

SOCIAL JUSTICE COMMITTEE

Wednesday 7 February 2001
(Morning)

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SOCIAL JUSTICE COMMITTEE

5th Meeting 2001, Session 1

CONVENER

*Johann Lamont (Glasgow Pollok) (Lab)

DEPUTY CONVENER

*Ms Sandra White (Glasgow) (SNP)

COMMITTEE MEMBERS

*Brian Adam (North-East Scotland) (SNP)

*Bill Aitken (Glasgow) (Con)

*Robert Brown (Glasgow) (LD)

*Cathie Craigie (Cumbernauld and Kilsyth) (Lab)

*Karen Whitefield (Airdrie and Shotts) (Lab)

*attended

WITNESSES

Alistair Berwick (Council of Mortgage Lenders)

David Chalmers (Council of Mortgage Lenders)

Hugh Hall (Scottish Homes)

Andrew Heywood (Council of Mortgage Lenders)

Bob Millar (Scottish Homes)

Carole Oatway (Scottish Homes)

Dr Tony O'Sullivan (Scottish Homes)

Ian Sillars (Council of Mortgage Lenders)

CLERK TO THE COMMITTEE

Lee Bridges

SENIOR ASSISTANT CLERK

Mary Dinsdale

ASSISTANT CLERK

Rodger Evans

LOCATION

The Chamber

Scottish Parliament

Social Justice Committee

Wednesday 7 February 2001

(Morning)

[THE CONVENER *opened the meeting in private at 10:01*]

10:08

Meeting continued in public.

Diligence Against Moveable Property

The Convener (Johann Lamont): I welcome everybody to this meeting of the Social Justice Committee.

The first item for consideration is diligence against moveable property. Members will be aware that we have been invited by Angus MacKay, who is the chair of the working group on a diligence against moveable property to replace poindings and warrant sales, to nominate a member to that group. When she was convener, Margaret Curran represented the committee on that group, but she is no longer able to do so.

Karen Whitefield (Airdrie and Shotts) (Lab): I suggest that we follow the precedent that was set. I nominate you, convener, to fill the vacancy that Margaret Curran's promotion has left.

The Convener: I am happy to accept the nomination. If there are no other views, is that agreed?

Members *indicated agreement.*

The Convener: I understand that we have visitors in the public gallery today from the CICERO—community initiative in citizenship education regionally organised—project from North Lanarkshire. I welcome them and hope that they will enjoy our discussion.

Housing (Scotland) Bill: Stage 1

The Convener: The first witnesses today are from the Council of Mortgage Lenders. I welcome you to the Social Justice Committee and to our evidence-taking session on the Housing (Scotland) Bill. I apologise for the venue—although it is relatively comfortable, you seem to be rather far away. Nevertheless, I am sure that we will be able to have an important dialogue.

I welcome David Chalmers, who is deputy chief executive of the Dunfermline Building Society and vice-chairperson of CML; Alistair Berwick, director of corporate banking of the Bank of Scotland and a member of the CML Scotland housing sub-committee; Ian Sillars, senior lending manager of Abbey National and a member of the housing sub-committee; and Andrew Heywood, secretary and policy adviser of CML Scotland. If I have got any of that wrong, feel free to correct me.

Our usual pattern is that witnesses make an opening statement, if they want to, after which the committee asks questions.

David Chalmers (Council of Mortgage Lenders): You have done my first job for me, convener, which was to introduce our team from the Council of Mortgage Lenders. I will say a few words about the Council of Mortgage Lenders and the bill and then we will be delighted to answer questions.

The Council of Mortgage Lenders represents about 98 per cent of mortgage lending in the UK. The Council of Mortgage Lenders in Scotland represents those lenders who are lending in Scotland. It has a housing sub-committee, which deals principally with lending on socially rented housing. I chair that committee, and Ian Sillars and Alistair Berwick are members of it. Our organisations have been active in social funding. I think that in total our three organisations have lent more than £350 million for socially rented housing, which is just over a third of the £1 billion that has gone into rented housing in Scotland since 1989. Andrew Heywood is national co-ordination manager for the council. On the introduction of devolution, the Council of Mortgage Lenders thought that it was important to focus on the devolved countries. Andrew looks after activities in Wales, Northern Ireland and Scotland.

I will not say too much about the briefing paper. We certainly welcome the thrust of the bill, which is to provide better homes for tenants in the socially rented sector. I have already mentioned our role in lending to that sector. Lenders are now extremely familiar with the principle of lending on socially rented housing.

We were disappointed that the bill did not

mention owner-occupation, which is now the form of tenure of more than 60 per cent of housing in Scotland, but we are mollified by the proposal to form a housing improvement task force to examine various issues in the private sector.

Convener, I could go through each item in our briefing paper or the committee could begin its questions.

10:15

The Convener: We will ask some questions and, if you feel at the end that certain aspects have been missed out that are not fully detailed in your briefing paper, I will give you an opportunity to raise those points.

What consultation did you carry out with members of your organisation before coming to a view on the bill?

David Chalmers: All lenders active in Scotland are represented on the Council of Mortgage Lenders committee. All those active in lending on social rented housing are represented on the council's housing sub-committee. We discussed the bill as a committee and examined consultation papers. The Council of Mortgage Lenders has participated in various working groups of the Scottish Executive and Scottish Homes, such as the ministerial housing interest group, the rural partnership for change forum, the short-life working group on the impact of the right to buy and the financial viability sub-group, the findings of which have all fed into the committee. We have contributed to the review of the Council of Mortgage Lenders' submissions on the bill. The consultation with our members has been extensive and the briefing paper reflects our members' views.

Alistair Berwick (Council of Mortgage Lenders): We have co-ordinated the consultation with the Scottish Executive, Scottish Homes and various other groups through the Council of Mortgage Lenders to ensure that we are speaking with one voice.

The Convener: Do you feel that the Executive gave you an opportunity to influence the bill before it was introduced in the Parliament?

David Chalmers: Yes. The Council of Mortgage Lenders produced its submission—and many of our members produced their own—when the green paper was published and we have been able to comment throughout the process.

Karen Whitefield: The Scottish Executive considers that a substantial amount of private finance will require to be levered into the socially rented sector as a result of housing stock transfers. Do you share the Executive's confidence that sufficient private finance will be

forthcoming to substantially improve the socially rented sector?

Ian Sillars (Council of Mortgage Lenders): It is important to view the Scottish requirement in a UK context. Over the next 10 years, approximately £40 billion will be needed to upgrade social housing. Lender appetite must be viewed with that fact in mind. We want the Housing (Scotland) Bill to create a level playing field across the country for social housing and lending appetite.

Karen Whitefield: You have raised some concerns about the effect of the proposed extension of the right to buy and particularly about the economic viability of some housing associations. Was the Council of Mortgage Lenders involved in the Scottish Executive's working party on viability? As a result of that working party, do you think that the Executive has listened to the concerns of the Council of Mortgage Lenders and has it given you assurances about the actions that it will take to deal with problems that arise from the issue of viability?

David Chalmers: When the proposal to extend the right to buy was mooted, lenders expressed concerns and we were invited to join the short-life working group on the impact of the right to buy—I am not sure why it was called "short-life". I represented the Council of Mortgage Lenders on that group. A sub-group, on which Ian Sillars and I sat, was formed to consider the financial viability of housing associations.

The attractiveness of the right to buy for tenants has taken a considerable step backwards because of the increased waiting period before tenants become eligible, the reduction of discounts and the 10-year opt-out for housing associations. Our views are well known and have been heard by the Executive, which has taken them into account in the bill.

Ian Sillars: Our concerns relate not to the right to buy as a whole, but to a small proportion of housing association properties, which were funded on the basis of no right to buy. About 47,000 new-build properties were funded on the basis of no right to buy. Our concern arises from the fact that the ground rules of the funding assessment have been changed—the retrospective aspect of widening the right to buy. However, if we look forward, the implications of enlarging the right to buy can be assessed and considered.

Karen Whitefield: Clearly, the CML is of the opinion that retrospective changes would be wrong in principle. However, do you accept that a change of policy in funding is sometimes inevitable and that that is a separate issue from the overall change to the right to buy?

David Chalmers: I must reiterate Ian Sillars's

point: lenders are nervous creatures and dislike things that apply retrospectively. Lenders assess lending propositions at a given point in time, taking into account various factors—they do not like the goal posts to be moved, particularly in relation to an organisation's financial or business plan. There is also an issue about the arbitrary nature of such a change and how the retrospective right to buy would apply. For example, it differs according to whether the housing association has charitable status.

Karen Whitefield: My final question relates to section 9(2), which allows Scottish ministers to make an order

“ensuring that rights of the landlord, the tenant and any other person under or in relation to a tenancy which becomes a Scottish secure tenancy”

are not adversely affected by the conversion of the tenancy. Should Scottish ministers use that order to protect the rights of those holding heritable securities over socially rented property?

