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Pàrlamaid na h-Alba

Official Report

LOCAL GOVERNMENT AND COMMUNITIES COMMITTEE

Wednesday 24 March 2010

Session 3

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Wednesday 24 March 2010

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LOCAL GOVERNMENT AND COMMUNITIES COMMITTEE
9th Meeting 2010, Session 3

CONVENER

*Duncan McNeil (Greenock and Inverclyde) (Lab)

DEPUTY CONVENER

*Alasdair Allan (Western Isles) (SNP)

COMMITTEE MEMBERS

*Bob Doris (Glasgow) (SNP)
Patricia Ferguson (Glasgow Maryhill) (Lab)
*David McLetchie (Edinburgh Pentlands) (Con)
*Mary Mulligan (Linlithgow) (Lab)
*Jim Tolson (Dunfermline West) (LD)
*John Wilson (Central Scotland) (SNP)

COMMITTEE SUBSTITUTES

Brian Adam (Aberdeen North) (SNP)
Margaret Curran (Glasgow Baillieston) (Lab)
Alison McInnes (North East Scotland) (LD)
Margaret Mitchell (Central Scotland) (Con)

*attended

THE FOLLOWING ALSO ATTENDED:

Christine Grahame (South of Scotland) (SNP)
Kenny MacAskill (Cabinet Secretary for Justice)

THE FOLLOWING GAVE EVIDENCE:

Lesley Baird (Tenant Participation Advisory Service Scotland)
Jamie Ballantine (Tenant Participation Advisory Service Scotland)
Councillor Jonathan McColl (Convention of Scottish Local Authorities)
Lindsay McGregor (Convention of Scottish Local Authorities)
Danny Mullen (Regional Networks of Registered Tenants Organisations)
Maureen Watson (Scottish Federation of Housing Associations)
Andy Young (Scottish Federation of Housing Associations)

CLERK TO THE COMMITTEE

Susan Duffy

LOCATION

Committee Room 4

Scottish Parliament

Local Government and Communities Committee

Wednesday 24 March 2010

[The Convener *opened the meeting at 10:00*]

Decisions on Taking Business in Private

The Convener (Duncan McNeil): Welcome to the ninth meeting in 2010 of the Local Government and Communities Committee. I ask members and the public to turn off all mobile phones and BlackBerrys.

Under agenda item 1, I ask the agreement of the committee to take item 4, which concerns consideration of the evidence that we have heard on the Housing (Scotland) Bill, and item 5, which concerns consideration of the programme of evidence, in private. Do we agree so to do?

Members *indicated agreement.*

The Convener: We also need to decide whether to consider the evidence that we have heard and our draft report on the Housing (Scotland) Bill in private at future meetings. Do we agree so to do?

Members *indicated agreement.*

Control of Dogs (Scotland) Bill: Stage 2

10:01

The Convener: Item 2 concerns consideration of the Control of Dogs (Scotland) Bill at stage 2. I welcome to the committee Christine Grahame MSP; Claire Tosh, solicitor to the Scottish Parliament; David Cullum, the clerk team leader of the non-Executive bills unit; Kenny MacAskill MSP, the Cabinet Secretary for Justice; Philip Lamont, the head of branch of the criminal law and licensing division of the justice directorate; and Anne-Louise House, of the Scottish Government legal directorate.

Section 1—Serving of dog control notice

The Convener: Amendment 1, in the name of Christine Grahame, is grouped with amendments 2 and 3.

Christine Grahame (South of Scotland) (SNP): This group of amendments seeks to address the committee's concerns in paragraphs 67 and 69 of its stage 1 report relating to the test to establish whether a dog is out of control and the potential for a lack of consistency in decisions by authorised officers.

Section 1(3) sets out the test that must be met in all cases to establish that a dog is out of control. The test is in two parts, and both parts must be met before a notice can be issued. The test requires both that the proper person is not keeping the dog under control effectively and consistently, which is dealt with in paragraph (a), and that the behaviour of the dog, or the size and power of the dog, gives rise to alarm or apprehensiveness on the part of any person, which is dealt with in paragraph (b).

As I said during the stage 1 debate, a reasonableness test is used in many acts and is a widely recognised proposition. It applies to MSPs when we consider what interests to register. For example, with regard to an overseas visit, the test for registration involves consideration of whether a fair-minded and impartial observer could reasonably consider that the visit would prejudice a member's behaviour. Under the Control of Dogs (Scotland) Bill, authorised officers will have to ask themselves whether a fair-minded and impartial observer could conclude that the behaviour or actions of the dog would cause alarm or apprehensiveness. Only if the authorised officer can answer that question in the affirmative can they consider that a dog is out of control. Section 2(8)(d) also requires authorised officers to explain the reasons that have led them to issue a notice. If a person receives a notice and does not agree

that the dog is out of control, they can appeal to the courts, which will rule on the matter. That element is important: unreasonableness can be challenged.

The committee also considered the term "size and power" and paragraph 68 of its stage 1 report recommends that the term be removed as it was considered to undermine the deed-not-breed principle of the bill. However, I have looked again at the out of control test and I am convinced that it is framed in such a way that it focuses on deed. A dog that is large and powerful and which might otherwise cause alarm or apprehensiveness, such as a Rottweiler, but which is kept under control cannot be the subject of a notice. The same Rottweiler walked by a person who, for whatever reason, is incapable of controlling the dog because of its sheer size and power could be considered to be out of control, but only if, for example, it was snapping at people or other dogs. The deed is made up of the actions of the dog allied to someone being in charge of a dog that they cannot physically control. Taking that argument one step further, a dog that might not be large or powerful, such as a Yorkshire terrier, but which behaves in a manner that causes alarm or apprehensiveness and is not controlled effectively and consistently would also be out of control. It is irrelevant what breed or size of dog is misbehaving. The bill concentrates on the deed and its effect on individuals and others. That takes us back to the reasonableness test because actions such as growling, barking or jumping up at people might be more alarming if performed by a larger and more powerful dog than if performed by a Yorkshire terrier.

Amendments 2 and 3 clarify that the alarm or apprehensiveness of an individual must not be unreasonable. That means that, irrespective of an individual's concern, a dog control notice can be issued only when the authorised officer is satisfied that the alarm or apprehension that has been experienced would be held by a reasonable person and can therefore be deemed to exist from an objective standpoint.

Having sought to amend section 1(3)(b), I have also taken the opportunity to propose an amendment—amendment 1—that makes a minor change to tidy up the grammar of this section.

I move amendment 1.

The Cabinet Secretary for Justice (Kenny MacAskill): These are technical amendments, and we support them.

Amendment 1 agreed to.

Amendment 11 not moved.

Amendments 2 and 3 moved—[Christine Grahame]—and agreed to.

The Convener: Amendment 10, in the name of David McLetchie, is in a group on its own.

David McLetchie (Edinburgh Pentlands) (Con): The purpose of amendment 10 is to bring the provisions of this bill into line with the Animal Health and Welfare (Scotland) Act 2006 and to deal with the concern that was raised by the British Veterinary Association during our stage 1 consideration of the bill, and in the subsequent stage 1 debate, as was exemplified in an exchange between the member in charge, Christine Grahame, and Mike Rumbles.

The amendment seeks to narrow the criterion of apprehensiveness so that it relates only to the safety of a protected animal as defined in the 2006 act, rather than any animal, as stated in section 1(4)(c) of the bill. The definition of "protected animal" in the 2006 act is an animal that is

"of a kind which is commonly domesticated in the British Islands",

or is

"under the control of man on a permanent or temporary basis"

or is

"not living in a wild state".

In the bill, an individual's apprehensiveness about the safety of a mouse, rat or other rodent could give rise to circumstances in which a dog control notice might be served, if the dog in question was simply expressing its natural behaviour in the context of its proximity to such a rodent. I am quite sure that Christine Grahame does not intend that to be the case, and would no doubt point to the fact that her bill requires a dual test to be satisfied before grounds for serving a notice are established, namely that the dog is not being kept under control and that the behaviour must give rise to reasonable apprehensiveness.

That brings us to an issue that crops up often in the consideration of legislation in this Parliament, which is whether we should put a qualification in a bill to deal with a specific concern or point or simply rely on a general test of reasonableness and leave it to the good sense and discretion of authorised officers and, ultimately, the courts to deal with the matter in a sensible manner.

Normally, I would be in favour of laws based on general principles and on leaving matters ultimately to the judgment of the courts. However, in this case, given the history surrounding animal welfare legislation in the Parliament and the concerns that have been expressed by responsible bodies that support the bill, such as the British Veterinary Association, the Scottish Countryside Alliance and the Scottish Rural Property and Business Association—all of which have considerable experience of these matters—

the amendment represents a sensible and modest change to the bill. I commend it to members of the committee.

I move amendment 10.

Kenny MacAskill: Under amendment 10, if an individual feels apprehensive about the safety of an animal that is not kept under the control of humans, such as an animal living in the wild, such as a squirrel, their apprehensiveness would not be relevant and a dog could never be considered out of control in such circumstances. We think it appropriate that the two-part test that must be met before a dog can be deemed to be out of control should include situations where apprehensiveness is felt by an individual for the safety of any animal.

Although we understand the intention behind amendment 10, our view is that a dog owner must take responsibility for their dog's actions at all times, including when the dog is in the countryside and around animals living in the wild. The way in which the two-part test is defined makes it clear that it is only where an individual's apprehensiveness is seen as "reasonable" in respect of the safety of another animal that an authorised officer can consider issuing a dog control notice. We would expect authorised officers to take careful account of all the circumstances before deciding whether to issue such a notice.

As a result, we oppose amendment 10.

Christine Grahame: In their submissions to the committee, the Kennel Club and, in particular, the dangerous dogs act study group express concern that

"Section 1 (4)(c) seems to risk a dog making a small rodent 'apprehensive' an offence. This could theoretically lead to the seizure of any dog which attacked a rat or rabbit for example."

However, in its submission, Advocates for Animals did not share that view. Given the confusion that has arisen over this provision, it might be helpful to clarify the position before I address amendment 10.

First, under section 1(4), "apprehensiveness" may be felt by an individual in relation to their own safety, to others' safety or to the safety of other animals. The bill's definition of "out of control" provides safeguards for people with responsibility for working dogs, who might use dogs legally to track, control or flush out other animals such as rats and rabbits. Before a dog can be considered out of control under the bill, it would have to be both out of control and causing a person to be alarmed for or apprehensive about their own safety or the safety of others or of an animal other than the dog in question. If alarm or apprehensiveness is not present, the out of control test cannot be met. If a legal activity involving the tracking, controlling or flushing out of animals was alleged to have caused alarm, the authorised officer must consider from an objective standpoint whether both tests have been met. In other words, as long as a dog is kept under control, it will not be the subject of a dog control notice. No dog is exempted from the bill's provisions—and nor should it be, because that would defeat the bill's purpose of promoting responsible ownership of dogs.

Amendment 10 seeks to replace the words "an animal" with

"a protected animal (within the meaning given by section 17 of the Animal Health and Welfare (Scotland) Act 2006)".

Any explanation of protected or, for that matter, unprotected animals is—believe you me—long and complex. The position is not straightforward, but I will try to explain it using deer as an example. Are you sitting comfortably? [*Laughter*.] Farmed deer are classed as protected animals as they are under the control of man. On the other hand, wild deer are not protected, even where the land manager provides supplementary food or fodder for them, and neither is a farmed deer that has escaped from the farm and is living in a wild state. However, if deer are managed in such a way that the land available to them is restricted to such an extent that they cannot live in a wild state, they must be considered to be under the control of man and therefore are protected animals.

The effect of amendment 10 is to exclude an individual's alarm or apprehension if it relates to unprotected animals, which in practice would mean that an individual's alarm or apprehensiveness could not relate to a dog's behaviour towards, for example, swans, wild deer, ducks and badgers. That concerns me greatly as that is the very behaviour that my predecessor on the bill, Alex Neil, sought to address in his consultation, in which he set out the examples of a swan that had to be put down after an attack by a Rottweiler, leaving her six cygnets abandoned and of a terrier that crawled into a badger's sett and killed the cub. Clearly, in both cases the owners were partly responsible in that they did not keep their dogs under control.

10:15

It is clear to me that the bill provides sufficient safeguards for those using working dogs to carry out their pest control duties. By their very nature, working dogs are well trained and responsive to their handler's commands. Equally important, however, the bill's out of control test is flexible enough to address out of control behaviour where animals such as swans, badgers or deer are threatened or attacked.

I am sure that Mr McLetchie did not intend this, but amendment 10 would overcomplicate the implementation of the out of control test, making it harder rather than easier for authorised officers to decide whether to serve a dog control notice. In addition, it would create a division between the types of animals covered by the bill where none is required.

I hope members will be reassured that the two-part test is effective as drafted and I urge the committee not to support this amendment.

David McLetchie: I have listened with interest to the member in charge, Christine Grahame, and the cabinet secretary. I defer to Ms Grahame if I am wrong, but I thought that swans and badgers were already protected by legislation in this country, so I am not entirely sure that the example that she used in arguing against my point is apposite. Be that as it may—the detail can be considered further at stage 3.

