



The Scottish Parliament  
Pàrlamaid na h-Alba

## Official Report

# LOCAL GOVERNMENT AND COMMUNITIES COMMITTEE

Wednesday 21 April 2010

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**Wednesday 21 April 2010**

**CONTENTS**

<b>HOUSING (SCOTLAND) BILL: STAGE 1 .....</b>	<b>Col. 3029</b>
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**LOCAL GOVERNMENT AND COMMUNITIES COMMITTEE**  
**11<sup>th</sup> 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 GAVE EVIDENCE:**

Robert Aldridge (Scottish Council for Single Homeless)

Rosemary Brothie (Shelter Scotland)

Jean Charsley (Hillhead Community Council)

Alan Ferguson (Chartered Institute of Housing in Scotland)

Bill Gibson (East Ayrshire Tenants and Residents Federation)

Lynda Johnstone (Tenants Information Service)

Jim Maryniak (East Lothian Tenants and Residents Panel)

**CLERK TO THE COMMITTEE**

Susan Duffy

**LOCATION**

Committee Room 6



# Scottish Parliament

## Local Government and Communities Committee

*Wednesday 21 April 2010*

[The Convener opened the meeting at 10:00]

### Housing (Scotland) Bill: Stage 1

**The Convener (Duncan McNeil):** Good morning and welcome to the Local Government and Communities Committee's 11<sup>th</sup> meeting in 2010. As usual, I ask members and the public to turn off all mobile phones and BlackBerrys.

Agenda item 1 is oral evidence from two panels of witnesses on the Housing (Scotland) Bill at stage 1. The first panel contains representatives of tenants organisations and a community council. The second panel comprises representatives of the Chartered Institute of Housing in Scotland, the Scottish Council for Single Homeless and Shelter Scotland and will consider the bill in general.

I welcome the first panel of witnesses: Jean Charsley, secretary of Hillhead community council; Jim Maryniak of the East Lothian tenants and residents panel; Lynda Johnstone, development manager with the Tenants Information Service; and Bill Gibson of the East Ayrshire tenants and residents federation. We have received extensive and helpful written evidence, so we will move directly to questions.

**Alasdair Allan (Western Isles) (SNP):** Some of the written and oral evidence that we have received relates to the enforcement of existing powers in relation to the registration of private landlords. How does the panel perceive the existing enforcement of registration? What can be done to improve that?

**Jean Charsley (Hillhead Community Council):** I will make a general point about enforcement: it does not work, because local authorities do not have the powers that they need and the enforcement powers have no teeth. Houses in multiple occupation officers tell us that they desperately need powers to close the properties of persistent offenders and HMOs in which serious breaches of the rules have occurred. They also tell us that the cost of taking an enforcement case to court is £2,000; that fines are derisory—they are less than a week's rent for an HMO; and that bringing a case to court is almost impossible because of the level of serious crime cases that sheriffs are hearing. We would like Parliament to consider what can be done to improve enforcement.

**Alasdair Allan:** I understand that the bill talks about potentially increasing fines, but you say that the bill does not provide enough legal power.

**Jean Charsley:** Not enough power is provided to local authorities, which tell us that the instruments that they require are not available. I represent communities on the HMO forum in Glasgow. HMO officers tell us that they need powers to close the properties of persistent offenders and HMOs that seriously breach the rules.

At the moment, officers, including planners, can issue enforcement orders that are simply ignored. Fines are not necessarily paid—they are not always pursued. In some cases when an HMO unit has taken a case to court, the fine has been £400 or the court has simply admonished a landlord who has been fined before. Failings in how the system operates could be addressed.

**Alasdair Allan:** Do other witnesses have a view?

**Bill Gibson (East Ayrshire Tenants and Residents Federation):** The federation feels that tenants should be involved at all times in regulation, to provide proper feedback on what has taken place. Good controls with an independent regulator obviously have not worked, but if tenants are involved in regulation at every stage, they can encourage landlords to take up good practice. Landlords must be accountable and must provide good services to tenants.