Andrew Heywood (Council of Mortgage Lenders): That section derives from the old assured tenancy. Lenders were quite pleased about that provision, but it has now been subsumed under the broader issue of how to protect tenants, public investment and private investment and how to avoid the effects of registered social landlord default or insolvency. We understand that the Scottish Executive is proposing to introduce amendments to the bill at a later stage, to set up a transparent, statutory framework to protect all parties in that context. The heritable security element of the assured tenancies will probably cease to be relevant.

Brian Adam (North-East Scotland) (SNP): You mentioned that there was an issue about 47,000 tenants in relation to the retrospective right to buy. Can you clarify where that figure comes from? I assume that it is the total number of tenants who are involved in the new-build housing associations.

Ian Sillars: I am trying hard to remember where the figure came from, but I know that it refers to 47,000 properties, rather than tenants.

Brian Adam: That would be 47,000 tenancies.

Ian Sillars: Yes, in effect it is the same thing. The figure emerged from the consultation between the Scottish Executive and the CML. Various papers mentioned various figures, but that number stuck in my mind.

Brian Adam: There has been a right to buy for some time now. Are there more mortgage defaulters among people who buy their social rented housing than before? If someone who has bought their house from a council, from Scottish Homes or from a housing association returns to

the social rented sector, the property that they bought will have moved out of the social rented sector permanently. That property does not return to the sector.

Ian Sillars: I am not sure whether we have information on default rates. It would be hard to find that out, because quite a few of the right-to-buy properties are sold on—they are no longer right-to-buy properties once they have been passed on to another owner.

David Chalmers: I can add something on my own organisation's experience of lending for the right to buy. The performance of that lending is better than average, with fewer defaults. When such properties are sold on, however, the experience with the subsequent purchasers of the former right-to-buy properties is the same as for the average lending experience. The experience is more favourable for the initial purchase.

Brian Adam: How do you feel about the mixed ownership of properties? In some cases, properties still belong to housing associations or councils while others are under private ownership. What are the difficulties in upgrading properties in such situations? In many cases, you have security over properties, but are you concerned about the capacity of individuals to deal with major repairs? If so, how should that be tackled? Should we have legislation to cover that?

David Chalmers: We stated our concern about the lack of involvement of the owner-occupier sector under the bill as introduced. We welcomed the formation of the housing improvement task force. We view the task force's work very much as tackling just such an issue. That will become even more important when we start to deal with large-scale stock transfers that will encompass the right to buy and that will result in a pepperpotting of owner-occupiers living in an area. How can we ensure that the properties of new owner-occupiers are upgraded and maintained, given the mixed ownership? We cannot comment on that too much at this stage, other than to say that we look forward to working with the new task force to identify the issues and to come up with solutions.

Ian Sillars: Our experience on this matter comes partly from a large Scottish Homes stock transfer in Cumbernauld, which proceeded this year. That involved a high proportion of owner-occupiers in flatted accommodation. There were real issues about the ability of owner-occupiers to pay their proportion of common works and about the ability of the receiving landlord to roll out the improvement programme not knowing how many owner-occupiers would be able to contribute to it.

The expansion of the right to buy is linked to that. The right to buy must be sustainable—it is not just about the purchase price; it is also a

matter of the repairs and improvements to a property throughout its useful life.

Ms Sandra White (Glasgow) (SNP): In your written submission, you voice concerns about the new single framework for regulating social landlords and about

“the powers of the regulator in the event of default or insolvency of an RSL.”

Does the bill go far enough to maintain private investors' confidence in the socially rented sector, or would you like it to be more robust on that? If so, in what way?

Alistair Berwick: That takes us back to what Ian Sillars said about insolvency and a level playing field across the UK. When the Housing Act 1996 was passed, the Housing Corporation and what was to become the Department of the Environment, Transport and the Regions had an agreement—backed by statute—to cover cases of housing associations getting into trouble. We are keen for something similar to form part of the Housing (Scotland) Bill, mainly because that would protect the tenants, the private funders and all the other parties involved.

I am by no means a lawyer, but I believe that there is nothing at the moment to prevent a creditor of a housing association from taking action and, in effect, from putting the association into the equivalent of administration. We would want the regulator to have the statutory ability to be able to resolve such a situation.

10:30

Ms White: I presume that the answer to this question will be yes, but I will ask you it anyway: will the statutory powers that you mention encourage more lenders to come forward with additional investment? To implement the new legislation, do you think that public moneys—from the taxpayer—will be needed?

Ian Sillars: I do not think that there is a funding issue; I think that we are talking about protecting any public investment that has already been made. As a lender, I get a bit nervous about the word “insolvency”. We want to have procedures to avoid insolvency and to protect all stakeholders—tenants, any public body that has invested in the stock, private lenders and creditors. We want to have a framework such as is already in place elsewhere. I do not think that that will involve many funding issues.

Ms White: I take it that you are referring to the legislation in England and Wales.

Ian Sillars: Yes—such a framework arose out of the Housing Act 1996. However, because of the coming of the Scottish Parliament, the framework was not implemented in Scotland. That is why we

have the Housing (Scotland) Bill just now. Such a framework would be seen as a step in the right direction for the funding market as a whole.

Ms White: So you would want something similar here and believe that it would not cost the taxpayers any money.

Ian Sillars: That is right.

Ms White: I would like to ask about the independence of the new executive agency. In your submission, you question whether it will be fully independent and suggest that there may be political interference in its decisions. If it is perceived that the new agency is not independent, will that affect the willingness of private investors to invest in registered social landlords? If so, what other form could the agency take, so that it was more independent?

David Chalmers: The main issue is to ensure that, somewhere in the bill, there are sufficient checks and balances. I will illustrate our concern with an example. On the one hand, the Scottish Executive could try to maximise the price that it gets for certain housing stock that it proposes to transfer to a registered social landlord; on the other hand, the Scottish Executive is responsible for the regulation, monitoring and financial viability of that registered social landlord. From the landlord's perspective, the lower the price that it pays, the more financially viable the deal is; at the same time, the Scottish Executive is trying to maximise the price. The Executive has a kind of dual role, and there must be a means of providing sensible checks and balances for the two conflicting roles—that of maximising the price and that of not wanting to imperil the organisation that will take on the stock.

Robert Brown (Glasgow) (LD): Your suggestion of a regime to avoid insolvency and to keep an organisation in business, pending more satisfactory arrangements, seems quite good. However, am I right in saying that that is all reserved to the UK Parliament and that we could not therefore incorporate it into the Housing (Scotland) Bill? Are there mechanisms for getting round that?

Andrew Heywood: We understand that the procedural way round that problem is to seek a section 30 order under the Scotland Act 1998. We understand that such an order is being sought and we await the result with interest. It would clearly be difficult to move forward without that.

Robert Brown: Is that done at the instigation of the Scottish Executive?

Andrew Heywood: As we understand it, yes. The Westminster Parliament will then consult and come back to the Scottish Executive. We understand that that process has been initiated.

Like you, we are waiting to see how it goes.

Robert Brown: We may be able to take that up with the minister.

Bill Aitken (Glasgow) (Con): I have a couple of questions about right to buy. You indicated that the level of default on right-to-buy houses in respect of the initial purchase was below average and that, once the house was sold on, it became average. Is that because of the discount that was allowable and the fact that the mortgage would be considerably less than a normal mortgage for a private dwelling house?

David Chalmers: Yes and yes.

Bill Aitken: That being the case, I move on to the question of right to buy in respect of housing association properties. There is potential for around 48,000 such houses to be purchased. Obviously, the take-up will be nothing like that. However, assuming that there could be a take-up of 20 to 25 per cent, do you feel that the CML members would be in a position to grant loans on those houses without having to seek more funds themselves?

David Chalmers: We can build into the equation the transactions that we will fund in future. There is not a problem in putting together a funding package, because we know what the rules are. Ian Sillars and I both sat on the financial viability sub-committee, which looked into the impact on a range of housing associations of the retrospective application of the right to buy. Indeed, we also considered the situation that would prevail given a 10-year postponement and a 20 to 25 per cent take-up.

We found that, in most instances, the housing associations would be able to continue in business, although they would have to reorganise their business plans and refocus their financial plans. Some of the smaller ones may have to think about some form of restructuring; they might not be viable enough to continue as small entities and may have to seek mergers. However, one way or another, there is a way of managing the situation.

The Convener: Could you clarify something for me? You said that about a third of a billion pounds has been put into the social rented sector since 1989. Is that right?

David Chalmers: No. What I said was that just over £1 billion has been put in and that the three organisations represented by the CML witnesses—the Abbey National, the Bank of Scotland and the Dunfermline Building Society—have put in more than £350 million of loan balances since 1989.

The Convener: How many examples do you have of housing associations that have become insolvent?

David Chalmers: I have none.