It is important to recognise that many people in our rural communities who are in charge of working dogs are responsible and control them. However, there are times that, when faced with a wild animal, such dogs, like any other dog, will act in a perfectly natural manner. It is a matter for debate whether at that point the dog is in or out of control but, nevertheless, it is a reasonable concern that certain members of the public might take an overzealous attitude and pursue what might be seen as a vindictive approach to people who are simply going about their daily business in a responsible manner.

That is the motivation behind the amendment that the various organisations have invited us to consider. We must ensure that we are dealing not with the whole animal population but with animals that are protected, a distinction that the Parliament made in the Animal Health and Welfare (Scotland) Act 2006 and which it would seem sensible for the committee to follow in this bill. As a result, I press amendment 10.

The Convener: The question is, that amendment 10 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

McLetchie, David (Edinburgh Pentlands) (Con)

Against

Allan, Alasdair (Western Isles) (SNP)
Doris, Bob (Glasgow) (SNP)
McNeil, Duncan (Greenock and Inverclyde) (Lab)
Mulligan, Mary (Linlithgow) (Lab)
Tolson, Jim (Dunfermline West) (LD)
Wilson, John (Central Scotland) (SNP)

The Convener: The result of the division is: For 1, Against 6, Abstentions 0.

Amendment 10 disagreed to.

Section 1, as amended, agreed to.

Section 2—Content of dog control notice

The Convener: Amendment 6, in the name of Christine Grahame, is grouped with amendment 7.

Christine Grahame: In paragraph 143 of its stage 1 report, the committee agreed with the Subordinate Legislation Committee's recommendation that I should lodge appropriate amendments at stage 2 to put beyond doubt how the power at section 2(7) in relation to the content of dog control notices will be used. In the stage 1 debate, I agreed to do so and, as a consequence, the matter is addressed in amendments 6 and 7.

I will explain the detail of the issue in question and the amendments that I hope will address both committees' concerns. Section 2 specifies requirements of a dog control notice additional to the requirement set out in section 1(1) to bring and keep the dog under control, sets out information that must be included in the notice and lists some indicative control measures. In particular, section 2(1) sets out further requirements that are considered to be important to the effective operation of the regime of dog control notices but that might require further refinement in light of operational experience. Such requirements might include, for example, the implantation of an electronic transponder.

Section 2(6) lists other measures such as neutering a male dog that may be included in a dog control notice if thought appropriate. Section 2(7) gives the Scottish ministers the power to amend the requirements that must be included in a dog control notice as set out in section 2(1) and enables them to add to the list and to amend or add to the illustrative list of steps in section 2(6). The powers are exercisable by statutory instrument. They are, however, subject to affirmative resolution procedure because it is considered that, although they are more closely related to administrative matters and the operation of the bill, they could affect important provisions such as those in subsection (1) and will affect primary legislation.

Amendment 6 removes words that would be rendered unnecessary by amendment 7. Amendment 7 in effect reinstates the power to amend any paragraph that is added by paragraphs (b) or (c) of subsection (7). That was the effect of the words removed from paragraph (a) of subsection (7) by amendment 6. Given, however, that amendment 7 deals specifically with added paragraphs, I considered it appropriate to include provisions relating to them in the same

amendment. Amendment 7 also makes it clear that the power to amend an added paragraph includes the power to remove it. I did not consider it appropriate that ministers, having added a requirement or a step, should not be able to remove it. Therefore, amendment 7 allows paragraphs that have been added by subordinate legislation—but only those paragraphs—to be omitted later. That should also make it clearer that the power to amend the paragraphs that are already in the bill, not added by the Scottish ministers, does not include the power to remove them, as no explicit power to omit is given—in contrast to the power relating to the added paragraphs.

Let me summarise. By affirmative procedure, paragraphs can be added to the requirements relating to the dog control notice, its service and any steps to be taken in relation to it. Amendment 7 adds the power to amend those additional paragraphs as well as the paragraphs that are already in the bill. It will be possible to omit those paragraphs that are added subsequently by affirmative procedure, but it will not be possible to omit those that are already in the bill. Is that clear? Shall I start again? The provisions in section 2(1), on the dog control notice and its service, and in section 2(6), on the range of things that must be done once the notice has been served, can be added to by ministers through affirmative procedure. It will be possible to amend all the provisions in those subsections—whether they are already in the bill or added later—but the ministers will be able to omit at a later date only those that they have added subsequently, not those that are in the bill now. That is what my amendments will ensure. I hope that that is clear and addresses the concerns that the Subordinate Legislation Committee had. Any changes to the bill would have to be made through affirmative procedure, which requires pretty rigorous scrutiny by committees.

I move amendment 6.

Kenny MacAskill: The Scottish Government welcomes the amendments, which address matters that were raised appropriately by the Subordinate Legislation Committee.

Amendment 6 agreed to.

Amendment 7 moved—[Christine Grahame]—and agreed to.

The Convener: Amendment 4, in the name of Christine Grahame, is grouped with amendments 5 and 9.

Christine Grahame: Section 2(8) sets out the mandatory content of a dog control notice and section 7(3) sets out grounds on which an application to discharge such a notice may be made. In each case, the section erroneously refers to an "order". The amendments insert the appropriate term.

I move amendment 4.

Kenny MacAskill: These are technical amendments and we are happy to support them.

Amendment 4 agreed to.

Section 2, as amended, agreed to.

Sections 3 to 6 agreed to.

Section 7—Discharge or variation of dog control notice on application of person on whom it was served

Amendments 5 and 9 moved—[Christine Grahame]—and agreed to.

Section 7, as amended, agreed to.

Sections 8 to 13 agreed to.

Schedule 1 agreed to.

Section 14 agreed to.

Schedule 2 agreed to.

Sections 15 and 16 agreed to.

Section 17—Short title and commencement

The Convener: Amendment 8, in the name of Christine Grahame, is in a group on its own.

Christine Grahame: I understand, from discussions with Scottish Government officials, that it would be helpful for local authorities to have more time to prepare for the implementation of the bill should it have a successful passage through the Parliament. It is important that preliminary work, including training, is given adequate time before the provisions commence. Amendment 8 gives a further three months for that and brings the bill into force nine months after it receives royal assent.

I move amendment 8.

Kenny MacAskill: As Christine Grahame says, amendment 8 seeks to alter from six months to nine months the period between the bill receiving royal assent and its provisions coming into force. In its stage 1 report, the committee recommended that appropriate training must be made available by local authorities for those officers who will take on new responsibilities under the bill. In our view, amendment 8 will assist local authorities in that regard by providing them with additional time to develop their training strategies, identify and deliver appropriate training for their staff and undertake other preliminary work to ensure that they are adequately prepared and ready for implementation of the bill. We therefore support amendment 8.

Amendment 8 agreed to.

Section 17, as amended, agreed to.

Long title agreed to.

The Convener: That ends stage 2 consideration of the bill. I suspend the meeting to allow the panel of witnesses to be set up.

10:26

Meeting suspended.

10:28

On resuming—

Housing (Scotland) Bill: Stage 1

The Convener: Agenda item 3 is oral evidence on the Housing (Scotland) Bill. The session will be split into two parts. The first part will focus on the establishment of the Scottish Housing Regulator and the performance of social landlords. The second part will focus on the bill's provisions in relation to the right to buy.

I welcome our first panel of witnesses: Councillor Jonathan McColl, from the Convention of Scottish Local Authorities; Lindsay McGregor, the leader of the community resourcing team at COSLA; Lesley Baird, the chief executive of the Tenant Participation Advisory Service Scotland; Maureen Watson, the policy and strategy director at the Scottish Federation of Housing Associations; and Danny Mullen, representing the regional networks of registered tenants organisations. I welcome you all. We will move directly to questions, beginning with questions from Alasdair Allan.

Alasdair Allan (Western Isles) (SNP): As has been said, part 1 deals largely with regulation. It would be interesting to hear people's views on where homelessness fits into the picture, especially with regard to safeguarding and promoting the interests of tenants of social landlords who are or who may become homeless.

10:30

Maureen Watson (Scottish Federation of Housing Associations): We have received quite a lot of feedback from our members that the section on the purpose of the regulator and its objectives should mention homelessness. We are talking to our members about initiatives to alleviate and prevent homelessness and about tenancy sustainment initiatives, and we will seek to discuss those further with our members as the bill proceeds. We can provide the committee with some written examples if that would be preferable.

The Convener: Yes, we would appreciate that.

Danny Mullen (Regional Networks of Registered Tenants Organisations): I consider homelessness to be so important that it must be regulated and there must be a clear objective of providing protection for homeless people. Too often, people who are vulnerable and in need of help are left to their own devices. I am sure that the regulation of homelessness services should be the role of the Scottish Housing Regulator. It has experience of regulating local authorities as well as registered social landlords, and it has called on the RSL sector to redouble its efforts to provide

homes for homeless people. The Scottish Housing Regulator should govern all aspects of regulation for local authorities and social landlords.

Councillor Jonathan McColl (Convention of Scottish Local Authorities): I thank the committee for giving COSLA the opportunity to respond to questions on these issues; it is much appreciated.

I agree with most of what has been said, but there is one thing that I slightly disagree with. Homelessness is important, but COSLA's view is that the burden of regulation on local authorities is huge and, although we recognise the specific expertise of the SHR, we believe that regulation should be more streamlined and the SHR should work in conjunction with Audit Scotland on regulating local authorities. I absolutely agree that the regulator's expertise should be called upon, but I have stated COSLA's position. If the committee does not mind, I will bring in Lindsay McGregor to be more specific.

Lindsay McGregor (Convention of Scottish Local Authorities): COSLA's reason for linking the regulator's work so closely to that of Audit Scotland is primarily because homelessness is so important, and by the time homeless people reach housing services it is almost too late. We are about early intervention to prevent homelessness. Other services are involved, such as social work and voluntary sector agencies. We want to make strong links to Audit Scotland because we need to take an holistic view of homelessness. There is a specific duty on housing services to provide for homeless families and individuals but, if we are to be consistent about reducing and preventing homelessness, the regulatory powers must lie somewhere other than with the SHR. A range of existing regulators need to take an overall, joined-up approach to community care and other elements. We are keen to ensure that a more holistic approach to homelessness is embedded through Audit Scotland's overview.

Lesley Baird (Tenant Participation Advisory Service Scotland): Thank you again to the committee and the convener for inviting us to give evidence.

We collected the majority of our evidence from sessions with tenants groups and individual tenants throughout Scotland. The message from tenants is clear: we could all be vulnerable to homelessness, there is a clear case that the regulator should regulate homelessness services, and that local authorities and housing associations, which are the providers of housing services, should be regulated on equal terms. Tenants are strongly in favour of homelessness services being joined up and equality of regulation between local authorities and RSLs.

Alasdair Allan: Are you confident that the bill's definition of "social landlord" captures everything that you want it to include, given that there are different types of housing in Scotland and that Glasgow has its own structure?

Maureen Watson: Yes. We are content with the definition.

Lesley Baird: Yes.

Danny Mullen: Yes.

Councillor McColl: Yes.

Mary Mulligan (Linlithgow) (Lab): Good morning to you all. COSLA's submission states:

"We propose that RSLs continue to be inspected by the SHR and that councils are scrutinised by Audit Scotland."

Will you say a little more about why you think that that should be the arrangement?

Councillor McColl: Nobody knows councils better than Audit Scotland. No service operates on its own nowadays. In the past, perhaps, services operated in their own silos, but that is now in the distant past. It has already been said that a range of services are involved in homelessness, and we believe that if inspection is done by Audit Scotland, an holistic approach can be taken. The Government and councils are now looking at strategic outcomes for people across the broad range of council services. We believe that Audit Scotland should use the Scottish Housing Regulator's expertise where necessary, but a more joined-up inspection regime would not only provide a better idea of how councils perform in delivering outcomes but reduce the burden of inspections on local authorities.

Mary Mulligan: What discussions has COSLA had with Audit Scotland about the arrangement?

Lindsay McGregor: We have had discussions with Audit Scotland and indeed with the Scottish Government. We agree that Audit Scotland should have the primary, overarching view of regulation within housing services. We are content that there is a role for the regulator, but it should exist within that overarching framework. We hope that that approach will lead not to silo inspections of single services but to inspections in relation to the outcomes of reducing homelessness, improving community safety, improving the environment and so on.

Our discussions with Audit Scotland focused on how it can take the overarching, umbrella view to ensure that there is a joined-up approach across service areas, from the outcomes in single outcome agreements to the areas that have been agreed as joint priorities for tenants and other interested parties in local housing regimes. Those discussions continue, and are principally about

how the relationship between Audit Scotland and the regulator will function.

Mary Mulligan: I ask the other witnesses for their views on the arrangement.

Maureen Watson: We strongly believe that the homelessness and housing functions of all social landlords should be regulated by a housing-specific regulator that has the required breadth of experience to do that work. The Scottish Housing Regulator has that breadth of experience. That was a strong plank of our response on the draft bill and we have not changed our position. Indeed, we publicly welcomed the fact that that proposal has not been dropped from the bill.

Lesley Baird: In collecting evidence across Scotland, it was clear to us that tenants of both local authorities and RSLs were delighted for the sectors to be regulated equally and that because the Scottish Housing Regulator is the expert body in regulating housing, it should be the organisation that continues to regulate RSLs and housing associations. Tenants throughout Scotland were upset and concerned to hear the suggestion that housing associations and local authorities should be regulated differently. Tenants certainly want equality. We understand that there is a lot of work because a lot of regulation is involved. There must be a coming together so that the regulatory burden is not so onerous and tenants are regulated equally throughout Scotland.