**Lynda Johnstone (Tenants Information Service):** The Tenants Information Service is a national organisation that provides advice, support and training to tenants and organisations. We welcome the opportunity to give evidence.

We support tenants in the Glenrothes Area Residents Federation. Part of the federation's role is to work with owners, tenants and residents on providing services within the private sector. The general feeling of tenants in Glenrothes is that private landlord registration does not go far enough because landlords who apply for registration just think that it is a paper exercise and do not take any of the potential enforcement powers seriously; they simply consider it a tick-box exercise. Tenants of private landlords and the Glenrothes Area Residents Federation are pushing for more enforcement and more clout in relation to the registration of private landlords.

At a meeting that I was at with the Fife housing partnership, a representative of private landlords said that his colleagues would be reluctant to register if they thought that the register would lead to punitive measures. For me, that speaks volumes about the fact that landlords do not regard registration as having any enforcement effect on the service that they provide.

**Jim Maryniak (East Lothian Tenants and Residents Panel):** East Lothian tenants and residents panel collects the views of all active tenants and residents groups in East Lothian. A landlord registration scheme exists, but it is failing and lacks any enforcement. Private landlords should be made more responsible for the tenancy as well as for ensuring that the property is fit for rental. Control over tenants, in relation to antisocial behaviour and so on, should also be considered.

**Alasdair Allan:** Ms Johnstone, what you say about landlords being unwilling to take part in any register that they thought had teeth is interesting. We heard evidence from self-described good landlords that they would be keen for the registration scheme to have teeth because they felt that bad landlords were gaining an unfair advantage over them. Have you experienced a willingness on the part of the more reputable landlords to have such a scheme?

**Lynda Johnstone:** I definitely agree with that. The service that landlords provide is indicative of their willingness and motivation to register. However, others who are registered are perhaps so-called rogue landlords who tend to be more concerned with their own business rather than with the service that they provide to their tenants.

**Alasdair Allan:** The bill requires tenants to provide information on unregistered landlords. Have any of the witnesses had a chance to consider that provision?

**Jean Charsley:** I used to be an adviser of studies when I taught at the University of Glasgow. It is not practical to make students liable to give evidence against their landlords. They will not do it; they will move instead. They are often not there when required to be witnesses, so it is both impractical and unreasonable to require them to give evidence. Even though there is anonymity, when they talk to HMO officers, they are inclined not to give evidence because they fear reprisals.

**Alasdair Allan:** What would you do instead?

**Jean Charsley:** It would be better if HMO officers were allowed to take cases to court on the basis of probability. They can collect evidence from elsewhere but, if they take a case to a criminal court, they have to have particular witnesses. It might be better if cases could be taken to the civil courts, where the balance of probability can be taken into account. Students often collude with the landlord because they want to continue living where they are. They can be living in extremely dangerous conditions and will still collude with a landlord.

**Alasdair Allan:** I lived in such a flat as a student at the University of Glasgow, although I did not collude. Thank you.

**Patricia Ferguson (Glasgow Maryhill) (Lab):** I am particularly interested in the HMO aspects of the bill, and I am grateful to Hillhead community council for its submission, much of which rings true to me, as the MSP for a neighbouring constituency where there are similar problems. Rather than go over the submission, I would like to ask Ms Charsley a few questions.

In the experience of the community council, do HMOs make it more difficult to ensure that communal repairs are carried out?

**Jean Charsley:** They do indeed. Yesterday someone came to tell me that they could not get any communal repairs done. There seems to be no overarching system for controlling tenements in which there is a preponderance of HMO landlords. In such cases, many of those landlords are simply interested in the rent and not in the state of the building. The existing legislation takes effect at the door of the flat and takes no account of the impact on others. It may cover the state of the close or of the garden, but it does not cover the structure, and we think that that needs to be addressed.

**Patricia Ferguson:** It has been suggested to us by other witnesses that tenemental properties should perhaps not be used at all as HMOs. Do you have a view on that? If you do not agree with that proposition, what density of HMOs should be allowable?