Ian Sillars: There have been none in the UK. No housing association has become insolvent, but there have been what are known as transfers of engagement. That means that the regulator has had to step in because there has been a cash flow or insolvency problem. In such cases, another housing association is brought in to take over and to safeguard the tenants and the investment.

The Convener: So mechanisms are available for managing difficulties when organisations are coming close to the brink.

You mentioned the conflict between the Scottish Executive looking for the best price in a transfer and the needs of housing associations. Is it not the case that the Executive has a duty to get best value and that it has an interest in the social rented sector? Have not you drawn a false division?

Ian Sillars: There is a best-value test for the Scottish Executive and the Parliament in terms of any disposals. There is a potential conflict of interest between different areas of risk, such as the regulator and, if it became an agency of the Executive, Scottish Homes. The Executive might consider disposal from a value-for-money perspective, whereas the receiving landlord might have a different perspective on value for money.

The Convener: Given the significant amount of public moneys and investment involved, to whom would an independent regulator be accountable?

Andrew Heywood: We might make an analogy with the Housing Corporation in England and Wales which is a non-departmental public body that reports directly to Parliament every year. It has quite strong built-in procedures for examining its internal processes. If Scottish Homes became an executive agency, we would favour a provision in the bill that would make it a duty for that body to report directly to the Scottish Parliament, and which would provide a statutory basis for the independence of the board that will oversee the regulatory function. Although we understand that there is an intention to provide safeguards within the regulations, there would be a greater degree of security if that were part of the bill.

Cathie Craigie (Cumbernauld and Kilsyth) (Lab): I want to move on to the issues raised by the CML on the strategic role of local authorities. Paragraph 13 of your submission mentions your

“reservations about the capacity of local authorities to take on the new planning role”,

particularly in relation to the private sector. What evidence do you have to support that assertion? What must be done to ensure that the private sector is fully engaged in planning processes?

David Chalmers: That general comment was made from experience of local authorities throughout Scotland. Some of the authorities are very advanced in their housing and area plans, but some are not so adept. Furthermore, we have experience of dealing with local authorities that have not quite understood the needs of the private sector or—dare I say it—the registered social landlord sector in the form of housing associations and co-ops.

Cathie Craigie: Is that situation widespread? On what percentage of the 32 local authorities in Scotland have you based that statement?

Andrew Heywood: Although we have not undertaken any specific research on Scotland, the CML has done work on strategic planning by local authorities in Wales and in the UK in general. A couple of our reports—which I will be happy to forward to the committee if that would be helpful—suggest that local authorities' key strengths tend to be centred in the public housing sector. However, not all authorities take full account of the current role of the private sector in house building and supplying housing needs, of the sector's potential, or of how the sector can be harnessed. We would like some attention to be paid to those areas to ensure that the private sector is taken fully into account.

Cathie Craigie: You have produced no real hard evidence of the experience of Scottish local authorities. Instead, you have based your argument on experience from south of the border.

Andrew Heywood: We have based the argument on experience from the whole UK and from some more detailed work that was undertaken in Wales. I am confident that the findings are relevant to local authorities in general and are worth taking into account.

Cathie Craigie: Okay—we can bear that in mind in our considerations. Let us move on. The bill contains provisions to allow development funding to be devolved from the executive agency to the local authorities. Would that cause any difficulties or affect the private sector's desire to involve itself in the financing of projects?

10:45

David Chalmers: Some form of check and balance should be included in the bill. For example, a local authority could be involved in setting up a local housing company to take receipt of its existing stock, and might duly transfer all the stock to that local housing company. We would like to ensure that development funding is allocated by a local authority reasonably even-handedly, between its own local housing company and, perhaps, a housing association that has been active in the area for many years and has a good

development programme. We would like the bill to contain a check and balance to ensure that funds are distributed evenly between the local housing company and the developing housing association.

Cathie Craigie: Let us move on to grants and improvements. Concern has been expressed about the level of funding that is being prescribed for repairs and improvements. Do you know the scale of the problems in the private rented sector? What kind of money should the Executive allocate to that sector? Should the moneys for repairs and improvements be ring-fenced?

David Chalmers: There are quite a few questions there. We examined the grants that were paid over the past six or seven years and found that the amount had been reduced substantially. The figures are recorded, so it is easy to see that.

I would defer answering Cathie Craigie's questions until the housing improvement task force has had time to examine the problems that have been recorded in the housing condition surveys of private rented stock. The task force must consider roughly how much needs to be invested in the stock, who can afford it, who can provide funds and who will need grant aid, as well as the legal mechanism for ensuring that houses are maintained. Until that full assessment is made, and until the remedies and mechanisms that can be put in place to deal with the problems are known, we will not be able to answer those questions fully.

Alistair Berwick: The issue is linked to the right to buy. Cathie Craigie probably knows from the situation in Cumbernauld that an extension of the right to buy puts more onus on the new owner-occupier to ensure that they provide for future repairs. They may need to be made aware that such provision may be needed.

Cathie Craigie: I accept the fact that we should perhaps wait for more information, but what about the idea of ring-fencing? Some people are suggesting that the moneys for repairs and improvements should be ring-fenced, as they were a few years ago. On the other hand, local authorities and others tell us that it should be for the local authority to determine the need in its area.

Andrew Heywood: The figures show that, since 1994, private sector grants have been reduced from £92 million to £37 million, possibly as a consequence of not ring-fencing. That suggests that ring-fencing should be considered seriously. There seems to be a problem when local authorities are under financial pressure.

Cathie Craigie: In your submission, and in Alistair Berwick's comments, you highlighted people in Cumbernauld and the extension of the

right to buy, and how that relates to recovering costs from owner-occupiers and encouraging them to become involved in repair and improvement schemes. Owner-occupiers have a duty to maintain their properties before CML members will lend to them. While there is nothing in the bill to encourage people to make use of repair and improvement grants, we might have an opportunity to introduce mechanisms to encourage them to do so when the Scottish Parliament addresses the law of the tenement. Do lenders have powers to encourage borrowers to become involved in repair work, so that they fulfil their obligations to maintain their properties in good order, particularly with regard to the fabric of the property and common repairs? You suggest that the Executive should do more, but can you do more?

David Chalmers: When we interview a mortgage applicant, we make it clear that they have an obligation to maintain their property. We always stress that that is part of the financial equation that they are signing up to. Where essential work must be done to a property, it is in the lender's interest as much as the borrower's to get it done. Lenders readily make available additional loans to help with repairs and improvements. Usually there is no problem, and lenders are more than happy to assist. It becomes more difficult where people own a house outright and they need funds for repairs.

I may be digressing, but there are difficulties with the Consumer Credit Act 1974, which I know is a reserved matter. It is inordinately difficult for us to lend £5,000 to an elderly couple to repair the roof over their heads. We have to send them two sets of documentation. We do not speak to them for 10 days, and then we send them another two sets of documentation. It gets more and more confusing, but that is a requirement of the Consumer Credit Act 1974.

I appreciate that that is not a devolved matter, but addressing it is the sort of thing that would make it a lot easier for lenders to lend—as are care and repair schemes, which are good at helping elderly people in particular to stay in the houses that they have always lived in by making low-cost loans available to them. There is a range of things that lenders do. I have forgotten the drift of the original part of the question.

Cathie Craigie: I was thinking more about somebody who has a mortgage, but who refuses to get involved in repair and improvement. There are measures—although I cannot remember what they are—that lenders can use to encourage borrowers to be involved. Do you have any experience of putting those measures into action?

Alistair Berwick: It is in the general mortgage agreement of all funders that one should keep the property in reasonable condition. I am sure that

that is in the small print somewhere. However, it is extremely difficult to advise somebody while stipulating that they must keep their property in reasonable condition. We cannot get round that requirement, but at the end of the day it is their house. As long as they are making payments on the loan and they are up to date, it is extremely difficult for us to say, "We think that you need a new roof now." It is not within our remit to be involved in that.

David Chalmers: We might not even know that the borrower is being chased to participate in mutual repair work.

The Convener: Are there any final questions from the committee?

Ms White: I want to pick up on the issue of repairs. Cathie Craigie's point is important, not just for the CML, but for tenants who are sitting in properties in which the owner-occupier refuses to pay for their share of repairs and they cannot get the repairs done. You are saying that there is not a lot that the Council of Mortgage Lenders can do. Is part of the problem that perhaps only one tender is submitted, and the cost is prohibitive? Would it be beneficial if tenants and owner-occupiers were able to get independent, best-value costings?

Members will know of cases in their constituencies, where, for example, something as simple as a door-entry system, which would improve the lives of many people, is being installed and the owner-occupier is given a bill for, say, £3,000, which they are unable to pay. When the owner-occupier seeks independent advice, they are told that the work could be done much more cheaply, but the council will not accept that estimate. Is there any provision that we could introduce in the Housing (Scotland) Bill to make it easier for owner-occupiers to afford to pay for repairs? Do you have any suggestions on that?