Danny Mullen: My view and that of the regional networks is that regulation by the Scottish Housing Regulator has been the most transparent approach. It has encouraged tenants to become involved in regulation and to understand why services are not being provided and are not up to the mark. We recognise the authorities and RSLs that have achieved good gradings within the existing framework, so it is important to tenants.

Audit Scotland was mentioned. It does not involve tenants and service users. It sits in an airy-fairy land in conjunction with the local authorities; it is their partner. We want a regulator that will speak to us and enlighten us about the services that we receive. We are entitled to that because we pay for it.

Mary Mulligan: We hear that message loud and clear. Thank you.

There has been a suggestion that the Scottish Housing Regulator may not have the resources to perform its task, particularly if it is to take on responsibility for regulating local authority housing. Do you have any comments on that?

Maureen Watson: The SFHA gave separate evidence to the Finance Committee for its scrutiny of the financial implications of the bill, and within it we tried to relay the strong message that you raise. I cross-referred to it in the submission that I made to this committee.

We note that the Scottish Housing Regulator's resources will drop by around 10 or 15 per cent. However, the regulator needs to have the resources to be able to deliver a more focused and robust regulatory regime that is also transparent and proportionate. The regulator needs a well-motivated team that has sufficient expertise and can provide that regime. It can only do that if it has sufficient resource.

Mary Mulligan: I do not mean to cut anybody off but I am conscious of time, so does anyone disagree with that?

Lindsay McGregor: I do not disagree with it entirely, but it is important to bear in mind the resources that local authorities and RSLs have put into the regulatory process. We welcome the push towards more streamlined, proportionate regulation. Therefore, if input by the regulator is to reduce, it is probably right that its resource requirement should reduce as well. We hope for a concomitant reduction in the amount of money that local authorities put into regulation across the piece so that that resource can be used to deliver front-line services.

We would not like regulation to take the place of the relationship between tenants and elected members. If anything, the change provides us with an opportunity to reinforce and reinvigorate that direct relationship. The governance arrangements of RSLs and local authorities are different and that needs to be reflected in the regulation in some way. There is also scope to reconsider the relationship between tenants, other local housing groups and their elected members around the co-production and co-delivery agenda and what it means for housing and for that relationship.

We welcome the opportunity, but we need to have many more discussions about the different relationships between regulator and tenants, tenants and elected members and tenants and RSL boards.

Danny Mullen: The relationship between tenants and councillors or councils is an unequal partnership. Tenants must have capacity to engage in that arena.

The resources of the Scottish Housing Regulator need to be maintained. It needs to carry out its functions in a way that helps and protects tenants' interests. However, the provision in the bill that says that the regulator should be able to charge fees for regulation activity is totally opposed by tenants because those who are in receipt of the poorest services would pay a disproportionate share. The money that should be used to improve their services would go to a regulator who would tell them that their services

are bad. That is a bad concept. The Government's stated aim is to continue to fund regulation in full, and I suggest that that should be at the present level—no cuts.

10:45

Mary Mulligan: The point on fees has been picked up in a number of written submissions, so I am sure that members will have noticed it.

The Convener: I have a general question on the level of tenant participation. Some strong views have been expressed in the submissions. How have we established, beyond the normal networks, the awareness of tenants—the people who actually live in rented properties—of the bill's impact on them? What do they know about it? What additional work has taken place to consult and engage them? Have their views been surveyed?

Lesley Baird: At the moment, the social housing charter is a draft. Our concern was that it would be seen as a done deal—something that was already decided and on which tenants would have no influence. There should be a framework, but we are really pleased to see that, for example, Glasgow Housing Association will not be compared with the Hebridean Housing Partnership or Orkney Islands Council. We are pleased that there is flexibility.

Within our resources, we have worked hard to enable tenants to be aware that the charter is not a done deal, that they can have a huge impact on the future of housing and services, and that, if they do not like it, they should put up their hand now. We want to break away from having meetings in church halls on a Tuesday night. We have to get real and get out there. We have to do things in a different way to ensure that tenants understand that they can have a huge impact.

The tenants networks have worked hard within their own networks and local groups to ensure that tenants are involved, but we have to get out to the challenging places and speak to the people who would not normally get involved. We are doing bits and pieces of work with other organisations on how to involve people who cannot communicate particularly well—people whose first language is not English or who have no language skills at all. People who have a learning or support need have every right to participate with their landlord and the Scottish Government in whichever way they think fit.

There is a lot of hard work to be done. The beauty will be in getting into the detail and in going to where people are rather than expecting them to come to us. A lot of hard work has been done already, but much more work needs to be done in getting into the detail of the charter and reassuring tenants that we will break the mould. There might be some meetings in dusty church halls on a Tuesday night, but I hope that there will be much more than that—going to people where they are and encouraging and developing tenants to work in partnership with their landlords.

Danny Mullen: The registered tenants organisations are the driving force in getting out the message about the bill. We did a pretty good job during the consultation exercise, as has been witnessed in the responses from individual tenants groups. The nine regions also actively promote information sharing, newsletters and other means of communication with their RTO members.

Individual tenants are serviced through discussions at a local level almost on a one-to-one basis. It is hard, as tenant participation is changing. We are losing groups—the group structure is going—and it is now more a case of the tenant promoting himself and his own views, which are collected in a number of different ways. We are out there and we are working, but it is patchy at the moment.

Councillor McColl: We are all aware that the effectiveness of tenant participation varies across the 32 local authorities in Scotland. Some councils are not good at it and others are good at it. We work together and learn from one another in that respect. The same can be said for tenants groups—some are good at participation and some are not. Those that are not good tend to seek help from tenants networks to improve. I am pleased that the Scottish social housing charter is widely supported among the other witnesses, as it will improve the situation and can only be positive. However, as has been said, it is not a done deal and we need to involve more people in its development.

The Convener: There is a lot of work to be done. Do you agree that we must be careful when we say that something is not acceptable to tenants, or that tenants want this or that, given that there has been little discussion with them because of a lack of resources and of participation and, at the extreme, because English is not people's first language? If I spoke to 20 people in Greenock who have been tenants for many years and whose first language is English, how many of them would know about the implications of the bill, other than those who participate in committees? We will discuss the right to buy with the next panel of witnesses, but how many tenants know about the impact of that on them? How many know about any outcomes that will improve the quality of their housing? How many would say that homelessness is the main issue and how many would say that quality of housing is the main issue? How have we established what people who live in social rented

accommodation feel about the bill and what their priorities are?

I have provoked a lot of hands, but I think that Maureen Watson's was up first.

Maureen Watson: We hope that we have provided sufficient information to the tenants who are on the boards of housing associations or the members of housing co-operatives to enable them to get involved in actively provoking debate in their areas. At three or four recent events we had active debate with tenants about the implications of the bill. We encourage them to hold local meetings and we offer our support when they want to do that. We are considering providing tenants with an easy guide to the bill and what it means for them. I was at a meeting last night at a co-operative at which we discussed that issue.

The Convener: So materials have been produced.

Maureen Watson: We are in the process of doing so.

The Convener: You are in the process of producing materials to let people know about the bill. We have lots of written and oral evidence about what tenants want and you are now producing information for tenants on what the bill might mean for them. Who is leading the debate? That is all I am asking.

Lesley Baird: There is a variety of ways of going about that. Just because people live in a house, that does not mean that they have signed up to participation. I would like them to do that, but they do not always do so. We must consider innovative and interesting approaches. Tenants often say that they will not get involved because the decision has already been made. We have to get beyond that and help tenants understand that the decision has not been made and that there are ways that they can influence what happens in a small or a greater way. We are excited about the bill, because we think that tenants can have a huge impact on it .

It is true that the knowledge out there is fairly patchy. Some organisations have sent newsletters to their tenants that say what is happening and others have relied on organised tenants movements to do that. It is a real patchwork quilt. We are excited about the bill and we want to ensure that tenants have a huge impact on it and on their future housing services. As I think Danny Mullen said, some people are really good at involving tenants and some are not quite so good at it, but we must ensure that everybody is really good at it. It must be a founding part of the Scottish social housing charter that tenant participation, locally and nationally, is taken seriously and is not just a Stickle Brick that can be pulled off and put on when people find something interesting and good to do.

Danny Mullen: The Housing (Scotland) Act 2001 introduced tenant participation and a role for tenants in the housing sector other than just being a tenant. They had to be consulted. The act placed a lot of duties on landlords to inform their tenants and engage with them more forcefully. However, that has not been completely successful. It is good in some areas, such as West Lothian, where I live, where we have a good rapport with councillors, the administration and the council's officers—we are well informed and engaged in debates—but we recognise that the approach is not as good in other areas. Capacity is needed to enable tenants to formulate their ideas, to think through problems and to get to the bottom of what the bill is and what it means for them. It is important that we as tenants have good landlords. Landlords are supposed to resource us, but they are not doing that.

Councillor McColl: As I said in response to a previous question, we are well aware that some councils are better than others at participation and, as has been said, that some tenants groups are better than others at participation. Local authorities throughout Scotland take seriously tenants' views when they formulate policy and make decisions about anything that affects tenants, regardless of whether the processes that they have in place facilitate participation effectively. The language that is used in publications involves a judgment call but, if something that is published says, "The tenants agree with this," councils take that on board.

Jim Tolson (Dunfermline West) (LD): I will follow up Mary Mulligan's final point about resources and ask about financial and staffing resources. The SFHA makes the proper and fair point in its submission that staff should be

"well-qualified, experienced and highly motivated"

people. My slight concern is about where the staffing will come from. I have no doubt that it will come from the registered social landlord sector and the local authority sector. I am interested in the panel's views on the implications for organisations that lose highly qualified, experienced and well motivated staff, who I have no doubt will be attracted by higher salaries with the Scottish Housing Regulator. That has a financial implication, too.

Councillor McColl: From the point of view of local authorities and probably RSLs—although I am not here to speak for RSLs—if we are inspected and told to improve X, Y or Z in the service and we have lost some of our best staff to the regulator, we will have lost significant capacity to meet the regulator's requirements and

recommendations. That is something to think about.

Maureen Watson: We would not be concerned if the regulator appointed such well-motivated and well-qualified staff—we would applaud it for doing so. We would view them not as lost to the sector but as an aid to supporting continuous improvement in the sector.

Jim Tolson: I say with all due respect that those staff would be lost from public sector organisations. The Scottish Housing Regulator would gain, from which all would—I hope—gain in the end, but some authorities would have a vacuum in senior positions in the short term.

Maureen Watson: There are plenty of good staff throughout the sector to fill the vacuum.

Lesley Baird: I agree with Maureen Watson. The housing sector is a good place to be and is full of exciting, innovative and professional people who are desperate for promoted posts. The situation would be seen as an opportunity rather than a concern.

One quality of the regulator is that its staff have recently been housing professionals—they are not people who have sat behind a dusty wall and were involved in housing 20 or 30 years ago. It is important for the regulator to employ recent practitioners who understand the situation, because housing changes. Such staff have been one benefit of the regulator.

Danny Mullen: Jim Tolson talks about resource being taken away from local authorities and the RSL sector, but that is at a time when their resources are being reduced, so they cannot retain the employment status of the people they have. I do not see the issue as a problem. Professional people always look to move to the right area and the right job for them. If they want to make a career of it, good luck to them. When they leave, they leave a good place for someone just as capable to take over. We have witnessed that—we have lost housing officers and managers, but good enough people have come in to take their place.

11:00

Lindsay McGregor: It is important to remember that it is fundamental to the new scrutiny regime that the deliverer has the primary responsibility for getting things right. By and large, the system will be risk based—the regulator will be called in when tenants or others have noticed that something is going wrong. It is important that councils and others retain well-qualified staff as the front line for key deliverers, who will be responsible for picking up where things are going wrong and making amendments accordingly, before the regulator needs to be brought in.

We are about reducing the burden on both sides of the equation and freeing up resources. Staff capacity is an issue. It is important that the regulator pulls in staff not only from housing but from other areas that cross into housing, as otherwise there is potential for the regulator's view of housing services to be self-perpetuating. Underlying that is the importance of ensuring that resource is freed up in RSLs, local authorities and the regulator by light-touch regulation that is proportionate and risk based. However, we must not divert into a burgeoning regulation environment important funds that will become increasingly tight over the coming years. We must ensure that we use all that we can to deliver the best possible services.

Jim Tolson: It is interesting to note that, to some extent, the panel is split in its view. I do not know how many officers will be required to support the Scottish Housing Regulator. If it requires half a dozen spread across Scotland, the impact will be minimal, but if it requires many people, the burden may be significant, especially if more than one of them come from one organisation. That is food for thought for the committee and the Parliament as we consider the bill.

Bob Doris (Glasgow) (SNP): Good morning. I have been delighted to hear the witnesses talk about wider engagement with tenants and the wider community. Housing associations and local authorities already know that successful RSLs are less about houses than about communities. Before today's meeting, I was interested to read in our papers:

> "The Housing and Regeneration Act 2008 sets out the functions of the housing regulator in England (the Tenant Services Authority). This includes encouraging social housing providers to address environmental, social and economic wellbeing of communities."

