself.

Mr McAllion: Can you understand why local authorities are a bit suspicious of the role of Scottish Homes in the new context? It is much closer to the minister—much closer to the real decision maker.

John Ward: I can understand that, but I hope that no fear will exist. We will solve Scotland's problems only by working together. All the citizens will have to participate in the system—that is the only way to solve Scotland's problems. It does not matter what we do in this room. What matters is that the citizen should feel part of the system and be prepared to contribute. We have to find a means of ensuring that that happens. If it takes the joining together of political structures, that is what we have to do.

Mr McAllion: I hope that you find a way. We have been trying for more than 300 years and have not managed yet.

Pat Bagot: On the duty to provide a homelessness strategy, we would expect every local authority to have such a strategy, but numerous cross-boundary issues need to be resolved, particularly where the voluntary sector is involved in the delivery of aspects of those strategies, such as providing certain facilities or services. Some local authorities have hostels that serve much wider areas. There needs to be dialogue between the authorities to ensure that people do not fall between the strategies. That would be an important part of the guidance.

Mr McAllion: Finally, are there any other broad points that anybody wants to make in relation to

the housing bill? [*Laughter.*]

The Convener: I do not want to stop John McAllion, as he was in such good flow, but we are over time.

I thank our witnesses. That was extremely helpful. We will consider the two members' bills immediately and will be back in touch with our witnesses about many other aspects of the housing bill. No doubt we will turn John McAllion loose on them again.

We have more evidence to take on this subject next week. At the conveners group yesterday, we were told that there is a committee space in the chamber on 23 November. Because some of the material will be a bit dry and technical and because the Parliamentary Bureau is a little short of material that day, I suggested that we could follow Fiona Hyslop's suggestion and bring forward some of the evidence that we had found on the drugs issues. We will need to think about that. We would be asked to talk about the visits that we have undertaken, but not the report, which has to be published, processed and responded to. I have booked a day in January for us to talk about that.

Cathie Craigie: Does that mean that we would do that before we completed the report?

The Convener: The report would be completed, but it would not yet—

Cathie Craigie: Why are we taking the evidence to the Parliament? Are we going to allow the Parliament to comment on the evidence and influence us when we write the report?

The Convener: If we are going to discuss this matter, we will have to put it on the agenda for next week. Technically, we cannot discuss it today, as it is not on today's agenda.

Meeting closed at 12:38.

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