Ian Sillars: There are a few points to consider in relation to recovery. For example, can one recover under the terms of the sale? We are dealing with flatted accommodation, because it is in such accommodation that communal repairs and improvement are needed. Under the sale agreement, is the feu holder able to recover from the owners a proportion of the cost? Sometimes the agreement is silent, and sometimes one can recover the cost only of repairs, but not of improvements. It is a grey area, and many problems will come out of the woodwork with community ownership. This issue must be addressed in statute.

Another issue is affordability. Best value has to be a factor. People's money will have to be spent, and if there is a cheaper way of doing anything, it must be considered.

Robert Brown: I will pursue the general

question. It has often been said that a problem with people buying under the right to buy, with a discount, has been that they have bought at the limit of affordability. In other words, as you implied, they can pay the mortgage on the property, but if a major roof repair, for example, is required there is a major difficulty. I understand that that problem is dealt with more satisfactorily in Sweden and other Scandinavian countries, where there are advanced sinking-fund arrangements. Does the Council of Mortgage Lenders have any ideas from its experience here or elsewhere about how the problem might be tackled? For example, there could be a sinking fund, which would be part of the right-to-buy arrangements where there are divided properties. Perhaps the mortgage lenders could collect periodic contributions along with the mortgage payments.

Are there ways in which the Government could assist by introducing statutory arrangements in the Housing (Scotland) Bill? Do you have any other ideas for reducing the burden on the public purse of such repairs and establishing more regular arrangements without major problems for the customer?

Ian Sillars: I will speak briefly about sinking funds, and perhaps my colleagues will cover the other parts of Robert Brown's question. Setting up a new sinking fund at £20 or so a month might not address the problem, if the problem has arisen now and the roof needs to be replaced and will cost X thousand pounds per owner-occupier. It would be okay if one set up a sinking fund for a brand new building.

Robert Brown: Or for a housing association property that has been brought up to scratch and may not need such a repair for 10 years.

Ian Sillars: Potentially, that would be okay, but there will not be a complete match between the sinking fund and the requirements on that building over the term. There will be a high impact of expenditure at certain points, when the sinking fund may not be sufficient to meet it. The sinking fund offers a way forward, but there may need to be pump priming.

Robert Brown: Would mortgage holders be prepared to become involved in innovative arrangements? For example, a housing association may have completed its renovation programme and have houses that are in good nick, but after 10 or 15 years new roofs or whatever might be required. In such a situation, it would be possible to set up a sinking fund without immediate problems arising. Are mortgage holders interested in becoming involved by helping with the collection of money along with mortgage payments? Is there anything that your people could do to help, given a suitable regime or statutory encouragement?

Ian Sillars: It comes down to administration, at the end of the day. If such a scheme were implemented, it would affect the price of mortgages. It is the responsibility of the owner-occupier to contribute to a sinking fund, in the same way that they pay their mortgage each month.

Robert Brown: In the context of multiple ownership in buildings, that may be the theory, but it does not work that way in practice. The result would be a situation such as that in the 1970s, when a huge amount of public money was going towards stopping the roofs of red sandstone buildings falling down. Is there willingness on the part of mortgage lenders to be involved in new sorts of arrangements that would encourage or compel owner-occupiers to take a long-term perspective?

11:00

David Chalmers: One of the problems with the right to buy has been the way that the conditions of sale have been applied at the outset. There is no consistency in factoring arrangements. Sometimes they cover repairs and improvements; sometimes they do not. A starting point would be to have a structure at the outset in right-to-buy sales, so that there would be a consistent approach.

The issue is how we would put aside a fund to pay for repairs in future. We all lend extensively to housing associations, as members have gathered. We know that they all have programmes to establish sinking funds for repairs. How do we apply that principle to individuals? It is a difficult question. Owner-occupiers move on, so can we ensure that the fund remains in one place and dedicated to a particular house? Ian Sillars touched on the fact that when somebody buys a house, we should ask when the roof will need to be repaired and how much we should provide for it.

We hope to be invited to participate in the discussions of the housing improvement task force to explore the issues that members have mentioned, for example, whether a housing association has a factoring arrangement to cover the whole block and whether the owner-occupiers have to put a certain amount aside to cover the owner-occupied parts. That could be developed by the task force as an overall solution.

Robert Brown: I want to make a final point on that—it is an important area. With the extension of the right to buy, more houses that were previously in housing association ownership will come on to the market, and ownership will be divided. You suggest that there would be merit in considering the standard terms and conditions that go into the

conveyancing documents. Has the CML done any work on the sort of thing that would be needed?

David Chalmers: Different local authorities have different terms and conditions, a number of which are robust, so there is already a model that could be applied to right-to-buy sales. Housing associations fund further repairs, but we have not considered fully what we might do if the right to buy was extended to individuals to ensure that those individuals can maintain their houses. The proposed extension of the right to buy might take place a while before the housing improvement task force completes its work, so there may be a lack of synchronisation.

Ian Sillars: It is important that there is a link between extending the right to buy and making potential purchasers aware of their obligations in the long term, which are not simply to meet the payments on a £12,000 mortgage each month. We would be keen to be involved in addressing that.

The Convener: Thank you. I indicated that I would give the witnesses an opportunity to sum up on any points that they feel have not been fully covered in questioning. Is there anything that the witnesses want to add?

David Chalmers: We have covered most of the areas that we touched on in our briefing paper.

We have appreciated the opportunity to give evidence to the committee and the CML is both positive about and supportive of the aim of the bill which, as we said, is to provide better housing for social rented housing tenants. Thank you.

The Convener: Once you have reflected on the evidence that you have given, we would be more than happy to receive further information from you if there are points that you would like to bring to our attention. You indicated that you would send at least one report to us, which we look forward to receiving. I thank you for your attendance today.

I welcome the witnesses from Scottish Homes, whose evidence on the Housing (Scotland) Bill we are happy to hear. We have with us Bob Millar, chief executive; Hugh Hall, director of strategy, performance and regulation; Carole Oatway, registration supervision director; and Tony O'Sullivan, chief economist. I apologise for the distance between us, but we were not quite sure how best to organise the seating.

Our usual pattern is to invite witnesses to make an opening statement, following which members of the committee ask questions.

Bob Millar (Scottish Homes): I will say a few words of introduction.

Good morning. I thank members for inviting us to give evidence during this stage of the

committee's consideration of the bill. We believe that the proposals in the bill pave the way for a new and exciting role for Scottish Homes. The organisation will no longer be a quango with an appointed board, but will become an executive agency—a delivery arm of Government—which reports directly to ministers and will be, through them, accountable to the Scottish Parliament.

Within the framework of the bill, decisions about precisely what the new agency will do lie with the Minister for Social Justice, Jackie Baillie. We are working with our Scottish Executive colleagues to prepare a framework document, which will clarify our respective roles and responsibilities. We will do our best to outline our thinking so far.

As Scotland's national housing agency, we have enjoyed success in growing and regulating the 250-strong housing association movement, in encouraging the more than £1 billion of private money that has gone into social housing and in helping to fund 70,000 new and improved houses throughout Scotland. As a landlord, we have transferred most of our housing to tenant-led organisations. However, it is clear that much remains to be done to make the community regeneration sector in Scotland work more effectively and to contribute to the Scottish Executive's social justice agenda.

It is envisaged that the new agency could use its skills and strengths to help the sector work better as part of a more integrated approach to tackling the worst areas of poverty and inequality. We would complement the lead role taken by councils and encourage more community involvement, empowerment and ownership. A more cohesive approach to improving urban and rural communities would involve working closely with the enterprise network, the voluntary sector, developers, banks and others active in the field. We believe that we have a strong track record and should be able to add value from a national and local perspective.

As the committee knows, successful community regeneration is a complex process. It is important to acknowledge that local authorities will remain the central players in the improvement of communities. We cannot anticipate the final outcome of the bill, but we have already started a dialogue with the Convention of Scottish Local Authorities on key aspects such as the new regulatory framework and the co-ordination of future planning and investment. In the coming months, we will continue those discussions and expand their scope in an attempt to achieve a positive outcome.

Scottish Homes' landlord function will disappear, but key existing functions such as registration and supervision of housing associations will remain. In our view, housing associations are a good

example of successful community businesses. If the Parliament gives us its backing, the new agency will extend its regulatory role to take on responsibility for assessing councils' housing management standards of tenants service, as well as councils' response to increased homelessness responsibilities. We have provided an update of our thinking on that in our submission. We will also manage national housing and investment programmes and Government initiatives such as social inclusion partnerships.

We will continue to develop a strategic approach to housing across Scotland, including the promotion of best practice in such important areas as housing quality and energy efficiency to help prevent fuel poverty. We will encourage more efficient procurement from the construction industry, develop good practice in helping people to rebuild communities and ensure value for money for scarce public resources. We will also give policy advice to ministers on the delivery of housing and community regeneration.