In other words, the Tenant Services Authority has a wider role. Does the panel believe that the Scottish Housing Regulator should be under a duty to encourage housing providers to address the environmental, social and economic wellbeing of communities? I already see evidence of local authorities and RSLs playing a wider role in communities, but I would be interested to hear whether the regulator should be under a duty to encourage and promote that, to ensure that it happens.

Lesley Baird: We are keen to see joined-up working, of which there are good examples across Scotland. Cordale Housing Association has done amazing work in the community, not just on houses—it built a doctor's surgery. We all know about the evidence that shows that education and housing are inextricably linked; where there are

failing schools, there are failing homes. It is important to get both right. We would like to see in the charter some kind of obligation for housing providers to look not just at houses but at the wider community. They should look at employability and other issues in the community and work with other agencies not just to build houses but to build new schools. That has been done well in Scotland—there are excellent examples that we would like to see promoted in the charter and local charters. We have seen that approach working, and there is proven evidence that it works and creates healthier communities.

Danny Mullen: Tenant participation is well tailored to deal with aspects of community life. Where there is a tenants group in a particular area, it will deal with the whole package in relation to where people live, and everything that happens in that area and the wider community.

We welcome the move in the charter towards the consideration of specific areas of community interest such as the local social and economic environment in which people live, and the inclusion of that aspect in wider regulation. However, it should not replace what the regulator is there to do, which is to protect the interests of tenants, future tenants and service users.

The wider environment is important. At present, the regulator takes a look at the environment and the neighbourhoods—they will go to a neighbourhood and physically inspect it. They examine the antisocial behaviour policies and the strategies for dealing with such problems. That is all part of the remit now, so it is broadly covered, but it is not defined as such in a charter. We have to tease those areas out, and tenants will play a part in that.

One area of particular concern to tenants that is not covered by the regulator is the issue of what tenants get for the money that they pay in rent. To a large extent, they cannot understand the housing revenue accounts that local authorities operate, because they have no nitty-gritty information on what is being spent. There are high-level things such as management and transport costs, but local authorities are not prepared to break costs down. We need to know that the money that we are paying in rent is being used for the benefit of tenants rather than the wider community. We will pay our share, but it is essential that we are not paying for something that should be paid for out of the community charge—the general fund.

It is important that we consider reviewing the guidance on what local authorities can and cannot spend HRA money on. There should be no seepages from the HRA to fund projects that the general fund should cover.

Bob Doris: I will come back on that specific point; I find it quite interesting, and I am sure that Councillor McColl will have something to say on how local authorities communicate such things.

Tenants constantly say to me that they want to ensure that when they pay their rent—which, in Glasgow, is no longer paid to the local authority, but to housing associations—the money is spent wisely and prudently. With regard to their wider role, housing associations can find themselves caught between a rock and a hard place.

I will give a specific example from Glasgow, without getting into the rights and wrongs of the situation. A local community centre in the area where I live is about to close and the housing association is considering ways in which it can step in and provide finance to operate the centre for the wider community.

I know from my discussions with the housing association that it is keen to be involved. However, it is always minded that its first interest is its tenants. It does not want to be accused by its tenants of compromising its core business by putting that wider role into action, although tenants as well as the wider community would benefit.

I put on record the fact that I empathise with a lot of what Danny Mullen is saying. However, we need clearer guidance, and something in the charter to state what is appropriate, because housing associations sometimes have to speculate to accumulate in improving communities.

I would be interested to hear from Councillor McColl or Maureen Watson about how that could be progressed and embedded in the bill to encourage housing associations to get involved in that way—after all, the good housing associations know their communities better than most other people who are living in the towns and cities.

Maureen Watson: Housing associations and housing co-operatives have a strong track record in having a wider role in social enterprise activity. That is increasing all the time, so I would support its inclusion in the charter. We have a lengthy period of consultation ahead of us on what will be in the charter, so that will get the debate going and we can look at how to perform the balancing act, because we encounter difficulties and barriers all the time. Their first interest is the tenants in their area, but there is also the wider community that they serve.

I have one caveat about how the sector is regulated. We would not want the regulation to be so burdensome that it stifles the innovation that produces good ideas and initiatives such as the work done in the community by Cordale Housing Association, which Lesley Baird mentioned. We

are completely open to a full debate on the issue during the charter discussion.

Councillor McColl: It makes me very proud that, when I come to meetings such as this, Cordale Housing Association is held up as an example of good practice. As some of you will know, Cordale Housing Association is based in Renton, which is in my council ward in West Dunbartonshire, so I am well aware of what it has managed to do. It has completely turned round a community by taking a more overarching view. I am equally pleased that the other witnesses agree that something like that should be part of the bill, because I also think that it should be. It comes back to the argument about delivering outcomes for areas. We must look at the high-level outcomes. It is not only about improving the housing; in improving the housing, we must also consider, for example, improving people's health and wellbeing, which is one of the reasons why we feel that Audit Scotland should have a role to play, because it is more experienced at doing that.

Bob Doris: What I am hearing—I will perhaps leave it at this—is that, in some respects, some of the housing association movement and some local authorities are ahead of the bill. It is about putting in the bill some of the good practice that is going on and it is about how through, I hope, light-touch regulation, we can monitor and assess what is going on. I have to say that it is like a school, a hospital or a residents association—some are performing better than others. It is only when a more effective monitoring process is put in place that those who could be doing more to work in partnership with local authorities and communicate with tenants can be encouraged. I am delighted with what I am hearing.

Lindsay McGregor: I would not argue against what you are saying, but I sound a note of caution. The link back to Audit Scotland is important because if we are talking about antisocial behaviour, for example, there is an important link back to the regulation of policing, what is happening in the world of community safety and so on. If we are talking about supporting tenants into employability and whatever, there may be links back to other sources of regulation that are going on elsewhere. The issue is whether the SHR should have a very wide remit and a generic knowledge or whether it should have a specific remit around housing, tenants and so forth and should link very well to other areas of Audit Scotland's work and to the other regulators. We could go in two directions and we perhaps need to explore each of them to work out what the imperatives are that we are working towards.

Bob Doris: This is obviously an issue that the committee is still coming to grips with and we are listening to different views. The most powerful view that I have heard is from Mr Mullen, who said that he wants to ensure that there is equality of regulation across the sector and that housing association landlords and local authority landlords are under the same scrutiny. It is necessary for the eventual act to build confidence on that matter and how we go about achieving that has as much to do with tenants of local authorities as it does with this committee. However, I am listening to what you say and we will obviously scrutinise how that process goes forward.

Councillor McColl: I absolutely agree that the level of scrutiny for RSLs and local authorities and the standards that they have to live up to should be the same. However, as I said, we feel that there should be a different way of going about that, because there are other aspects to consider, particularly for local authorities.

I forgot to come back on the point about information sharing. I am surprised to hear that there are councils that are not willing to share that level of information. Apart from anything else, I would have thought that a freedom of information request would have required such information to be shared, so I cannot understand why there is a problem—this is the first that I have heard of it. As I said, some councils are better than others and perhaps, through your consultation with tenants, something about information sharing will come out that you might want to put in the charter.

The Convener: I am a bit nervous about the charter being regarded as something that will solve all the world's problems. However, are there any important general considerations that the committee should take into account as the charter develops? Mr Mullen described it as a Scottish charter. Should it be a Scottish charter that covers everything? Or should it have flexibility with regard to geographical area or different types of landlord? I would like to know about general considerations rather than what should be included in the charter for allocations, quality or whatever.

11:15

Lesley Baird: As Danny Mullen said, the charter has to be flexible and transparent. We cannot compare Glasgow Housing Association with the Hebridean Housing Partnership—that would make a nonsense of the charter. It must have flexibility written into it and be able to ensure that tenants and organisations are measured properly against a set of flexible standards. That is the difficulty, though. As I said, how do we compare the GHA with the Hebridean Housing Partnership?

We have local charters that will allow local flexibility and local differences to come into play. For example, Shetland Islands Council has four

houses in Fair Isle, and the tenants there have the right to expect as good a service as someone who lives in the centre of Glasgow. The charter must therefore enable flexibility, be transparent, have a huge amount of tenant input and be fit for purpose. As Maureen Watson said, we have a long way to go in developing the charter, because we start with a blank sheet of paper. We must get it right, but the building blocks to help us do that exist.

Danny Mullen: My point is much the same as Lesley Baird's. There is room for flexibility in the charter to deal with local variations and scenarios. However, the overriding point is that we have national standards that are applicable across the board to drive forward improvements in the services that tenants receive and maintain houses nationally according to the Scottish housing quality standard. Tenant participation should always be included as well, because such participation is unbelievably patchy across Scotland. Almost 10 years after the 2001 act, we are still fighting for a place at the table with some landlords, so it is important that tenant participation is one of the major areas to be covered in the charter. Having said all that, I believe that, given the good will of all the partners involved, there will be manageable and measurable standards that will drive forward good practice.

The Convener: There is nothing contrary from anyone else, which is good.

John Wilson (Central Scotland) (SNP): Good morning. I am really surprised that my colleague Bob Doris did not refer to a housing association that he likes to put on a pedestal for the work that it has done: Queen's Cross Housing Association. Anybody who has been involved in housing will be aware that Queen's Cross has been ahead of the game with regard to housing associations' wider role for a number of years. It has not just looked at community facilities, but has provided a range of services in the local community, including business units for start-up companies in the area. It has been possible for some time for housing associations to have a wider role, and regulation is in place to allow housing associations to do that. The provision in the bill for housing associations or co-operatives to have a wider role is therefore not something new.

I want to return to Ms McGregor's comment on governance, which I think is an issue. Councillor McColl referred to the relationship between elected members and tenants. We need to examine governance in relation to the provision of housing, whether or not by registered social landlords, who have a different and in some cases a better governance regime than many local authorities.

The convener asked earlier how many tenants were aware of the bill, but I would like to ask how many councillors are aware of the bill. Clearly, we have a written submission that is billed as being from COSLA, but it is actually a joint submission from COSLA and the Society of Local Authority Chief Executives and Senior Managers—or SOLACE.

It would be interesting to look at governance concerns from the perspective of registered social landlords, tenants and local authorities. In my experience, some elected members in local authorities are making decisions on which they are not fully briefed. Mr Mullen commented that tenants do not understand what happens with the housing revenue account, but I think that some elected members who are involved in passing the council's budget each year are equally unaware of what is contained within the housing revenue account.

Councillor McColl: I am sorry, sir, but I could not disagree more. I cannot accept anybody telling COSLA that councillors are taking decisions without full knowledge of the facts or without information that they should have. That is quite an allegation to make, sir, and I take exception to it. That is my only comment.

Maureen Watson: There are some examples of excellent governance at a high level in the housing association sector and in the co-op sector. However, we think that the bill could also help by replacing schedule 7 to the Housing (Scotland) Act 2001. We are all for being transparent, accountable, open and honest, but some unintended consequences flow from the requirements in schedule 7. We are happy to see that the bill promotes the idea of an ethical code.

Danny Mullen: I sincerely hope that all councillors take their responsibility seriously, and I believe that they do so. One of their remits is scrutiny and review, and I have witnessed that. As a local authority tenant, I have witnessed my local policy development and scrutiny panel, on which councillors are involved in all those sorts of issues. I am well aware of what happens in my local authority, although I cannot speak about the broader picture. However, I am quite sure that the governance standards by which councillors have to abide are robust enough to ensure that they give appropriate scrutiny to anything that they pass. More often than not, councillors act in the best interests of all their constituents.

Our issue is just with officers' accounting processes, which leave it very unlikely that we will ever get to the bottom of the housing revenue account. We believe that, in some cases, money that we have paid in rent is siphoned off to fund projects out of the general fund.

Lindsay McGregor: I cannot comment on the HRA funds of individual councils, but I am sure

that there are excellent governance arrangements both within RSLs and within councils.

The issue is more about the difference between types of governance arrangements and the reasons for that. By and large, RSLs focus only on housing—although some of them have a wider role—whereas the role of councils is much wider, so elected members are taking decisions using a different jigsaw puzzle front cover, as it were, that looks across a wider range of needs. Often, other elements such as economic development and community safety also need to be placed within the housing agenda. Councils need to balance within their housing framework the needs of current tenants, future tenants, homeless families and so on and different priorities, such as community safety and health improvement. Fundamentally, what I am saying is that we have a different governance arrangement for very good reasons, because we are different animals. The regulator will need to account for that difference somehow and reflect it.

John Wilson: COSLA and SOLACE's submission states that local authorities would be happier with the present regime, which is regulation by Audit Scotland, than with regulation by the Scottish Housing Regulator. The bill aims to achieve a common approach to the regulation of housing throughout Scotland. If we had two different regulatory regimes—one under Audit Scotland and one under the Scottish Housing Regulator—would that not create more confusion for tenants in relation to what is provided by and what they can expect from landlords? I understand that local authorities have a wider role under the homelessness legislation, but on the basic provision of housing and housing tenure, surely we need to find a single approach to regulating the delivery of services to tenants.

Councillor McColl: I do not agree that we need a single regulator. The important thing is not who does the inspection but the standards that housing providers are expected to meet, what is measured and the outcomes that are sought. From my point of view, who does the work is not important. Where there are specialist things that need to be looked at, Audit Scotland should certainly take expert advice from the Scottish Housing Regulator, but I do not agree that it is a problem to have two different inspection agencies.