**Jean Charsley:** A lot of people who live below undesirable HMOs would agree that there should not be any HMOs in tenements. Glasgow City Council has quite a reasonable approach to the issue. It says that HMOs should not make up more than 5 per cent of the properties in any close, which means that there should not be more than one HMO per close. It also says that HMOs should make up no more than 5 per cent of the properties in any street or block, which the reporter said was a very reasonable way of approaching the issue.

That approach addresses density, but it does not address existing situations in which there is a high density of HMOs, nor does it address situations in which landlords have got away with operating an illegal HMO for 10 years and have automatically got planning consent. If there was some way of addressing that when such a licence comes up for renewal, that would be extremely helpful.

**Patricia Ferguson:** Do you have a view on whether HMO registration should be required for short-term and holiday lets? I appreciate that the issue might not be of specific relevance to Hillhead community council, but in some areas, such lets seem to be a source of increasing difficulty.

**Jean Charsley:** I think that it is more of a problem in Edinburgh than it is in Glasgow. Someone spoke to me about that the other day.

They said that when an HMO was free, because the students who had been occupying it had gone home or because the property was between lets, the landlord, who was licensed for 11 tenants, brought in up to 40 by moving in bunk beds. The impact on the neighbours below, and on the rubbish facilities, was dreadful, and there was no means of controlling the situation.

The problem with a temporary licence is that, after 10 years, it could become a permanent licence. No one wants to see that happening. It might be better if, once an HMO licence has been granted for a certain number of tenants, that number could not be exceeded without the landlord running the risk of losing the licence. I have no solution to the problem; there might be other alternatives. I could write to the committee if, once I have consulted other people, they have suggestions to make.

**Patricia Ferguson:** We would be interested in receiving any such suggestions.

My final question is on the categories of multiple occupation accommodation that would be licensable. Do you think that that issue should be dealt with in the bill or in accompanying subordinate legislation? There are arguments for and against the inclusion of such provisions in the bill. In some quarters, it is felt that some landlords are avoiding HMO licensing because the occupants live in the property for a short time. Do you want the bill to state which categories of accommodation would be covered, or do you think that the use of subordinate legislation would provide greater flexibility? You might not have thought about the issue.

10:15

**Jean Charsley:** I have had some thoughts on that, but I am not sure which of those options would be the most effective. I would like to see some flexibility, but I would like to see something that would be actionable in court as well, and I am not sure what the status of subordinate legislation is. There are certainly several categories of private let that escape all regulation, and ways of dealing with that should be found. Some of the things that I suggested in my written submission should also apply to lets that come up for renewal, not simply new ones, otherwise we will not be able to address the existing problems.

I am also concerned about the definition of an HMO. At the moment, HMO officers take shared facilities as the basis for deciding whether a property is an HMO, which means that a lot of places that should be regulated fall through the net. It would be better if they could simply say that an HMO was a flat that three or more unrelated

people shared. That would bring more properties under regulation.

It is important to have the licensing enforceable at renewal as well.

**Patricia Ferguson:** Thank you. That is very helpful.

**Lynda Johnstone:** My point relates to houses in multiple occupation that operate a hot-bedding scheme—a revolving door—with one person coming in as another goes out. That happens especially in rural communities, where folk come to work in the fields. Not only does that have implications for the people living above and below the property, but, as Mrs Charsley mentioned, there is an impact in relation to the increase in the amount of rubbish and the lack of local facilities, particularly if we are talking about a property that is designed for three people to live in but which has nine or more people living in it. That is a concern for the wider community, not just those living in the property.

**Patricia Ferguson:** Will the proposals in the bill help to address those issues?

**Lynda Johnstone:** They would go some way towards that, yes.

**Patricia Ferguson:** Do the other witnesses have anything to add?

**Jim Maryniak:** It is not a problem in East Lothian, as there are not many of those properties there.

**Patricia Ferguson:** You are very lucky.

**Mary Mulligan (Linlithgow) (Lab):** Good morning. The bill provides for a Scottish social housing charter. Your written submissions all support that provision. Can you say a bit more about how you see that being developed and what role you see for tenants in it?