Members will recognise that policy issues are a matter for ministers, but we are happy to expand on any of the thinking behind our presentation and to assist members by trying to answer questions.

The Convener: On that point, there may be issues on which you feel constrained, given what your new role might be. If you indicate at any time that you feel constrained in that way, we will take note and address the matter with the minister. We will not give you a row for not answering.

Bob Millar: Thank you.

The Convener: You said that you thought that the bill was good news for Scottish Homes. What do you think the bill will mean for tenants in the social rented sector?

Bob Millar: Carole Oatway may want to say something about how we can try to raise standards through our regulatory function. That is her responsibility.

Carole Oatway (Scottish Homes): We welcome the opportunity that the bill presents to offer a single regulatory framework that is designed to ensure that all tenants, regardless of who their landlord is, enjoy the same standards of service. We can contribute a number of elements towards the social justice agenda in that regard. We can make inroads into raising standards and equality of opportunity in relation to access and the management of housing. We can do some work to tackle some of the more obvious effects of the reliance of people on low incomes on the social rented sector by ensuring that the quality and the management of that housing is of as high a standard as it can be.

We are committed to the tenant participation

agenda. When we develop the regulatory framework, we want to ensure that it is tenant and consumer focused, that tenants can influence the standards that are set for landlord organisations and that tenants' voices will be heard when those organisations are assessed. We can play a significant role on behalf of the Executive.

The Convener: Do you think that you have a role in re-establishing the credibility of the social rented sector for people who can afford to buy their homes? Currently, people seem to believe that if someone can afford to buy their own home that is what they should do. Is there a case for re-establishing the benefits of the rented sector for folk other than those who simply cannot afford to buy?

Carole Oatway: There is an opportunity to do that if people see that the social rented sector has high-quality housing that is managed to a high standard. It is true that what you have described is very much the case in Britain. There are several examples throughout Europe of places where people see social renting as something to aspire to rather than something to fall back on.

The Convener: Have you had any discussion with your tenants about their situation following the change in Scottish Homes' role?

11:15

Hugh Hall (Scottish Homes): We are in constant dialogue with our tenants and have been over the past few years as we seek to transfer our houses to community ownership. We have made it clear to our tenants that that is our strategy. The final say in all cases rests with the tenants. By the end of October, we will have about 4,000 tenants left. We are in discussion with them about how we will deal with issues associated with Scottish Homes no longer existing. The larger part of the properties are in ballot areas—as we call them—in estates where there are firm plans for onward transfer to housing associations. We will continue that dialogue.

The Convener: Did you have any input into the drafting of the Housing (Scotland) Bill? If so, to what extent did your tenants inform that input? Did you consult your tenants on what should be in the bill?

Hugh Hall: There was no direct consultation with tenants on the bill. We have a reasonably good idea of the views of our tenants because of the nature of our relationship with them. In particular, through the stock transfer process, we sit down with tenants to discuss options, the strategy for their areas and so on. That allows us to get a feel for the sorts of issues in which tenants are interested.

The Convener: To what extent will the additional work load that will result from the regulation of local authority landlord functions have resource implications for Scottish Homes? Are those being addressed?

Bob Millar: The general presumption is that our level of revenue expenditure will not increase. The staffing increase in Carole Oatway's section will be made up from downsizing elsewhere in the organisation. There will be a reduction because of the transfer of houses and of housing management staff. We have on-going discussions with the Scottish Executive on the resources that we need to execute our various functions.

Brian Adam: What arrangements have been made to allow tenants to choose their new landlord? I know that some of your housing stock is not the most attractive in respect of house type. What choice will tenants have?

Hugh Hall: That is an issue for the board of Scottish Homes. We keep our board up to date with how we are progressing the programme of transfers. One of the issues that has been raised is what becomes of residual stock when we become an executive agency. The board has made it clear that its principle is that the tenants must have the final say; the tenants must agree in a ballot. The board has repeated that several times and that is the line that we take.

The legislation includes provision for the establishment of a residuary body. That may well be the vehicle through which the houses of Scottish Homes will be owned. We are considering a range of options for managing the situation, which may include entering into a contractual arrangement with a local landlord—or local authority, as some of our remaining stock is factored by local authorities—who would take on the management function. We would retain ownership of the housing stock but would seek to negotiate with a prospective landlord. That would be done in dialogue with local tenants. We have already started discussions with tenants groups in each area.

There are complexities. Some of the stock requires a good deal of maintenance and we must think about how we will fund that. The difficulty of retaining stock in public sector ownership is that only a limited sum of money is available for us to invest in such property. One of the drivers for communities is the fact that we are able to lever in private finance, although our aim is still to transfer houses to community ownership with the approval of tenants. If that is not possible, we will consider alternative arrangements.

Brian Adam: The bill details how Scottish Homes' relationship with its tenants might be managed in the case of any dispute. Concern has

been expressed that the courts may be called on too quickly to resolve disputes. Are you concerned about that? How might we strengthen the bill to allow a better method of dispute resolution between tenants and landlords, and between tenants organisations and landlords?

Hugh Hall: The bill provides for tenant participation as a statutory right and we support that. We have always taken the view that it is better to get buy-in from all the various stakeholders in the decision-making process. We use a range of methods to do that, including newsletters and public meetings. We also ensure that tenants are adequately aware of what might be required and have access to independent sources of advice. Scottish Homes has those mechanisms in place and we foresee them continuing and being built on as part of the tenant participation arrangements in the bill.

The other major plank is the regulatory arrangements. Carole Oatway alluded to the fact that the new regulatory arrangements will be even more tenant and consumer focused than they are at present. The regulator will have a role to play in setting the standards that they expect landlords to apply in their tenant participation strategies. If landlords are not engaging with their tenants appropriately, the regulator will draw that to landlords' attention and seek action to resolve the situation.

Brian Adam: I am still concerned that individuals or even associations may have to have recourse to the law. Would not it be better to have in place some sort of independent arbitration arrangement, which would be less costly for individual tenants, tenants associations and landlords? If you have not given much thought to that, perhaps you might do so and get back to us.

It has been suggested that, to maintain the independence of advice organisations and to allow them to hire appropriate legal people, there should be levies on landlords, which might vary from year to year. Would that be helpful?

Bob Millar: We have not given that much thought. We can get back to you on that if you wish.

Hugh Hall: We would like to consider that in the context of the existing arrangements for dealing with disputes, including the ombudsman service. We expect there to be a proper complaints procedure whereby issues of concern can be ratcheted up through a whole range of mechanisms, so as to avoid costly reference to the law. There are existing mechanisms, but we need to examine them to ensure that they are fit for purpose in the context of the new legislation.

Brian Adam: What about the rights of your staff? Do you plan to maintain all your regional

offices? What will happen to staff in regional offices that you plan to close? You talked about downsizing in order to take on the new functions. Did you consult your staff about staff transfer before drafting your proposals?

Bob Millar: There were discussions with staff in January. I have spoken to everybody—not individually, but in groups—to bring them up to date with the direction in which we are going. Our logic—if that is the right word—is first to determine exactly what the organisation will do and what its role and functions will be. The next stage is to determine whether the shape, structure and size of the organisation are fit for purpose. We are right in the middle of that process at the moment. The paper that the committee received from Jackie Baillie is the Scottish Executive's first formal announcement on our future role and purpose. We needed that to make progress on restructuring.

Staff naturally have a degree of concern. Nevertheless, they are managing their expectations well, in my view, and are awaiting the outcome of the current deliberations.

Brian Adam: So you are not yet at the point of deciding which regional offices you might or might not need?

Bob Millar: That is right. We are not at that point yet. There will be further discussions with COSLA about the role of regional offices. There is some comfort for staff in the bill itself, as their terms and conditions will be no worse than they are. That gives them some interim comfort until we resolve the shape and size of the organisation.

Brian Adam: What is your experience of community regeneration? How will you develop the appropriate relationships with the local authorities, which clearly have the lead role in that area? What advantage is there in your agency also being involved? Is not that likely to lead to duplication, working at cross purposes or a failure to deliver change because of the council's local view and your national view? What impact will the extra burdens have on your agency in delivering what is primarily a housing function?

Bob Millar: The purpose is to broaden the role. You have asked quite a complicated question, to be honest, and there are a number of aspects to it. There is no doubt that local authorities must be in the lead, and there is no doubt in our minds that we must complement their role and add value. If we cannot make a beneficial impact, we will be failing in our duty.

Brian Adam: The current arrangement is that you hold housing development funds. The local authorities may have views on where those funds should go, but you will not release the money unless you get your way. I have some concern that that is exactly what will happen with

community regeneration. You control the funds. In spite of the fact that local authorities allegedly have the lead role, I fear that unless they comply with your wishes and so you release the funds, it will not happen.

Bob Millar: I do not share your concerns. The key is not my wishes but the minister's wishes.