Lesley Baird: The recent tenant priorities research came down to the basics. It showed that tenants want a good-quality service, affordable rent and good repairs—a range of basic things to which people have a right. The Scottish Housing Regulator provides a strong and rigorous regulatory regime. Our research showed that tenants of local authorities and RSLs were clear—there was no dissent—that local authority tenants and housing association tenants should be regulated in exactly the same way because they want the same basic services and to be able to compare their services with their neighbours' services.

Danny Mullen: I concur with that. I repeat that it is important that a regulator involves the people whom it is supposed to be protecting, and Audit Scotland does not do that. It works away on its own and produces a report that gets buried in a council chamber. More tenants have read the inspection reports that the Scottish Housing Regulator publishes, and tenants can get involved in improvement plans where appropriate. Under that approach, tenant involvement is maximised and things are more transparent to tenants. It is important that there is a single regulator that regulates across the board.

Lindsay McGregor: Because we have moved to risk-based scrutiny, tenants are unlikely to be more involved by the SHR than they are at present. Under the process in the bill, it is only when something amiss with an RSL or a council housing service is noted that the SHR will come in. We must focus on getting things right first time, at the point of delivery between councils or RSLs and tenants. That is where the focus should be. If we identify problems and things need to be strengthened to improve relationships with individual tenants or tenant participation groups, the focus needs to be on the process that enables councillors to use the information from the SHR or Audit Scotland to inform that work and to build those relationships. Such processes need to be in place at the point of delivery, on the front line, so that problems are not just picked up later.

If the SHR has conversations with tenant groups, that will be because things have gone wrong; it will not necessarily have conversations to find out views along the way.

11:30

For us, it is very much about the process of engagement. What is proposed in the bill is a step on the way. The system needs to become more outcome focused for tenants and the wider community, so that, further down the line, we can break down some of the silos of housing, community care and policing and look at things from a community perspective, rather than just from the perspective of the component parts.

COSLA's response is that we are looking for Audit Scotland to have overarching primacy, but we accept the SHR's role at the moment. Further steps probably need to be taken at some point to bind together the outcome agreement approach—the more holistic approach to service delivery—and to get away from operating in silos. For the

time being, we welcome the proposed approach as a step in the right direction towards having a reduced burden and taking a more risk-based, proportionate approach. The charter gives us that opportunity, given what we are being told about the relationships that we need to build with tenants individually and in groups.

The Convener: We are heading into dangerous waters with mention of single outcome agreements. The committee is highly sceptical about whether outcomes can be measured in that way. I will let John Wilson back in in a moment, but I want to pick up on another issue that we want to cover. We have heard evidence that the powers of intervention and inquiry in part 4 of the bill could be balanced so that we do not overburden people with regulation, annual reports and self-assessment. We do not have to deal with that issue now, but before we finish today I would like to get some feedback on it, because concerns have been expressed in the written evidence that annual reporting and self-assessment just will not cut it.

Maureen Watson: I will be brief, because a lot has been said. The key to everything that was raised in the previous question is the charter itself. The charter will set out what tenants can expect. It has to be transparent, so that expectations are clear and outcomes are measurable. As Lesley Baird said, there has to be flexibility, because there is a diverse range of landlords out there. However, landlords have to be regulated in the same way by the same regulator, so that everybody is clear about what is being compared and measured.

John Wilson: That leads on to the question that I was going to ask about the charter. Lesley Baird is quite right that flexibility needs to be built in for the various registered social landlords out there and the 32 local authorities. How much flexibility should be in the charter? Should there be benchmarking in it to say that every tenant in Scotland, regardless of who their landlord is, can expect basic standards? Landlords could build on the charter and provide better services. Would that not be a fairer approach than talking about flexibility? There are more than 200 registered social landlords at the moment and 32 local authorities, although not all local authorities are housing providers. We could have more than 250 different charters if we build in flexibility. Surely every tenant wants to know what neighbouring tenants are getting or what neighbouring authorities are offering. The same basic standards should apply throughout Scotland.

Councillor McColl: From the councils' point of view, we are not talking about making the charter so flexible that, in effect, every council and every RSL can have its own charter. We believe that the charter has an important role to play. It should be high level and should say what standards people are expected to meet, but it should not necessarily say exactly how people should deliver those standards. It is not for the charter to do that.

We must be careful that the charter does not prohibit RSLs and local authorities from having local agreements on standards. That is what we mean when we talk about flexibility. We do not want to tie local authorities' hands too much.

Lesley Baird: The charter must be measurable, otherwise it will be meaningless. A long time ago, I worked for a local authority that had a really nice charter that looked great—

John Wilson: You got an award for it.

Lesley Baird: Yes—I still have the award—but it was utterly meaningless. There was a lot of tenant involvement in it, but we did not take it to the next stage—there was no measure for us to look at once we had produced it. The charter must be measurable.

The nature of our organisation is such that we do huge amounts of work in organisations that are based in rural areas. There is only one boat a week to Papa Westray in the Orkney Islands, so someone who lives there cannot expect to receive the same level of service as someone who lives on the mainland of Orkney. That is why flexibility must be built in. The charter must be realistic about geography and the nature of the Scottish people, but if it is not high level and not measurable it will become similar to the one that I have in a drawer somewhere, which has not been looked at for a very long time. It must be meaningful.

The charter is important. We have a blank sheet of paper and we have tenants' research, and we must get tenants involved in the charter because they are the experts in this field. They are the people who know what type and levels of service they expect to receive, at the very least.

The Convener: Mr Mullen is desperate to comment, but first we will hear from Maureen Watson.

Maureen Watson: I concur with everything that Lesley Baird has just said. The concept of minimum standards is interesting and it should be possible, during the consultation, to explore how minimum standards and local flexibility could be balanced in the charter. The concept of minimum standards is not new to housing associations and housing co-ops. It was part of the raising standards in housing sequence of good practice guidance, which was highly successful for a number of years—and some of it still exists. We could have a minimum level that everyone had to meet and, over and above that, flexibility.

Danny Mullen: In general, I concur with what has been said. We are starting off with a blank sheet. The charter must be measurable and it must be flexible so that it can take account of the differences between rural and urban areas, for example. All the outcomes in the charter must meet the priorities of tenants in the areas that it deals with. The focus should be on tenants' priorities—what they see as the services to which they are entitled and those that they desire. The charter should ensure that the delivery of those services is prompt and high quality. Those are the sort of issues that can be measured.

David McLetchie: Good morning, everyone. I have some questions about trends in the housing association movement and the implications of the bill for that. I will start with a question for Maureen Watson. How many housing associations and co-operatives are there in Scotland? What have the recent trends been on the number of those organisations?

Maureen Watson: There are around 162 housing associations and co-operatives at the moment.

David McLetchie: Is that figure higher or lower than it was 10 or 20 years ago?

Maureen Watson: It is lower by about 40. Over the years, there has been a trend towards mergers. There have been two mergers in the past year, and I do not see that trend stopping as people look at smarter ways of working and commonalities of interest.

David McLetchie: Notwithstanding the fact that new housing associations might be created in Glasgow as a result of second-stage stock transfer, overall the number of such bodies across Scotland is in decline and you expect that to continue.

Maureen Watson: Yes. I expect more mergers to take place, although I am not quite sure at what rate that will happen—we are monitoring the issue with interest.

The stock transfers in Glasgow are being made to existing housing associations, so that process is not adding to the overall number.

David McLetchie: I am sorry—thank you for that.

From the evidence that you have given, the trend is towards rationalisation and merger. What is your assessment of the impact of the bill and the new measures and obligations that it contains, such as the charter, which we have discussed, and the requirement to comply with high-level outcomes? Is it your assessment that the enactment of the bill and the creation of additional responsibilities and duties will accelerate the rationalisation and merger process?

Maureen Watson: No. I do not share that analysis at all.

David McLetchie: That is not my analysis. I am simply asking whether you have done an analysis and come to a conclusion.

Maureen Watson: The conclusion that we have come to is that the bill offers many opportunities for more partnership working across housing associations and co-operatives. That will not always mean that people will join up, but it will mean that people will look for ways to share services and become more efficient in order to deliver the outputs that might be required by whatever eventually ends up being in the charter. It is about people thinking innovatively, working smarter and looking for opportunities. I do not agree that the words "merge" and "acquire" scream out from the bill.

David McLetchie: Right. So you believe that the merger and rationalisation process will continue, but that it will not be accelerated or decelerated by the enactment of the bill.

Maureen Watson: That is not our assessment at the moment. Many of the difficulties will come in the details of the different consultations that are about to come out on the back of the bill. I reserve my judgment until we see the exact details of what all the little bits of draft guidance will require housing associations and co-ops to do.

David McLetchie: So the details could accelerate the rationalisation process and lead to a faster decline in the number of housing associations.

Maureen Watson: I would not like you to put words into my mouth.

David McLetchie: I am not. I am simply asking you a question. You said that the devil is in the detail. I am saying that the detail could lead to that conclusion, just as it could lead to the alternative conclusion that the number of housing associations will increase.

Maureen Watson: We will keep a close eye on matters and fully participate in all the different rafts of consultation that are coming out. We are looking forward to that and gearing ourselves up for it. What works for tenants is at the root of the issue.

David McLetchie: Perhaps Mr Mullen could comment. What is tenants' experience of the rationalisation of housing associations and the mergers that we have heard about that have occurred over the past 10 years? Have tenants seen those mergers as being good or bad?

Danny Mullen: Rationalisation is a matter for the different management boards, which tenants are involved in. Tenants who are directly involved

in such decision making will be knowledgeable about it.

Tenants are loyal to particular landlords and view rationalisation with a bit of fear, but they are consulted on mergers, which is important. As with stock transfers, tenants are consulted individually on the transfer or merging of businesses, and it is important that such consultation is retained. I am convinced that things have been offered to tenants in order to allow mergers to happen. They must have received information about and promises of better services. At the end of the day, it is services that tenants are concerned about.

David McLetchie: Do you and your members think that those promises will be fulfilled?

Danny Mullen: Have the promises that were made during stock transfers been fulfilled? The regulator considers promises that have been made to tenants. If the regulator thinks that those promises have been put aside without good reason and without consultation with the tenants, they will raise that issue in their reports. I have read plenty about that.

David McLetchie: So the existing regulatory mechanism highlights those deficiencies. Is that right?

Danny Mullen: Yes.

David McLetchie: Therefore, the enactment of the bill will not make any difference in that respect.

11:45

Danny Mullen: What you are talking about is a business process that derives from the current economic climate. Tenants are aware that they, too, live in that environment. If they see rationalisations, mergers and so on going on, provided they are consulted, they understand that there can be a business case for that. The safeguard should be that tenants are allowed to voice their opinion on whether their landlord can transfer the ownership of their house to someone else. That is important. They will find out all about not just their own landlord but the landlord that is merging with their landlord. Hopefully, they will know that, at the end of the day, there is a business case for the merger and that it will improve conditions in the housing in which they live.

David McLetchie: But most of those mergers and rationalisations occurred before the onset of the current economic crisis, so they are a function not of that but of a process that has been embedded in the system for a number of years, as I think Maureen Watson said in response to my initial question. Is that correct?

Maureen Watson: That is correct.

Lesley Baird: On the issue of economies of scale, the stock transfer that took place in the Western Isles was from the Western Isles Council to the Hebridean Housing Partnership. There were five housing associations in the Western Isles, the smallest of which, Berneray Housing Association, had only eight houses and the largest 190 houses. It made perfect sense for those organisations to come together and form the Hebridean Housing Partnership. We did the independent advice for that process. As Danny Mullen said, it is important that tenants are involved. We went round every door in the area, talking to tenants. We took Gaelic speakers with us because many of the tenants were older and did not speak English.

A lot of mergers are going on, some of which make perfect sense. Good practice dictates that tenants should have independent information on any proposal to change their landlord. We would like the bill to suggest not only good practice—that tenants should have their say—but that tenants should be entitled to independent advice. They should be told that they can apply for independent advice and they should receive such advice. At present, most mergers are called “transfers of engagements”, and there is no tenant ballot—there is a tenant ballot only in a stock transfer. We would like transfers of engagements to involve tenant ballots. Tenants have been asked for their views in some transfers of engagements, and their views have dictated whether the case has gone ahead to an engagement, a transfer or a coming together. We would like the process to be strengthened so that it is not just members of associations who are asked about the process and who have a formal part in it; tenants should have a chance to express their fears and be kept fully informed of any reasons why change should take place. In addition, there should be a formal tenant ballot at the end of that process.

David McLetchie: That is an interesting point. Does Maureen Watson, on behalf of the SFHA, agree that there should be tenant ballots on transfers of engagements, or should ballots be limited to stock transfers?

Maureen Watson: That is an interesting proposal from Lesley Baird. It is not one that we have debated within our sector yet. I would like to take soundings from members on it.

David McLetchie: That is interesting. We can explore that further with other witnesses. Does anyone else want to comment on that?

Lindsay McGregor: I want to comment not on that particular point but on the move towards the best value 2 regime for local authorities, which I think will inform the regulator’s approach to scrutiny. I wonder whether that will provide some view, not just of mergers—it would be wrong to see mergers as the answer to best value—but on

how we partner up in terms of procurement and joint working across the piece. There are already plenty of good examples of councils and RSLs working together to maximise their funding to provide the greatest number of houses and ensure best practice locally. We hope that there will be something in the bill that will ensure that we can squeeze even more quality from the reduced budgets that we will face, and that we can work more closely in partnership. We will find that working more closely in partnership with tenants will prove to be part of best value, too. That is an important point. Mergers may be one part of that, but the partnerships that we have at the moment are the most likely way of saving money and providing better services.