**Lynda Johnstone:** The Tenants Information Service considers the development of a social housing charter as an excellent opportunity for tenants to work with the Scottish Government to develop outcomes to raise the standards of housing and services. We would like the tenant participation aspects of the Housing (Scotland) Act 2001 to be built on to ensure that there is real participation around the table and joint working at the blank-sheet-of-paper stage in the development of the charter. In evaluating social landlords' progress on tenant participation, research that was commissioned back in 2007 by Communities Scotland identified a need for continuing support and the provision of resources to enable tenants to participate fully. The Tenants Information Service is concerned that resourcing and support are not readily available to enable tenants to participate fully in the development of the charter.

**Bill Gibson:** East Ayrshire Council could be ahead of the game. In the past three years, there has been a great increase in the liaison between the council and tenants and residents associations. Prior to 2007, there were only six tenants and residents associations but, three years on, there are now 18.

East Ayrshire has an excellent customer liaison team, which works fully with organisations in the federation. There are registered tenant organisation forums and estate walkabouts, so there is a lot of involvement. Last week we had a meeting with the council's head of buildings and works and head of housing, who stated that the council has a three-year programme that it wants us to be involved in. We were asked to put in place a structure so that the federation can provide feedback to ensure that the council is providing the best services as far as tenants are concerned.

It is remarkable that two sides of the country are saying almost the same thing about the consultation, which gives credence to the fact that we all want the same things: participation with and good working practices in councils so that we can work together to make the bill work. We think that it will work for the benefit of everybody who comes into contact with it.

**Jim Maryniak:** In East Lothian the implementation of the housing charter needs some careful planning to ensure that it benefits landlords and tenants. We are optimistic about the charter's impact and the improvement of social housing. The ELTRP sees effective tenant participation practice and meaningful involvement as integral components of the preparation and delivery of the Scottish housing charter. Such participation must be monitored and recorded and tenants have to be involved in many of the decisions that are made.

**Mary Mulligan:** The bill proposes an overall national provision, but beneath that there would be local input. I come back to the point that Mr Gibson made about what has happened in East Ayrshire. How would the balance be struck between national and local provision?

**Jim Maryniak:** It is necessary to have the input of tenants, to get their views and to put them over in conjunction with the views of local authorities and housing associations, so that everyone comes together to try to reach a compromise and we move away from the view that people know what tenants want. Landlords should ask tenants before decisions are made; perhaps then they will get it right first time.

**Bill Gibson:** If you are running a business, you have to define a need and meet it; the consultation defines a need, and we have to meet it. That involves giving a good service, which, if it works,

can be a role model for others and for associations that are perhaps not so clever at estate management, repairs and so on. One size does not fit all, but people can look at how someone else does something and say, "If they do it, we can do it."

**Lynda Johnstone:** The TIS sees the charter as something that will work towards a national outcome of achieving and reviewing tenant participation, but tenants should be involved in the decision making of all landlords and in deciding what landlords are expected to do and the criteria that they are expected to meet. That needs to be more than a local outcome, but, bringing it down to a local level, it is important that the charter is flexible and meets the needs of each local area in Scotland. We feel that through active tenant participation we will go some way towards joining up local priorities with the national priorities of Scotland.

**Mary Mulligan:** That is helpful.

I come back to a point that you made earlier about resourcing tenants so that they are able to respond appropriately. How would you like that to be done?

**Lynda Johnstone:** After the 2001 act, there was the capacity for change funding, which went quite a way in resourcing tenants to take on the tenant participation parts of the act, not least in working with their landlords to develop tenant participation strategies. That worked well for the short time that the resources were available.

We know from previous evidence that tenant participation has taken off very well in some areas—although it is patchy in others—and I think that such funding for landlords and their staff and for tenants would work equally well. It is important for the tenants movement in Scotland that resources are available for independent development support and advice to tenants and their representatives to ensure that work with landlords is meaningful, balanced and well informed.

**Mary Mulligan:** That is helpful, thank you.

**The Convener:** I want to pursue a couple of points. Tenant participation is a good thing, and there is a thread running through the evidence that residents and tenants have an interest in the sustainability of their communities and what impacts on them, good or bad. They are a good reference point.