Brian Adam: I did not mean to personalise the issue. I was referring to Scottish Homes' view.

Bob Millar: One big advantage of the bill is the creation of local housing strategies. That is the mechanism that will ensure that there is a clear identification of housing priorities. Responsibility for that lies with the local authority, which will consult other key players. Those strategies will be based on guidance, which is being prepared at the moment. I believe that that will make for much greater clarity about the priorities and where investment should be targeted.

Ms White: I will concentrate on how housing stock transfer may impact on the new executive agency and on housing associations. We have heard that Aberdeenshire has pulled out of stock transfer, so six local authorities are now considering it. If stock transfer takes place, it will mean a doubling in the size of the housing association sector. Will the executive agency be able to cope with the additional work load? Will housing associations be able to cope with the additional work load and with such a large, rapid expansion?

Bob Millar: Carol Oatway will talk about how we might handle the expansion.

11:30

Carole Oatway: I am fairly confident that, as an agency, we will be well placed to build on the experience that we have had over many years in regulating the RSL sector. The sector has a huge diversity, ranging from organisations with one house and 10 bed spaces to organisations that own more than 5,000 houses. We have processes in place that enable us to regulate those organisations effectively.

I am fairly confident that we can apply what we have learned to much larger organisations. For some time, we have been planning for a much more diverse sector with hugely increased stock under its control—that is not going to come as a surprise to us. We are comfortable that the structures of those organisations will meet the main criteria that are required for registering with us, such as mechanisms for tenant involvement and community empowerment. We are confident that our regulatory systems will be geared up to match that approach.

Bob Millar: Sandra White will probably have guessed that I am a fan of the housing association movement. It has a good record, stretching over more than 20 years, and has shown a capacity to expand and adapt. We are now talking to it about the wider role that it could play in community regeneration, building on its strengths and local connections. Some housing associations are concerned that they may be swamped by a large number of bigger housing associations. We must discuss the impact of the changes on them. We liaise regularly with the Scottish Federation of Housing Associations. I trust the associations' resilience, but their concerns are real and we must talk the issues through with them.

Ms White: Housing associations have said that they are frightened that they will be swamped by the number of houses in the stock transfer. In Glasgow, 92,000 houses will be transferred. You said that you are confident that you can handle larger organisations, but you mentioned a figure of 5,000; we are talking about 92,000. I know that, beneath that figure of 92,000 houses that will be transferred to the Glasgow housing association, 32 other associations will want to be involved, not to mention the tenants associations. Would it be advantageous to stipulate the size of a more manageable housing association, rather than transferring 92,000 houses to one huge housing association?

Hugh Hall: As for our capability to deal with such a large organisation, the skills that are required to be an effective regulator are probably the same for an organisation with 5,000 houses as they are for one with 80,000. There are complex business issues relating to treasury management and corporate finance, as there is a need for additional inputs and external support. We are working closely with the various interested parties in Glasgow on that.

That aspect does not concern us greatly. We have been growing our skills base incrementally where we believe that there may be gaps. I use the word "incrementally" advisedly, because the last thing that we want to do is gear up for something that is still quite a way down the road. The value-for-money considerations are extremely important.

As a management team and with our board, we have discussed the size of the organisation and whether that organisation of 80,000 should be registrable. Our board's major concern is that we achieve community ownership and involvement. We believe that that can be done in a variety of ways. We hear much about a single transfer in Glasgow, but a huge amount of work is being done to develop area housing partnerships and local housing organisations and to secure the buy-in of landlords in Glasgow.

As the regulator, we are watching the situation closely. Before we register the Glasgow housing association, we will ensure that arrangements are in place to achieve community involvement and ownership. We will consider carefully its plans for second-stage transfers and other matters. We want to retain those principles, but we recognise the scale of the problem in Glasgow, especially that of attracting the required finance.

We have not yet mentioned the right to buy. I am sure that we will reach it in due course. We have heard the concerns of the Scottish Federation of Housing Associations on the right to buy and its implications. We do not share the concerns about the impact on and viability of housing associations. However, if there were serious concerns about the loss of housing stock, the transfer of local authority stock to community ownership would create an opportunity for housing associations to obtain the critical mass that they need to remain viable.

The Convener: Under the bill, will you regulate houses—for example, in Glasgow or elsewhere—regardless of whether they are involved in stock transfer?

Hugh Hall: We will regulate the housing management functions of local authorities, their homelessness strategies and their factoring arrangements. That is part of the bill.

Ms White: By what timetable do you envisage that the stock transfer and the regulation will take place, and what time scale will the involvement of the other authorities and the housing associations follow in Glasgow? I am sorry to use Glasgow as an example, but it is the situation with which I am most familiar. I know less about the other five situations.

Hugh Hall: We work closely with the Executive and the various interested parties, such as Glasgow City Council. My understanding is that the ballot is planned for November. That is the latest information that I have had.

If tenants vote yes, it will be some time after the ballot has taken place before a contract is sealed and before the physical transfer takes place. As members may know, that process can be problematic. Obtaining a yes vote does not mean that the deal is done and that the houses are transferred. A host of issues will need to be ironed out after the vote. I imagine that it would be well into next year before the transfer took place.

Cathie Craigie: The bill contains proposals for dealing with disputes about nominations for homeless people between local authorities and housing associations. Are the arrangements adequate? Should the new executive agency have additional powers to direct RSLs that refuse to house homeless people?

Carole Oatway: I am fairly confident that the concern that RSLs will resist playing their part in dealing with homelessness will largely not be realised. Such landlords have a good social conscience. For example, RSLs provided houses for more than 6,300 homeless people last year. That represented 42 per cent of RSLs' total allocations. RSLs are not waiting to be asked by local authorities to deal with people who come to them through statutory homelessness provisions. That is a good starting point.

I am also confident that the powers that will be available to the executive agency under the legislation will be adequate to ensure that it can cope as a regulator if there is reluctance. There are powers to enable us to appoint special managers, which could be done quickly if a local authority and an RSL failed to agree on the provision of permanent accommodation for an applicant.

Karen Whitefield: You have spoken about what will happen when you are no longer a landlord and about your involvement with tenants. However, we have taken evidence suggesting that there is an anomaly in the position of your remaining tenants. You will undoubtedly have some tenants left, as you will not be able to get rid of all your housing stock because of various problems—we explored that issue when you gave evidence before. Is it fair that Scottish Homes tenants will not benefit from the single Scottish secure tenancy from which all other tenants in Scotland will benefit?

Bob Millar: That is a fair question. We forecast how many tenants we would have at a projected date of change. The lowest projection was about 1,000 tenancies. It was on the basis of that relatively small number that we decided to make one change rather than two. As Hugh Hall said, it now seems that we will have between 3,000 and 4,000 tenancies. That is perfectly reasonable and just means that tenants are taking longer to decide to go to ballot—we have never pressed them to go at a speed at which they would feel uncomfortable. Given that changed projection, we propose to make representations to the Scottish Executive to determine whether our tenants could be put in the same position that everybody else will be in.

Karen Whitefield: The right to buy has generated much comment from professionals and tenants in housing associations throughout Scotland. Hugh Hall said that he was not worried that the extension of the right to buy would threaten the viability of housing associations. Has Scottish Homes commissioned any research on the right to buy? Can you share any research with the committee to show why you are so confident on that point?

Dr Tony O'Sullivan (Scottish Homes): I will begin by commenting on an earlier question to the

CML, which was whether the number of houses that would be affected retrospectively was 47,000. In fact, the number is 43,000. We are the source of that figure. In their annual returns, associations let us know how many of their properties already have a right to buy and how many do not. Using that information and information on the charitable or non-charitable status of associations, we reached the figure 43,000.

We have examined the possible impacts of the changes to the right to buy under the bill. Overall, the impact will increasingly be a reduction in the rate of right-to-buy sales. Over time, more people will have the modified right to buy or will have the right to buy under the new terms, and fewer people will have the right to buy under the original terms. That will make purchase more expensive and therefore reduce interest.

We have also examined the possible impact on housing associations. We first considered the impact in the context of an extension of the current right to buy. We took into account the fact that sales from associations where tenants have had the right to buy have always been modest—they have represented a lower proportion of the total number of houses than have sales from local authorities.

We examined data from the 1996 house condition survey to find out what tenants said about their aspirations to use the right to buy. Consistently, housing association tenants indicated that they were less likely to take up the right to buy than local authority tenants were. We used statistical techniques that were developed over 20 years by universities to consider what might happen when the group that did not have the right to buy got it. We came to the conclusion that the take-up would be around 2 per cent a year across Scotland in the group to which the right to buy was extended.