The Convener: Do the witnesses believe that the bill should specify that tenants should be on the board of the Scottish Housing Regulator?

Maureen Watson *indicated agreement.*

Lesley Baird *indicated agreement.*

Danny Mullen *indicated agreement.*

The Convener: Some of you have no view, but there was some vigorous nodding of heads.

On part 4, as I said earlier, we received some evidence about self-assessment and annual reports. Are the witnesses all confident that the provisions in part 4 are appropriate? Lesley Baird is shaking her head this time.

Danny Mullen: That is one part of the bill that we have grave concerns about. We have no objections to self-assessment because it can lead to improvement, and it is always good to assess yourself. However, doing it in isolation is not the way to go. We suggest to landlords that they should involve their tenants when they carry out self-assessment. There would be far fewer reports to the regulator directly from tenants if the tenants were involved in the first place. That involvement is very important, and it is easy to get focus groups or other local groups together to talk about things and go through what the landlord is trying to achieve, how it is performing and so on. At the end of the day, if risk assessment is going to be based on information submitted by a council or RSL, it is important that that information is accompanied by the tenants' view of services and how their landlord is performing. If we are going down the route of risk-based assessments, the information that the regulator gets from the landlord should be robust and valid, and it should have the confidence of the tenants on which it purports to report.

Lesley Baird: I agree with Danny Mullen that there are deep concerns that self-assessment is going to be an annual tick-box exercise. It should be more than just an annual process. Tenants should be involved in determining the service throughout the year so that when the report goes in at the end of the year, it is well rounded. It is vital that tenants are involved in that process.

We worry about complacency if tenants are not involved. We also worry about landlords saying, "We'll just get two tenants off the street to come in and tell us that we are wonderful." The process has to be properly thought through and there should be good guidance to make sure that tenants are transparently and equally involved. If something is not good, the tenants should be able to say what needs to be beefed up. That is why we think that it is important for the process to be on-going. Although reports should be made annually, tenants should be involved throughout the year.

The Convener: Does anyone take the contrary view? The burden of regulation was mentioned earlier.

Lindsay McGregor: It is a tenet of the new, post-Howat, scrutiny that self-assessment is the bottom line for how assessment is undertaken. The best value 2 approach that Audit Scotland will take to councils at a corporate level will contain some checks and balances so that the quality of self-assessment and what it entails across the piece can be checked. That approach will also ensure that improvement is driven corporately. An important aspect of Audit Scotland's role is ensuring a high standard of self-assessment across the piece.

There is certainly an element of reducing the regulatory burden through self-assessment, but self-assessment should not be driven by the necessity of inspection and regulation. Self-assessment is a good thing; it is part of processes that are going on anyway, such as community engagement and peer review. There are opportunities to use self-assessment as a platform for sharing best practice among RSLs, councils and so on. We would all gain from seeing it as something that we want to do for our internal improvement processes, regardless of the SHR. We would benefit from the process by working together and learning from one another. As a by-product, self-assessment would reduce the need for regulation, which should be needed only when things go awry and fail tenants or the wider community.

We very much welcome the self-assessment process, but we in no way underestimate it. It is not a cheap option, so it must be proportionate and provide best value for tenants and the wider community.

Maureen Watson: I do not disagree with anything that anyone has said. Self-assessment must involve tenants. It is a challenge—we have been trying to do it for some time in our sector.

However, we are supporting our members through the process, and there is lots of scope to improve the guidance on self-assessment. We will work with our members and the regulator to ensure that self-assessment happens. Annual reporting will provide good information, but the process must be proportionate and fair, and it must look at areas of good performance as well as landlords that are not performing quite as well as others. That will inform continuous self-improvement for everyone.

The Convener: That brings us to the end of evidence from this panel. Thank you all for your time and the evidence that you have given us. I look forward to your continued involvement in the progress of the bill.

11:55

Meeting suspended.

11:59

On resuming—

The Convener: Our second evidence session on the Housing (Scotland) Bill is on the right to buy. I welcome two new witnesses to join the previous panel: Andy Young, policy and strategy manager at the Scottish Federation of Housing Associations; and Jamie Ballantine, head of projects at the Tenant Participation Advisory Service Scotland. In the interests of time, we will go directly to questions.

John Wilson: As you are aware, this session will look at the right to buy. The right to buy has existed for almost 30 years, and the bill proposes to introduce changes to it, particularly for new-build housing. What do you think of the proposals and do you think that they could be amended and improved? I know that the SFHA may have different views from the local authorities on the proposals and their implications.

Councillor McColl: COSLA supports an end to the right to buy for new-build properties and new tenancies. We would not support an end to the right to buy for all tenancies, including current tenancies, because many local authorities in Scotland have used the right to buy—and their right to sell—as an effective way of getting some income. We think that there needs to be some local flexibility. Local authorities should be able to designate areas where they will and will not sell properties, based on assessed need. It is important to allow local authorities the flexibility to generate some income by getting rid of housing that they no longer need.

Andy Young (Scottish Federation of Housing Associations): From the outset, we have supported the intention of the bill to restrict the right to buy, and we understand and agree that the existing rights of tenants should be untouched. However, we have made it clear that, in our view, the unintended consequence of the proposed reforms is to make the right to buy far too complex. We need to find ways of simplifying and streamlining the process while staying true to the original intention of the bill, which is to safeguard social housing.

When the modernised right to buy was introduced in 2002, housing associations were granted a 10-year exemption, which expires in September 2012. We contend that, because of the exemption, housing association tenants do not currently have any right to buy. We therefore see an opportunity, within the spirit of these well-intentioned proposals, to extend the proposed right-to-buy reforms to include removing the modernised right to buy from housing associations. We have calculated that, if the modernised right to buy were scrapped or if the housing association exemption were extended beyond 2012 or even made permanent, 80,000 properties, mainly built during the past 15 to 20 years, would immediately become protected without the loss of any existing tenant rights.

Jamie Ballantine (Tenant Participation Advisory Service Scotland): The Tenant Participation Advisory Service was involved in a series of events throughout the country at the "Firm Foundations" consultation stage, supported by the Scottish Government. We consulted tenants widely at that stage, and there were further sessions when the draft bill was published, so we have heard a lot of views on the right to buy.

Generally, the tenants who are involved in the organised tenants movement support the proposals in the bill and the idea that the right to buy should be removed. However, the convener asked earlier how much public opinion we know beyond that—we know the views of the registered tenants associations but not much beyond that.

I have a comment that relates to Andy Young's point. When the modernised right to buy was introduced back in 2001, the proposal was to extend it to housing association tenants. Although I understand the point that the SFHA makes about the principle of preserving those houses for social rent, we must remember that, back in 2001, individual housing association tenants were told that they would have the right to buy in September 2002 but would not be able to exercise it until 2012 because the exemption was on the landlord rather than on their individual right. You will have to look at that in more detail, as many of those 80,000 people will have been told that they would have the right to buy and some of them may have that written into their tenancy agreements.

The organised tenants movement is generally happy for there to be restrictions on the right to buy. Nevertheless, as politicians, you know that

the right to buy has been a popular policy because tens of thousands of people have exercised it, so you have a judgment call to make. At the sessions about the right to buy, tenants expressed concern that the bill appears to propose that, if a tenant were offered a new property, they would not have the right to buy that new property, but if, some years down the line, they moved into a property that was built before the cut-off point, they would get their right to buy back along with the discount years that they had accumulated while living in the new property. That seems to be a confusing anomaly that makes the right-to-buy picture more complicated.

In 2001, the picture became more complicated with the introduction of the modernised right to buy, as a result of which people thought that they were going to lose their right to buy. The figures in the documents that accompany the bill show that there was a rise in the number of right-to-buy sales at around that time, which is largely attributed to the fact that people thought that they were going to lose the right to buy. The same will happen again when you make further changes to the right to buy. People will be confused into thinking that they may lose the right to buy and they will probably exercise it. In years to come, you will probably look back and see another peak in sales at around this time due to people exercising their right to buy.

There is a lot to consider in the bill, and the issue of the right to buy is already complicated. Tenants throughout the country support the principle that the right to buy should be restricted further, but they find it complicated and are confused by certain anomalies, particularly the proposal that someone who has lived in a new property could subsequently get the right to buy back. Some tenants have suggested that there should be one right to buy in a tenant's lifetime. We know that there would be legal problems with that, but that is what people are telling us.

Danny Mullen: I reiterate what Jamie Ballantine has said. Tenants find the current system a bit complicated because they cannot understand how one person can get one discount and someone else can get an entirely different discount, whether the right to buy is modernised or reserved. The system is now being complicated further. There must be a real reason for extending or withdrawing the right to buy. Generally, tenants welcome the ending of the right to buy for new social rented properties and would like any new tenant coming into the sector not to have the right to buy. There must be a cut-off point for the right to buy.

On local authorities having the right to sell off properties or to make decisions based on business, we are currently at the rock-bottom stage. We are getting new housing supply in some council areas, which is improving the standard of housing that is available for tenants, but that is not the case across the board. It is the good social housing that is being bought up, and not always to the benefit of the tenant who resides in the property. There have been instances of profiteering through the right-to-buy process, and much of the housing—even in my street—that used to be council-owned property but was sold through the right to buy is now back in the private rented sector, making a vast profit for somebody.

The right to buy should be ended now. It should be phased out, although tenants who have a reserved or modernised right to buy should retain that right, unless they move to a new house. In that case, as they are making a free choice and they know that the house cannot be bought, their right to buy should end at that point in time. They should not be allowed to come back to another, older property and buy it up.

John Wilson: We have almost reached the 30th anniversary of the introduction of the right to buy by the Conservative Government. As we have heard from the panel, many people argue that the right to buy was a good incentive to change tenure type throughout Scotland. As I have said before, prior to 1979 about 65 per cent of tenure was in the social rented sector, with 35 per cent in the private sector. Those figures have almost reversed now, with 35 per cent of tenure now being in the social rented sector and more than 60 per cent in the private sector. We have been trying to resolve some matters concerning housing supply, which is the issue when it comes to the right to buy.

I was interested in Councillor McColl's comments about local authorities retaining the right to sell. I would like him to expand, if he can, on his perception of how local authorities could use the right to sell as compared with the existing right-to-buy model—or models, as there are several different ways in which individuals can take up the right to buy. Under that right-to-sell model, would it be for local authorities to dispose of problematic properties as they have done in the past, including tenements and other properties that might be difficult to let? Does he envisage that local authorities would use the right to sell to supplement local authority income? We have heard that the right to buy allowed local authorities to draw down income from sales. How exactly would he envisage a right-to-sell model being played out by local authorities? Does COSLA have a view on that?

Councillor McColl: I will put Lindsay McGregor on the spot for that question. There have been some detailed discussions to which I have not been privy involving the chair of the COSLA executive group that I am representing today. I

would rather that the officer involved gave a technical response.

Lindsay McGregor: Both ends of the spectrum that John Wilson describes would be involved, with the potential selling off of properties that could not be brought up to meet SHQS in the near future within local government resources, but for which there is scope for the necessary investment being brought into play under private ownership.

I refer to the concept of recycling income to provide more than would be possible otherwise. Prior to the introduction of the policy to end the right to buy, some councils—West Lothian Council, for example—were building houses and selling them on to bring in additional resource. That in effect recycles properties while ensuring that housing can be provided for those who are most in need.

There is a spectrum of how the right to sell could be used according to local circumstances, which, as we heard from the previous witnesses, will vary from Shetland, Orkney and the Western Isles to city environments and those in between. It is a matter of ensuring that councils can use their local housing strategies to identify exactly what the needs are in their areas. We must be aware right now of the enormous constraints on new house building from now on, given the financial situation that we face.

We must have flexibility so that councils can best understand their financial position and so that they can maximise the use of their prudential borrowing capacity in the best way. They should work with RSLs to ascertain how they will fund the units that will be needed to replace stock that is not sustainable and to meet the requirements of the Climate Change (Scotland) Act 2009 and all sorts of other things. There is an imperative to use the money and the stock that we have as wisely as we can. That is the flexibility that we seek from our authorities in making such decisions.

12:15

John Wilson: Do any other panel members have comments?

Jamie Ballantine: As John Wilson explained, there is a problem with losing houses, but there is also a problem with the supply of affordable social rented housing. There are funding constraints. We know that housing associations are concerned about cuts in the housing association grant. However, new and alternative business models are being developed that could be attractive to the Government and housing associations. For example, one model involves packaging school regeneration and housing regeneration as one procurement bundle and letting the housing association be responsible for delivering the school as well as the housing and then leasing the school back to the local authority, which would take some of the burden off the housing association grant. Such models are worth exploring, and the bill gives a platform for that, partly through the charter.

Earlier, Bob Doris asked what should be in the charter. Quite clearly, social housing providers should have a statutory commitment to work in partnership for community gain, and the regulator should be able to require them to demonstrate that they are doing so, either at the high level of the provision of houses or at a lower level, such as the provision of a community centre.

We need to consider the new models that are being developed, rather than carry on doing what we are doing, which might result in our not getting as many houses as we would like to get.