On the housing charter, the submission from East Ayrshire tenants and residents federation says that tenant participation is a good thing, but it also says that the charter should focus on allocations, tenancy management, estate management and repairs and maintenance. I take

it that those are the tenants' priorities, and I take it from that list that there is a frustration that tenant participation is not currently delivering on those issues. Is that correct?

You described the existing tenant participation, Mr Gibson. The council speaks to you and tells you that it has a three-year plan and so on. What is it doing to address the issues that I mentioned? Is it listening to tenants' complaints about poor allocations policies that give housing to people who bring down a property or neighbourhood and about the estate management that is not taking place? Why do we need a charter to tackle those things?

**Bill Gibson:** We feel that the mechanism has to be in place for poorer landlords—those who are not doing so well. In East Ayrshire, everyone is certainly making a big effort to liaise so that we get it right. Although the council self-assesses as it goes along, it wants feedback from us on the points that it is missing. The tenants and residents associations are made up of volunteers who take the time to care about their communities, not only for themselves but for everybody in the community. The information that is required to get things right is spreading.

**Lynda Johnstone:** From a TIS perspective and from working with tenants and their representatives throughout Scotland, I would say that tenant participation is working well on the issues that have been mentioned in East Ayrshire's submission, such as allocations, rents and repairs. Tenants are involved in a range of methods of and approaches to ensuring that their voices are heard and that they are representative of the people whom they say that they represent.

However, some of the challenges that tenants face come not from landlords but from the Scottish legislation that governs local housing policies. For example, homelessness poses challenges in relation to allocations. The likes of priority need and addressing homelessness are concerns for tenants.

**Jim Maryniak:** In East Lothian, we sit round the table with the council and thrash out an allocations policy. We recently introduced a local plan that tried to create a balance in communities. To re-emphasise what Lynda Johnstone said, we find that property allocations are dictated by the homelessness legislation. Until recently, about 80 per cent of property was allocated to homeless people, about 20 per cent went to people with medical conditions, and whatever was left over went to those on the general register. As a result, for years there was very little movement in the general register in East Lothian.

10:30

**The Convener:** East Ayrshire tenants and residents federation's submission sets out what we have established as tenants' priorities, which are "Allocations", "Tenancy Management", "Estate Management" and "Repairs and Maintenance" and then goes on to say:

"landlords ... do not consider the detrimental impact that housing some difficult tenants will have on communities or continually move "bad tenants" from one house or area to another."

People in my constituency tell me that that is a problem. Why do different housing associations in Scotland have different allocation policies if the homelessness legislation is the only thing that is having an impact? Why is there flexibility in other areas?

**Lynda Johnstone:** It is not just the homelessness legislation; there is a range of policies and practices that people with tenancy agreements and people who are in need are not confident about, or do not feel is meeting their needs.

**Jim Tolson (Dunfermline West) (LD):** The witnesses are representing tenants, so I want to explore the Government's right-to-buy proposals. Many people in the tenancy sector to whom I have spoken feel that reform of the right to buy is long overdue; in fact, many feel that the proposals should go further. Do you agree? Should—as the bill suggests—a tenant who moves from the public rented sector into another sector, and then comes back, retain the right to buy?

**Bill Gibson:** When the right to buy came along, the idea was fine. However, we have come a long way since then. The people who took advantage of the right to buy immediately started to make changes to their homes. The fact that people think that the only way they will ever live in a nice home in a nice area is to buy one is, I think, a sad indictment of us all. If landlords were to provide nice environments and good quality homes, the right to buy would disappear and there would be no us-and-them situation or stigmatisation of rent payers as "the schemies who live up there".

The right to buy has been abused. For example, there have been tenants who bought their parents' house further up the street. When the parents died, the tenant did not move into the house, but stayed in their rented accommodation and rented out the property that they had bought. That cannot be right. That house has been lost to the social housing sector, which is under immense pressure. We have already talked about homelessness; there are 16-year-olds coming out of secure accommodation who suddenly need to be housed and are ill-prepared for what is involved in being a tenant.