11:45

Subsequent to that, modified terms and conditions—including the five-year eligibility provisions, reduced discounts and a price cap—have been introduced. That will further reduce take-up. Equally, the Housing (Scotland) Bill presumes that retrospective properties will be exempt for 10 years unless the associations choose to opt in to offering their tenants the right to buy. That will also reduce the take-up. If associations have a problem with viability, the bill provides the option to extend the exemption for another 10 years. The impact of a pressured area designation encompassing new lets of housing associations must also be considered. For those reasons, we believe that the estimated take-up of 2 per cent a year is a high estimate; we expect the overall rate of sales to be much lower.

Karen Whitefield: You mentioned pressured area status, on which the committee has taken a lot of evidence. It has been suggested to us that there might be a reluctance or a difficulty in obtaining pressured area status. Do you have any concerns about the operation of the pressured area scheme? How easy will it be for an area to gain that status? Is the proposal the right way to protect areas in which there are few homes in the social rented sector?

Dr O'Sullivan: I was on the working group that previous witnesses mentioned. We were concerned to get the balance right between asking local authorities for information to demonstrate that there was a need for the designation and not overburdening them with the need to produce excessive material that would cause them difficulties in securing designations. My recollection from the discussions in that group is that the local authorities' overriding concern was not that the mechanism would be difficult to implement but that the mechanism should be made available to them before the introduction of local housing strategies, which are scheduled to start in 2003. There was a general agreement that that was appropriate and that, where necessary, the designation of pressured areas should be possible before local housing strategies were put in place.

The Convener: As part of the work that led you to the 2 per cent take-up estimate, did you do any work on the differential take-up in various parts of Scotland or within cities? That might impact on certain organisations.

Dr O'Sullivan: The data that we used were from the national house condition survey. The problem is that it is difficult to break that information down into individual local authorities because of the sample size. We were able to consider the factors that are likely to cause a higher or lower take-up. A young household was more likely to take up the right to buy, as were the higher income households or people who lived in non-flatted property. Different combinations of those attributes can be found in different parts of the country. The conclusions were that it is likely that there would be a lower than 2 per cent take-up in Glasgow, something like a 2 per cent take-up in the rest of the urban areas and a take-up of just over 3 per cent in rural areas. I say that from memory, but I can confirm the figures in writing.

The Convener: Did any of your figures take into account the levels of rent increases?

Dr O'Sullivan: No.

Brian Adam: Could you give us some idea of the impact of the right to buy on the balance of housing stock in each area? What impact will it have on the strategic function of local authorities?

Is there an independent assessment of needs and demands for public sector rented housing and the balance of stock available?

Dr O'Sullivan: The expectation is that local authorities, through their local housing strategies, will take the lead on a needs assessment of the local areas—we will support that where we can. The impact on the balance of stock depends on what happens once a right-to-buy sale has occurred.

Brian Adam: You indicated that the right to buy would tend to be exercised on non-flatted, larger accommodation. Unless the registered social landlords have an adequate supply of a range of houses, they will be unable to meet the demand for public sector housing. Right to buy will have an impact on the balance of stock; that demands planning and provision. Has appropriate research been done on that? What mechanisms will be put in place to secure an appropriate balance of provision in future?

Dr O'Sullivan: The impact of right to buy in particular areas depends on what happens next. If a tenant buys a house and stays in it—and would have stayed in the house anyway—there will be no impact. Our evidence on the impact of right to buy over time, which draws on work done in rural areas, is that about three quarters of the people who have bought under right to buy since 1980 still live in their property. About two thirds of the other quarter of properties have been bought and sold by local people, usually at a price discount in comparison with the mainstream market. If we work through those fractions, it is clear that about 8 per cent of the property sold under right to buy since 1980 has been sold to people who might be considered non-local. However, some of those people will have come into an area for employment or other reasons.

The need to monitor the impact through time of right to buy will fall to local authorities, because of local housing strategies. We are examining ways in which to collect information more cost-effectively to assist local authorities in that.

Brian Adam: Is it true that the bulk of houses that have been sold are two and three-bedroom self-contained properties?

Dr O'Sullivan: Yes.

Brian Adam: There has been a significant reduction in the availability of such properties, which are what people who are likely to remain in the public rented sector desire. People aspire to such houses and once those houses are sold—irrespective of whether the houses are sold on—they are, obviously, unavailable. However, if such houses remain in the rented sector, the person living in them might decide to move to one-bedroom accommodation in a flatted dwelling

without a garden. That option has been removed. When the right to buy has caused a significant distortion in availability, how will we provide that type of larger accommodation for those who remain in the rented sector and are looking for affordable accommodation?

Bob Millar: We should emphasise that three quarters of those houses would not have been available anyway, because the people are still in them. In terms of being available for access, the houses have not been taken away from anything.

I repeat that it will be local housing strategies that will determine where the real shortfalls are, and suggestions will be made on how those shortfalls can be made up. To give an example of that, we recently held a joint seminar with the City of Edinburgh Council. The council is predicting a shortfall in affordable social housing over the next 10 years; it is delivering less than half what it thinks it will need to deliver. The council held a seminar with us and with developers and funders to elicit some creative thoughts. The seminar was about trying to fill the gap, rather than about the right to buy. It is important to separate those two issues. The seminar was about trying to ensure that there would be provision of the right type of house, in the right place, to meet an obvious demand.

Robert Brown: I would like to pursue some points on the right to buy. The figure of 2 per cent has come up and you say that you cannot divide your Glasgow figures. Does that not make it impossible to make a sensible contribution to the debate? I am thinking about the difference between tenemental properties in Easterhouse and tenemental properties in the west end of Glasgow. Are you aware of the views of organisations such as Partick Housing Association, which thinks that it will soon be pretty much wiped out by the right to buy because of the high demand for tenemental properties in the west end of Glasgow? Have you any research evidence to show how the pattern will vary in different parts of Glasgow?

Dr O'Sullivan: No, we do not have evidence comparing different parts of Glasgow. Scottish Homes has evidence that around 40 per cent of Partick Housing Association's stock houses tenants who have the right to buy. In the mid-1990s, there were sales from that stock that were balanced by new acquisitions.

The likely impact on specific areas and associations is an important consideration for local housing strategies. We have developed financial frameworks so that we can consider levels of uptake and determine whether an association will have viability problems. The nature of the uptake in specific areas must be monitored locally.

Robert Brown: We have talked about the viability of housing associations and bodies of that kind. If you remove from the asset base of a housing association the discount that goes with the right to buy, will that not impact on the level of rent and on the programme of investment? Something has to give somewhere, does it not?

Hugh Hall: When we consider finance, we have to bear in mind the fact that, as currently drafted, the legislation will require housing associations to opt in to the right to buy. That is for a period of 10 years and there will be an extension in due course. It is an opt-in arrangement, and we believe that that should give associations sufficient time to organise their affairs.

I believe that Partick Housing Association was mentioned in evidence that you took last week. It currently has around 800 houses and, in the past three years, the number of right-to-buy sales has been in the teens. As Tony O'Sullivan said, the evidence is that the bulk of sales have been to people who will stay in the houses, so supply is not an issue and units are not being lost.

In addition, Partick Housing Association is pursuing merger talks with an adjacent housing association, because they can see strengths in getting their asset bases together. We think that it is highly unlikely that Partick Housing Association would have financial viability problems in the longer term—

Robert Brown: But with respect, that is not what I asked. My question is, if you accept that there is no financial viability in that scenario, is there an impact on either the investment programme or the rents if you remove part of the asset base? You are selling these houses at one third of their value. You are taking out of the asset base a considerable part of the value. That must impact somewhere.

Hugh Hall: Longer-term investments, such as the ability to borrow, would have to be examined in the context of each housing association. However, the numbers that we are talking about are unlikely to impact greatly on the capital investment arrangements. It is fair to say that if there is a loss of an income stream from rent, that could impact on the cost base—if you lose 10 houses from a stock of 800, you may not be able to make equivalent reductions in the cost base. That is an issue, but it is the sort of issue that housing associations need to address. They must make sure that they have a lean and mean machine that delivers value to tenants. In those cases, the impact would be on the cost side of the equation.

12:00

Robert Brown: Are you taking full account of the repressed demand? The figures that are

available come largely from situations in which there has been a right to buy over a period, and where people have exercised that right at the rate of, for example, 2 per cent per year. At a certain point, the bill will bring in a tranche of people who have not had the right to buy. Will there be higher demand in the first stages that will tail off afterwards?

Dr O'Sullivan: There is no evidence that there is repressed demand. When right to buy was first introduced, there was no repressed demand: it built up gently. The evidence on tenants' aspirations from the 1996 house condition survey did not indicate that there was repressed demand. What has tended to happen over time is that as people's income circumstances change and put them in a position in which they wish to take up their right to buy, they do so. Of course, there is movement through the stock all the time, but we have not seen evidence of a repressed demand. In the context of financial viability, we would be looking with housing associations prior to the lapsing of an exemption to see whether in their specific circumstances there is such demand, and whether it will be an issue.