John Wilson: One of the targets that we are trying to meet with regard to housing provision, particularly in the social rented sector, is on homelessness. The present Government and previous Governments have committed themselves to meeting strict targets in that regard.

Ending the right to buy is seen as being an avenue that we could go down in our attempts to protect some of the housing stock. Earlier, Mr Mullen mentioned that we can all cite examples of situations in which it is the best and largest council housing stock that is sold off. On the issue of revenue for local authorities, my understanding is that some of the early right-to-buy sales drew in less money than was still owed on some of the houses that were being sold off. However, the local authorities argue that they were using the policy as a revenue generator at a time when—to go back to an earlier debate—the housing revenue account was picking up the bill for the discounts that were being applied to some of the houses.

We need to think about how we drive forward the agenda of providing affordable—as Jamie Ballantine said—social rented housing to people who require it at a time when we know that there is a great deal of pressure not only on the public sector and other social rented sector landlords but on housing provision generally. There was an expectation that the private sector would step in and meet the demand for housing in Scotland but, in the current recession, local authorities are finding that their homelessness lists are getting longer and people who can no longer afford their mortgages are applying as priority homeless individuals.

How do we square the circle with regard to the right to buy, protecting the properties in the social rented sector and meeting our homelessness targets in a way that ensures that everyone is accommodated and we have a perfect balance

between social housing and private housing? How do we protect that social housing for the future in a way that ensures that people do not use the right to buy to take out some of the best stock?

Councillor McColl: I totally agree with those comments, but I add that the reason why councils' homeless lists are increasing is not just because people are unable to pay their mortgages, but because some people are unable to pay the costs in the private rented sector. As a private tenant, I can tell you that rent costs are not coming down in line with other costs that have come down because of the recession. That is another pressure.

The bill will allow councils to build new houses, which they have been discouraged from doing. As John Wilson said, it is often the best stock that is transferred. When new houses are built, a certain period goes by and the tenants then want to buy what in essence are brand new houses. At present, they can do that under the right to buy. By ending that right, we will encourage more councils to build houses. Tenant groups welcome that and it can only help with the homelessness situation. As we are all aware, councils have responsibility for housing people who are homeless.

Andy Young: There is a certain irony that the housing association exemption will end in 2012, which is the year for which the homelessness target has been set. Scottish Government analysts calculate that, when the exemption ends, there might be between 3,500 and 4,500 sales of housing association properties per year until 2015, after which the rate will level off to about 3,000 a year. That tells us what the correlation is with the homelessness legislation.

The Convener: How many of those houses would be available for homeless people? I just do not get the point about the irony that the homelessness legislation target will coincide with people exercising the right to buy. If they do not exercise that right, how many homeless people will be housed the next day? How does that work?

Andy Young: It does not work quite that simply.

The Convener: Of course it does not.

Andy Young: What is simple is that those people cannot currently exercise the right to buy but, in 2012, which is the year when the homelessness target kicks in, they will have that right. That is what I meant by an irony.

The Convener: As we have heard and as we all understand, there is nothing simple about the issue. You pointed out earlier that the situation is complex. It should not be simplified, as you have just done. We are talking not about homelessness but about housing need. The people who are in those homes and who want to exercise the right to buy need that home, or a home somewhere else.

Are we not stuck with an historical perspective? The only bodies that have made an economic case for abolishing the right to buy have been COSLA and the councils. Is there an economic case to end the right to buy given that we are not talking about the historical situation and that the people who already have the right to buy still have it and will continue to have it? We are talking about notional houses that might be built some time in the future and which people would not have the right to buy. What difference did the modernised right to buy make to people buying their former rented property? What assessment of the impact of that has been carried out?

Andy Young: As I said, potentially 80,000 properties will be subject to the right to buy in 2012 that were never subject to it before the modernised right to buy was introduced.

The Convener: Right.

Jamie Ballantine: The issue is clearly about the smaller discount with the modernised right to buy.

The emphasis on homelessness is correct and there are ambitious targets for 2012. I am curious as to whether you are doing further consultation with the likes of the Scottish Council for Single Homeless and Shelter Scotland.

The Convener: All the witness panels in our current programme are on aspects of the bill, but we have taken considerable evidence on other issues from those organisations. Their focus is on a slightly different issue from the one that we are discussing today.

I return to the historical issue. The discount is not as massive as it used to be—it used to be £60,000, but it will be £15,000.

Jamie Ballantine: That figure is set in statute, so its value will diminish over the years. If any headline comes out of the bill, it will be about the right to buy. People may be concerned about that or may capitalise on it by telling tenants that they may lose their right to buy, to create a rush. That will happen, because people who are in a position to exercise the right to buy know the value of their house. They will exercise their right using the old or modernised discounts, so they will have enough equity to get a mortgage. At the moment, people cannot get mortgages because they have a high loan-to-value ratio, but a sitting tenant, with a discount, who seeks a mortgage will get it and be able to exercise their right to buy. After the bill is passed, there will definitely be an increase in right-to-buy sales.

Danny Mullen: Regardless of whether it is economic to end the right to buy, we currently have the lowest level of stock in the social rented

sector. Maintaining that stock will become unviable if we continue to lose rental streams from such properties, as they pay for improvements, to drive up standards and so on. They also provide employment for the people who provide the services to us. If we do not have a viable social rented sector, where will we provide homes for the homeless? We are already beginning to contract out that responsibility to the private rented sector. All of us know the vagaries of that sector and the difficulties that are associated with securing proper accommodation for homeless people. There is an economic case for retention of social housing stock and ending the right to buy.

Mary Mulligan: The Scottish Council for Single Homeless, among many other organisations that I could name, has submitted written evidence to us, so we will look at that in relation to the issue that Mr Ballantine raised.

Councillor McColl made the point that the changes to the right to buy that are proposed in the bill will encourage local authorities to build new homes. What in the present situation is stopping local authorities doing that? Clearly, some are building and some are not.

Councillor McColl: Some local authorities are not willing to take the risk, and some are not in a position to build houses, regardless of what the legislation says. A fairly large number of authorities are not building new houses because they fear that, at some point in the future, that provision will be subject to the right to buy and will be lost.

Mary Mulligan: The modernised right to buy should enable authorities to reclaim much of their outlay.

Councillor McColl: It is not an economic argument. It is not about saving councils money but about the fact that housing waiting lists across Scotland—I am not talking only about homeless lists, but about people applying for council houses or houses with special adaptations—are huge. There is a dearth of social housing in Scotland. We believe—and tenants agree—that anything that makes it easier for local authorities to build new houses to address that is positive.

Mary Mulligan: You have prompted my second question, which concerns a written submission that we received from the Scottish Disability Equality Forum. The forum points out that the people with whom it is involved are often those who have waited longest for appropriate properties to move into and feels that they are more likely to lose out under the proposed changes. Is it unfair that a person with disabilities who has to move into a new, more accessible property because their existing house is no longer suitable will lose the right to buy? People who stay in their houses will hold on to that right, as would the disabled person if they stayed in their house.

12:30

Councillor McColl: If that will be the case, it will certainly be unfortunate. Perhaps the Parliament should look at that. I can make no specific comments on the proposal because I have not been involved in discussions about COSLA's response to it. As a general rule, local authorities give extra points in their allocation policies to people who have special needs. In a number of local authority areas there are also provisions to adapt houses as the needs of the people who are in them increase. That is more a matter for individual local authorities, rather than one for COSLA to respond to.

Mary Mulligan: I will come back to that point.

Lindsay McGregor: It is a matter of finding a balance between protecting our disabled-accessible stock and providing the same benefits to all tenants across the piece. We have discovered that, along the way, we have lost many properties that have a large number of bedrooms, that are disabled accessible or that are suitable for older people. Therefore, people with those needs who are on the waiting list are discriminated against.

You are right to highlight the issue and we need to grapple with it. We need to consider the right to buy and social housing within a wider housing system of private rented housing and home ownership. What is the function of social housing now? Is it only for those people who are most in need? If so, how do we ensure that those people who want the opportunity to buy can be helped to do that within the private sector in some other way, such as shared equity?

We need to be mindful of the wider housing system outwith the right to buy in social housing. We talked earlier about support systems for tenants in relation to employability, mental health and drug and alcohol addiction. What kind of supports do we need to put in place to ensure that, where possible, tenants move through a cycle into other housing that is more appropriate for them, which then frees up properties for those on the homelessness list?

We need to be mindful always of the wider context and that such legislation has impacts in both directions—to and from the social housing sector.

Danny Mullen: I have a lot of sympathy for the issue as Mary Mulligan described it, but if a disabled person has a right to buy they can use it to buy the property that they are in at the moment, so we are talking about losing the right to buy only

if they move to a state-of-the-art, disabled-friendly, new-build house. I can imagine people aspiring to own a property like that, but only two or three houses in a whole area are being built to that disabled-friendly design. If we allowed someone who moved into such a house the option of buying it, the house would be lost to the social rented sector and replacing it would be a problem. If we allowed the disabled person to buy the house, it would create an equality issue in reverse, because other people who move into new housing would lose their right to buy. I wait with bated breath to find out what you decide.

Mary Mulligan: My final question is to Mr Young. The bill proposes—and I have heard nobody argue against it—that local authorities should be given more say in how pressured area status is implemented, where it happens and how it happens and that the status should apply for longer. Could that be the way forward for the right to buy? Should we take a more local approach? That would deal with some of the COSLA representatives' points about local authorities that feel that they need to sell properties, whether that is because they cannot bring a house up to standard or because that suits the overall planning for an area. That approach would give local authorities—in conjunction with tenants, I should say—a better say in how they sell properties, rather than scrapping the right to buy across the board, which seemed to be the SFHA's proposal.

Andy Young: Our overarching view is that the right to buy should be ended and that the modernised right to buy should not be introduced for housing associations in 2012. I have some sympathy with what you suggest. We have said that, underneath our overarching view, we generally support the proposals.

Another thought in relation to pressured area status is that perhaps the default position should be that there is no right to buy and that local authorities should have to apply for the right to introduce the right to buy in their area. Our rural members proposed that idea, which gained much support from other members later in the process.

Mary Mulligan: So the right to sell would exist.

Andy Young: The ability to sell would be available.

Mary Mulligan: You say that the modernised right to buy should be scrapped. Are you saying that that should happen just for housing associations or for housing associations and local authorities?

Andy Young: The position is different. That could not be done for local authorities, because local authority tenants can currently exercise the modernised right to buy, whereas housing association tenants cannot. That would be about removing rights.

Mary Mulligan: You are saying not that the right to buy should be scrapped altogether, but that it should not be introduced for housing associations.

Andy Young: We are referring to the right just as it relates to housing associations.

Mary Mulligan: That is helpful—thank you.

The Convener: Did I just hear a shift in the evidence—that the individual's right to buy should be limited but that the council's right to sell should be enhanced?

Danny Mullen: I would be worried about a right to sell for councils, because the first thing that a council that was in trouble would do was sell properties. I would be afraid that, in most cases, the properties that councils could sell would be new builds. Ending the right to buy, but selling off the sitting tenant's property is a double whammy, which worries me.

Councillor McColl: I will make a general comment. Councils should be given the flexibility to meet the needs of their area however they see fit and feel that they can do that best, on the basis of proper housing needs studies. We are talking not about giving councils carte blanche to sell off all their housing stock but about giving them the flexibility to target areas in which they feel that there is a need to sell, for whatever reason.

The Convener: That is at the expense of tenants. It seems to me that the issue is not the principle, but who has the right. I am thinking aloud. We have lots of criticism of the tenant's right to buy and the proposed solution is giving the council the right to sell. That is what we have just said, or do I misunderstand?

Jamie Ballantine: The issue is becoming more complicated. The effect of the bill will be, in a generation's time, to end the right to buy . It is like stamping out a bush fire—over time, the right will disappear.

The Convener: But you cannot make an impact unless a substantial amount of housing stock is returned to the sector. How many houses are we talking about, and over what period of time? The Government's ambition is for around 18,000 homes to be returned. Andy Young has already publicly stated his view on that—he does not take it seriously either. Is that just a diversion from the fact that there are 285,000 people on the waiting list for social rented housing? Is it just an academic—or an old—argument?

Jamie Ballantine: My understanding is that the Government's research predicted that the bill would save somewhere between 12,000 and 18,000 houses from the right to buy.

The Convener: Do any of the panel members believe that?

I do not need an answer—silence speaks volumes.

Andy Young: It is difficult to come up with a figure, particularly in the current economic circumstances. The other issue is that the tenants to whom the right to buy does not yet apply tend to live in new-build housing association properties, so we do not know what the eventual take-up might be. The figure of 12,000 to 18,000 houses is an educated guess.

Jim Tolson: Our discussions on the bill have so far focused on the right-to-buy restrictions that the Government seeks to bring in. I will put another point to you. During my involvement in the social housing sector over many years, I have been approached by many people who would like more focus on the right to rent. We have touched on the right to buy and even the right to sell this morning, but we could focus on the right to rent, either immediately or over a short period of time, as many tenants and tenants' groups and organisations throughout Scotland feel that the right to buy should be ended. That would simplify the situation—as Mr Young said earlier, the bill is in many ways quite complicated and I will come to that in a moment. Do you, from your various viewpoints, think that we should focus on the right to rent? It could be undertaken as an immediate step or phased in over a period of five years, for example, and there would therefore be no right to buy for any tenant, regardless of the circumstances or the length of their tenancy.