The right to buy should not have evolved into the situation that we have today, but I do not think the blame lies totally with the people who have abused it. Councils, for example, have not made best use of the receipts and, particularly in East Ayrshire, houses—indeed, parts of villages—were bulldozed and just disappeared. Now, all of a sudden, we need new homes for people.

**Jim Maryniak:** As everyone around the table knows, the right to buy had a massive impact and resulted in local authorities' diminishing housing stock going out the window. However, there were many other things in the background that no one seemed to take into consideration. For example, local authorities were selling off properties at massive discounts, but there was a lot of residual debt—mortgages, so to speak—that they still had to pay on them. Therefore, when the money was coming in, 80 per cent had to go to pay debt. The remaining 20 per cent did not build a new house. That stopped them from building, but even if they could have built, the houses would have been subject to the right to buy again, which could have meant the loss of even more funding.

We think that people who leave the social rented sector for the private sector would come back, no matter what system they were in before that, if they would be entitled to the modernised right to buy. Obviously, that would be dictated by whether pressured area status and such things were in force.

**Jean Charsley:** When such properties are sold on by the people who have bought them, they are often bought by less-reputable landlords, which causes problems of the kind that we have highlighted before. It is not just a problem for areas such as mine; it is also a problem for some of the previous social rented housing areas.

**Lynda Johnstone:** The Tenants Information Service sees the right to buy as a policy issue, and we do not promote views on housing policy other than on tenant participation-related issues. However, during our extensive consultation of tenants, tenants' representatives and service users, we were told that tenants support the reforms to the right to buy, but some wish them to go further. At this stage, however, they have not offered proposals for how that should come about.

The range of right-to-buy options is quite confusing and complicated, and the Tenants Information Service advocates looking for supportive information that is clear and accessible, and is available in a range of formats, so that tenants can understand the changes and the range of options in the confusion around the right to buy.

Mr Maryniak mentioned pressured area status: tenants have told us also of their support for

decentralisation of decision making to local authorities to determine pressured area status. However, that support will depend on tenants and their representatives being fully involved and able to participate in the decision-making process.

TIS believes that the right to buy was affordable for tenants, but Mr Gibson highlighted the problem of the lack of realisation, through the right-to-buy process, of the cost of maintaining a home, so many of the properties that have fallen into minor and major disrepair affect whole communities. That continues to be a major concern for tenants and communities.

**Jim Tolson:** Some important points have been raised in what has been said, particularly in relation to tenants' representatives' view that this is one of the key issues with the bill. My final point is that, from the tenant's perspective, as Ms Johnstone pointed out, the current system is quite complicated, with the right to buy and pressured area status being different in various areas. Given the range of views that we have just heard from the panel, should there just be a blanket ban on the right to buy in order to simplify the situation and protect the current stock?

**Jim Maryniak:** The view that has come back to us is that people who have the existing right to buy should retain it, but something should be put in place to stop the nephews and nieces taking on the right to buy so that we can retain a bit of stock.

The right to buy would naturally disappear under the proposals in the bill; new tenants would not get the right to buy. At the moment, anyone who is in the old right-to-buy system would go on to the modernised right-to-buy system were they to move house, unless the property is new—new legislation is also proposed for new properties. It is just a matter of phasing out the right to buy; that is supported by 99 per cent of tenants.

**Lynda Johnstone:** Tenants with the existing right to buy would like that right to be protected; however, as Mr Maryniak said, the bill's proposals would go some way towards phasing it out. Tenants are saying loud and clear that those who have exercised the right to buy and then find themselves back in social housing should not have the privilege of the right to buy again.

**The Convener:** Mr Maryniak, how did you establish that 99 per cent of tenants support that view?

**Jim Maryniak:** I have been at several conferences that tenants attend, and I hear the views that are expressed in my area. I am also involved with the regional networks of registered tenants organisations. The view is coming through from all angles that the tenant movement wants an end to the right to buy, although there are slightly differing opinions. Some tenants would like the

right to buy to be phased out and some would like to see an end to it now—end of story.