Robert Brown: There is an issue about the availability of socially rented housing. We have heard evidence about, and we have individual knowledge of, areas such as Edinburgh, which you mentioned, East Kilbride and the west end of Glasgow, where the percentage of available social rented housing is down to about 20 per cent. I agree that those figures may conceal local issues but, as the strategic housing body for Scotland, could you inform the committee of the advantages of further right-to-buy sales and the decrease in the social rented stock in such situations? Are there any advantages for a housing strategy?

Dr O'Sullivan: I find it difficult to think of strategic objectives in terms of tenure splits. I am not clear in my own mind what the relative advantages or disadvantages are of a level of 30 per cent or 20 per cent at a given point in time or through time. There are certain localities in which the income base of the households, or the preferences of the people within the area, will make it more or less appropriate to have higher or lower levels of social renting, but that is a case-by-case circumstance. To be honest, I have little confidence in saying that one level of social renting relative to another has any meaning.

Robert Brown: On housing strategies, do you accept that there may be situations—forget about pressured areas—in which it would be an advantage for local authorities to be able to say that right to buy has run its course in an area in terms of extending the categories of people who have the right to buy, and that there should be no more right to buy? Is there value in that?

Dr O'Sullivan: I would like to think about that question before responding to it. If I may, I shall write to you on the matter.

Robert Brown: I have a final question. In a very welcome development, responsibility for development funding and the housing plans will move to local authorities. Will the local authorities have the staff base to take on that responsibility, and will you have a role in training staff? Are there going to be transfers of staff? How can those changes be effected to the best advantage?

Bob Millar: The ball is primarily in the local authorities' court, but we would offer any assistance that we reasonably could. I am not sure whether any transfer would be caught by the TUPE—Transfer of Undertakings (Protection of Employment)—regulations. It may be that local authorities would have to provide an attractive package to make people move.

The other unknown is whether Scottish ministers will give us additional tasks to undertake on their behalf of which we are not currently aware. That makes it quite difficult. We have had to say to our people that they will have to manage their expectations until we are a bit further down the line, but there is no doubt in our minds that we would offer any assistance that we could to local authorities.

We have recognised that, in taking on a broader remit, we will have knowledge and skills gaps. We are currently addressing that to ensure that our people have access to the proper career and personal development that is required for the job.

Bill Aitken: Let us turn to the general question of your relationship with local authorities. In your introductory remarks, you stated that you had been involved in consultation with COSLA. How far have you got towards determining how you will devolve the strategic funding to local authorities?

Bob Millar: Convener, I do not know whether you intend to circulate the letter that you received from Jackie Baillie, and the attachments.

The Convener: I read them on e-mail this morning. I am not saying that they arrived this morning, but that I read them this morning. They were not sent to the clerks, but the committee will get them as soon as the clerks are able to circulate them.

Bill Aitken: I am at a disadvantage.

Bob Millar: The papers that you will receive include a paper on development funding that has been agreed by COSLA. It is a short paper, outlining the necessary arrangements.

Bill Aitken: I shall read the paper and, if I have any further questions, I shall get back to you direct.

Bob Millar: Absolutely.

Bill Aitken: Let us turn to the question of regional offices. You dealt with the related staffing issues in response to questions from Brian Adam. What is not clear is exactly what those regional offices will do, bearing in mind the proposed level of devolution to the local authorities.

Bob Millar: That is a fair point, and COSLA has some concerns about that. Although we have managed to conduct detailed discussions with COSLA over the development funding and the regulation, we have not managed to talk in detail about the wider community regeneration role that may or may not be carried out by a regional office structure.

Jackie Baillie met COSLA representatives last Thursday, and the paper that you have sets out the future role that she designated to COSLA. It has been requested that we now progress tripartite discussions officially with the Scottish Executive and COSLA, to map out exactly what the roles will be and to provide a paper so that COSLA's members can consider in detail what its activities will be.

I am not ducking your question. It would be inappropriate to speculate until we have had our discussion with COSLA.

Bill Aitken: That is fair enough.

You may think that this is an unfair question, and I understand if you prefer that I approach the minister for an answer. Scottish Homes has been highly satisfactory in carrying out its regulatory functions. It has been robust and thorough. However, I am concerned that, in your new role as an arm of the Executive, you will be required to report on inadequacies of performance that may result from the Executive's policy. It may be that things are not working because of a specific policy. Will your new role inhibit you from commenting or criticising?

Bob Millar: I am sure that the minister will answer that question, but Hugh Hall and I will have a go at doing so now. We believe that the safeguards that will be in place, in the form of the code of practice and the involvement of non-executive board members in giving an overview of issues and problems arising from regulation, will be adequate to address the concerns that Bill Aitken has raised.

However, there is a wider credibility issue attached to regulation. The focus is increasingly on tenants. We were unable to hear all the CML's evidence, but we are aware that it is also a major comfort for lenders, who know that we produce monitoring reports after a visit. They demand to see those before they lend huge sums of money to housing associations. If we did things that

undermined that credibility, we would have some serious funding problems downstream.

Hugh Hall: We recognise that there are potential difficulties, in that there needs to be a proper division of responsibilities. Bob Millar mentioned the role of the board and the fact that non-executives will take an interest in how we go about our business. It is also about how transparent the registration criteria will be.

People should know the standards that will be required. The standards that we will expect will themselves be jointly owned between the regulator and the regulated. We work closely with the CML and other bodies, which take a keen interest in what we do. Our reports are made publicly available, and there will be a separate annual report of what we do.

We are working closely with Audit Scotland and with the Accounts Commission to ensure that there are neither gaps nor duplication in how we go about our regulatory activities. We are conscious that Audit Scotland, through the Comptroller and Auditor General, has a right of access to us, and will review our activities and make any necessary reports to Parliament. We expect to be called to account from time to time by the Social Justice Committee, by the Audit Committee or by other committees of the Parliament.

We are not concerned about the independence issue. We think that we will be open and will be seen to be acting independently. To refer back to David Chalmers's concerns over the registration arrangements, the ultimate test will be whether the lenders are willing to lend. I am sure that, if they had any doubts over our regulatory arrangements, they would not be lending any money. That would be one of the acid tests.

Bill Aitken: Does that mean that no punches will be pulled?

Hugh Hall: Absolutely.

Cathie Craigie: Over the next few years, we are expecting a great deal of money to be spent on houses throughout Scotland, particularly those involved in stock transfer. Will the new executive agency have any control over the quality of that investment?

Bob Millar: We believe that we will have such control. Through the local housing strategies, the question of what the money will be spent on will become much clearer. There is clearly a big issue around how the money is spent. I mentioned earlier that we need to consider more effective ways of procuring from the construction industry. There have been various reports, starting with that of Michael Latham, saying that the construction industry is inefficient, and that the costs are

therefore higher than they might otherwise be.

A study carried out by John Egan two years ago and, even more recently, comments from John Prescott highlighted such issues as the need for the construction industry to show greater respect for its people. That covers retention and continuity of employment, training, support and groups of people who are excluded in the construction industry, including women and people from ethnic minorities.

We will have a real interest, on behalf of the minister, in issuing either best practice or guidance, to ensure that the way in which the money is spent offers both value for money and additional benefits. An obvious illustration would be to ensure that the maximum economic benefits accrue to the people of Glasgow if the stock transfer goes ahead there. That is an important role, and we would contribute to local authorities' lead on that.

Cathie Craigie: Does the regulator need additional powers to ensure that works are carried out to the highest possible standard?

Hugh Hall: We are very satisfied with the powers of intervention proposed in the bill. A key strategic and operational area is the development funding arrangements within a particular housing body. For example, we would examine its business plans and its promises to tenants as part of the stock transfer contract, and would ensure that it is taking action in all those areas. Where it failed to do so, we would highlight the weaknesses and seek an action plan. We would then monitor the plan to ensure that it was implemented. If that does not happen, we have the power to appoint members to the management committee. If that course of action proves ineffective, we will have the power to appoint a special manager. Ultimately, in the case of a registered social landlord, we can transfer the stock to another RSL. We have a whole suite or continuum of powers of intervention and persuasion that can be used in different ways.

12:15

In quite a number of areas where we have had problems, we have reached a satisfactory conclusion by making the body's management committee realise that it is in difficulty so that it can go on to seek a merger or discussions. We are very satisfied with the existing arrangements for intervention if necessary.

Ms White: Are you quite happy with the proposed bill as it stands, or are there any aspects that could be improved?

Bob Millar: We are happy with the bill. Our concerns over improvement and repair grants in

part 6 have been removed by the proposals to create a housing improvement task force. Tony O'Sullivan is involved in scoping out the task force's remit. As a result, we are now comfortable with the bill and believe that it is of good quality.

The Convener: Thank you very much. As they say, we have had a good go. At various times in the discussion, you indicated that you would come back to us with information. We look forward both to that and to continuing our dialogue about housing in Scotland.

12:17

Meeting continued in private until 12:35.

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