Andy Young: The French housing federation looked at our homelessness legislation and transformed it into a right to rent in France—that is perhaps the next step for us.

Jim Tolson: That is a good point, convener, because the amount of rented properties as against—

The Convener: It is an endorsement of your point, but we will get another four answers.

Jamie Ballantine: I have nothing more to add.

The Convener: You are entitled to opt out; that is fine. I am sure that Mr Mullen will want to answer.

Danny Mullen: A right to rent sounds really good, but it presupposes that there are houses for people to rent. We will come to the right to rent once we have ended the right to buy.

Councillor McColl: That is an interesting point from Mr Mullen. I am not sure that I should comment, as I do not have a mandate to do so from COSLA—I will decline to put forward a COSLA point of view.

Bob Doris: I have a point.

The Convener: I am always telling Bob Doris that I will let him in later but is your question on this subject, Bob?

Bob Doris: I will ask my question; if you want to deal with it later, that is fine. I want to put the cat among the pigeons. How about we just say that after 2016—to pick a date at random—no one will have the right to buy? Between now and 2016 we can look at what barriers there were for those who wanted to exercise their right to buy but have never bothered to do it. The date is set for 2016, we have a blank sheet of paper, and local authorities and housing associations know where they stand. I take Mr Ballantine's point about the peak that you might get when people then moved to buy their house, but the situation would be uncomplicated and we would know where we stood.

The Convener: You are using Jim Tolson's question time. I allowed you a supplementary. Is there any credence to the approach of picking a date out of the air? It seems a bit—

Jamie Ballantine: Would you be open to the legal challenge that you have taken rights away from people?

Bob Doris: Not if we legislate, I would have thought.

The Convener: Sorry, Jim. You are back on.

12:45

Jim Tolson: I realise that we seem to be batting this back and forth and I appreciate Bob Doris's supplementary. I understand why people might be reluctant to answer the question, but it is a big concern that has been raised with me and other committee members by tenants and tenants organisations throughout Scotland.

One complication that I see in the bill—and to which I think Mr Young alluded earlier—is that a tenant who moves out of but then comes back into the social rented sector will not retain a right to buy. Is that a positive or negative move? Should the provision be simplified?

Councillor McColl: That question is more for tenants organisations. Earlier, Mr Mullen said that he had no problem with that, as long as people know that that is the case and as long as that is their choice.

Danny Mullen: That is the position of the tenants organisations. If you choose freely to move, you should be aware that you are losing your right to buy and you should not retain it either on return to the social rented sector or, indeed, if you move from a new build back to an older property.

Jamie Ballantine: At the moment a tenant who came back into the rented sector would have the modernised right to buy, meaning that they would have to wait five years to exercise it and would then receive a maximum £15,000 discount at some point down the line, which, as we have agreed, is not a huge amount of money. The situation that the bill will create will be confusing and it would be better avoided.

Andy Young: I think that I have made the federation's views clear on this. It might clarify things if the bill said that the right to buy should be ended for all new tenancies, not all new tenants. [*Interruption*.]

The Convener: We will pause a moment while there is an execution. [*Laughter*.]

David McLetchie: My apologies, convener. That was my mobile phone.

John Wilson: It was David Cameron calling to give him his lines.

David McLetchie: I had to tell him, "Sorry, David, I'm busy".

I wonder whether we can eliminate from the discussion all this talk about the right to sell, which I think is a bit of red herring. Can anyone tell me what law prevents a council from selling houses?

Jamie Ballantine: Are you talking about selling a vacant property?

David McLetchie: No, I am talking about selling any house. As I understand it, councils, as individual free-standing corporations, have a right to buy and sell. What law stops a council selling any property or land that it owns?

Jamie Ballantine: The right to sell concept is a new one on me.

David McLetchie: Indeed—and me, too. Can we therefore agree that it is a complete red herring and totally irrelevant to our discussion?

Danny Mullen: Yes.

David McLetchie: Excellent. I was intrigued by Mr Young's assertion—validated, I believe he said, by the Scottish Government—that when the modernised right to buy is introduced for housing associations in 2012 there will be an estimated 3,500 to 4,000 sales per annum out of a stock of 80,000.

Andy Young: Those are the figures in the 2006 Scottish Government study, "The Right To Buy In Scotland: Pulling Together The Evidence".

David McLetchie: Did the same Scottish Government study give any estimates for the annual receipts from the sale of these 3,500 to 4,000 houses?

Andy Young: Not to my knowledge. I do not know, so I cannot answer the question.

David McLetchie: That seems a bit of an omission. What would be the average receipt from the sale of one of these houses?

Andy Young: I am absolutely speculating and guessing but I would say that under the modernised right to buy, with the £15,000 discount, the average would be £65,000 to £75,000.

David McLetchie: If we multiply that by 3,500 or 4,000, we are—if my mental arithmetic serves me right—talking about receipts in the order of £250 million to £300 million per annum. Is that about right?

Andy Young: Possibly, but one of the houses might be stuck out in the Orkney Islands, which has only four socially rented properties.

David McLetchie: I am just talking about the policy in the round. The housing association movement would generate receipts of £250 million to £300 million into its own coffers. Perhaps the Scottish Government could give us those numbers so that we get detail that is based on its projections. Am I not right in thinking that those receipts must be set in the context of total Scottish Government expenditure on affordable housing of around £500 million in the past year? In fact, I think that it declined in the past year because of the previous acceleration.

Andy Young: That sounds about right.

David McLetchie: So, at a time of public sector spending constraint, when the affordable housing budget is in decline, partly because of last year's accelerations, you are telling me that the housing associations of Scotland, which are the principal recipients of that budget, want to turn their backs on the prospect of getting £250 million to £300 million a year into their coffers. Is that the policy?

Andy Young: Yes, because we are not here to get money; we are here to house people, mainly in rented accommodation—that is our reason for existence.

David McLetchie: Good—that is fine. Let us come on to that reason for existence. I asked the Scottish Government to provide us with a breakdown of the sources of finance for new social housing per unit. I was told that the average cost in 2008-09 was £132,000, that the grant element from the Scottish Government and other forms of public subsidy was £84,000 and that what was called private finance, which is basically the resources that are available to housing associations, was £48,000. The latter sum comes from a mixture of the housing associations' reserves, borrowing and right-to-buy receipts, although those will be modest at the moment. So

two thirds of any house that you build is, in effect, financed by way of grant, is it not?

Andy Young: Yes.

David McLetchie: Right. That grant comes into the housing association's coffers. If a house is sold five years down the line through the modernised right to buy, the grant, minus a very modest discount—which we have agreed that it is under the modernised right to buy—is replaced by funds that come from the private sector, which is the banks and building societies that give mortgages to the tenants who buy, or from the private savings of the tenants. So the money that is used to buy the houses under the right to buy will come from banks and building societies by way of mortgages to the tenants. Is that not correct?

Andy Young: Yes, in most cases.

David McLetchie: And all that money flows from private sector lenders to the tenants and then comes back to the housing associations, which get to keep it. Except in limited cases of stock transfer, they are under no requirement to repay it to the Government that gave them the housing association grant in the first place, are they?

Andy Young: I am not sure that that is entirely accurate. I would need to check that, Mr McLetchie.

David McLetchie: I assure you that that is the answer that I got from the Government, which I will happily share with you.

If you get substantial receipts through the right to buy, you are replacing your grants and building up your reserves to a substantial extent, increasing your capacity to employ such moneys, along with further HAG that you may get from the Government, to build new houses, are you not?

Andy Young: That is not the information that we receive from our larger members, who are probably the most affected.

David McLetchie: We are talking about what you want to achieve. You want to turn your back on £250 million to £350 million a year in receipts, do you not?

Andy Young: Our members say that they would rather keep the stock in the rented sector.

David McLetchie: Yes, but would your members not rather build new stock?

Andy Young: Apparently not.

David McLetchie: Oh, I see.

Andy Young: Well, they obviously want to build new stock as well.

David McLetchie: Right, but they do not want £250 million to £300 million a year to help them build that new stock. Is that correct?

Andy Young: They tell me that it does not quite work in that way and is not quite as simple as that.

David McLetchie: Oh, I see. What would they spend the £250 million on?

Andy Young: I do not know, but they would have lost the stock, would they not?

David McLetchie: They could build new stock. I find it incredible that organisations that are supposedly dedicated to building new affordable housing for rent or for shared equity schemes want to turn their backs, at a time of declining public sector budgets, on sources of huge revenues that would enable them to fulfil their basic purpose. That seems to me a bizarre policy.

Andy Young: With respect, I think that you are oversimplifying a very complex situation.

David McLetchie: I think that it needs a degree of simplification and common sense. What you have to tell me is simply why your housing associations apparently do not want £250 million a year of resources to apply as they think appropriate in the interests of tenants.

Andy Young: They do not want to lose properties in areas with scarce resources.

David McLetchie: Even though they could then build new properties in such areas with all the receipts that come in.

Andy Young: They tell me that it is not quite as straightforward and simple as that.

David McLetchie: I think that you will find, Mr Young, that it is as straightforward and simple as that, because the resources that are, as you defined, from the Scottish Government are not subject to being repaid to the Scottish Government, other than in the limited context of stock transfer properties. I strongly recommend that your association researches where such moneys would go and into what coffers they would flow, before you come along and tell us that you want a policy that will deny and limit the ability of your organisations to provide affordable rented housing for people in Scotland who need it. Do you not think that it might be a good idea to get some information about the flow of money?

Andy Young: Our information came from members who are used to dealing with the matter day in and day out. They tell us that it does not have the effect that you make it out to have.

David McLetchie: But you are talking about denying yourselves the right to those moneys after 2012, are you not?

Andy Young: That is right.

David McLetchie: I am asking you about a policy, which your association advocates, that will deny your associations a substantial source of funding from 2012 onwards.

Andy Young: The money would not allow us to build as many houses as we would sell. I think that that is the crucial key to the issue.

David McLetchie: On the contrary, Mr Young. As I established previously, for every £1 that you contribute from your own resources, you get £2 from the Government in HAG. That is what builds the new houses—that is what the information says. So you can actually double your money. Is that not right?

Andy Young: I do not think that that is right. I see that a few of your colleagues are also shaking their heads. It is clear that somebody has got their numbers not quite right somewhere.

David McLetchie: I have got the numbers from the Scottish Government, because I asked all these questions before we started this line of questioning. I can assure you that, in very broad terms, two thirds of the cost of your houses comes in grant and one third comes from your own resources. If you increase your own resources, your capacity to build new houses, with the assistance of further funding from the Government, is increased and not decreased. Is that not right?

Andy Young: I would need to go back to the members who gave us the information and clarify that.

David McLetchie: I suggest that you do, because I think that they are under a serious misapprehension and that perhaps their judgment is becoming a little distorted by thinking too much about the stock that they have rather than the stock that they should build in the future.

The Convener: We can seek clarification on some issues that arose in that line of questioning and get more information to help the committee.

John Wilson: If Mr Young takes the issue back to his members, perhaps he could ask them to calculate exactly, if they used Mr McLetchie's model for building new houses, how much loan debt the housing associations would be carrying for paying backs the loans that they have secured from banks and other financial institutions to build the houses that they rent out at the moment. Perhaps he could also ask how much rental income would be lost—

13:00

The Convener: John, at the end of the meeting the committee will have the opportunity to decide what further information it needs as a result of Mr McLetchie's line of questioning. We are not addressing those points to only one member of the panel. I hope that we will build on some of the questions that have been answered and agree collectively about any further information that we might require. We will have the opportunity to ensure that we get all the information that we need.

Bob Doris: I want to comment briefly on Mr McLetchie's rather forceful and passionate points. If the SFHA has any further information in relation to those points, it would be good to get some idea at some point in the future of the rental income loss from the housing that was sold over the years. That is quite important. Also, I would like to get some idea—although maybe not today—of the housing aspirations that have been denied to people who are still in the social rented sector who want to move to larger family houses that have been lost under the right to buy. Finally, I would like to see some analysis of the maintenance required on the houses that have not been subject to the right to buy compared to those that have been sold off. You said previously that it is more expensive to maintain the houses that people do not want to buy than those that people have bought. I imagine that Mr McLetchie could be comparing apples with oranges, which should also be put on the record.

The Convener: I assure Mr Young that he can stop writing furiously. The committee will communicate with the appropriate bodies and give a clear list of questions or further information that we might require from them or from the Scottish Government. We will have the opportunity to do that as an on-going part of taking evidence.

We will not keep you much longer, and we appreciate how long you have been here, but we have not asked a couple of questions about the designation of pressured area status changing from a five-year period to 10 years. I am frantically looking at my notes, but I do not think that we have touched on that at all, although something was mentioned earlier.

Andy Young: We have another comment to make on pressured area status. We would like it to be extended to include all forms of the right to buy, not just the modernised entitlement. If an area deserves pressured area status, it should apply to all forms of the right to buy.

The Convener: Are there any other comments on that?

Councillor McColl: It gives us a degree of flexibility, but it could be argued that extending the period from five to 10 years is rather arbitrary. That might be something for the committee to discuss.

The Convener: There seems to be a uniform view on that.

As there are no other questions, I thank the witnesses for their attendance and evidence. We look forward to their continued participation as the bill progresses.

13:04

Meeting continued in private until 13:30.

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