**The Convener:** Has a survey been carried out that asked tenants those questions? Have tenants' views been sought on the issue that you raise in your written submissions about the tenant's right to buy being substituted with the landlord's right to sell? Most people—maybe including our second panel of witnesses—argue that although the right to buy should be constrained, there should be a great deal of flexibility around the landlord's right to sell because of the inability to sell some of those homes and the landlords' business plans. Do you support the landlord's right to sell?

**Lynda Johnstone:** That is not something that the Tenants Information Service has looked at in great detail with tenants. We have not conducted a formal survey of tenants' opinions on the right to buy or the right to sell, but we have gathered views through a variety of networks and tenant activity throughout the country.

**The Convener:** So, no survey has been carried out directly to get the views of tenants who have the right to buy, despite evidence—written and from previous evidence sessions—that suggests that the limitations on the right to buy should go further and that people in housing associations who have the right to buy after the 10 years should lose that right. We have only the views of tenants groups and small numbers of people.

**Jim Maryniak:** I would not say that they are only small numbers of people. The active tenants groups communicate with all tenants in their areas, although whether the tenants decide to respond is a different matter. They are going out into the communities and tenants are getting the opportunity to speak to the different organisations, from local groups to umbrella organisations and the regional networks at national level. They have had the opportunity to respond to the questions that have been asked. In addition, the responses to the consultation on the Housing (Scotland) Bill came from a vast range of tenants, not a small minority. Local groups and umbrella organisations were involved in that and submitted responses. They were speaking on behalf of a large number of people, not a minority.

**The Convener:** Housing associations do a great job, and the people who give their time as you do are to be commended. I am not denigrating that work at all; I am trying to establish what attempts were made at wider participation. We know that housing associations communicate annually with their tenants to get boxes ticked and confirm what a great job they are doing. With the Housing (Scotland) Bill coming up and these difficult questions that will directly affect people's lives, are you aware of any extensive survey of a large number of tenants? I am not talking about

the groups; there are thousands of tenants in Scotland. Has anyone surveyed them directly to give them the opportunity to participate in the debate? Is anyone aware of any such work? We are all speaking on behalf of tenants, but I am trying to find out whether we have asked tenants directly for their views.

**Jim Maryniak:** That has not been done at national level.

**Bill Gibson:** I am not aware of any work on that particular issue. When we have discussed the matter at local level, the responses we get are divided. The changes are quite complicated for most people, so they need time to think about exactly what those changes will mean for them. The issues in the legislation are important now, and will be important in the future. However, at the same time, when we provide new social housing we need to ensure that it is for the rent payer. Everyone is under pressure these days to provide social housing. If we are to be able to provide social housing, then we need to have social housing to provide.

10:45

**Jean Charsley:** Often, deeds say what the conditions are when property changes hand or when property is built. The legislation takes no account of what is in deeds. The tenants often cannot afford to go to court, so perhaps that aspect could be addressed.

**John Wilson (Central Scotland) (SNP):** I welcome the panel members. The convener asked about surveys among tenants organisations. The witnesses from East Lothian and East Ayrshire talk about "tenants and residents" associations. I know something about the history of tenants associations, and why some of them became tenants and residents associations; a number of people had taken up the right to buy so, in order to represent their area, many tenants associations became tenants and residents associations. It is fair to say that it would be difficult to get a tenants-only perspective on the impact of the right to buy from tenants and residents associations because some of their members have used the legislation to become private owner-occupiers.

To take the right-to-buy issue further, would you agree that rather than simplifying the issue, the legislation might make understanding the right-to-buy regulations more complicated? There is the preserved right to buy, in which tenancies starting pre-2002 retain their existing rights—rights that were, as my colleague Mr McLetchie knows, granted by the Conservatives in 1980. We will also have the modernised right to buy, which will apply to tenancies that have come into effect since 2002. There are then the new rules that will result

from the bill in relation to tenants or future tenants losing the right to buy if they move into a new house. On top of that, we have the issue of pressured area status. If all those regulations come into place, tenants may struggle to find out what rights—if any—they have relating to the right to buy. Would the panel comment on issues relating to the right to buy and the fact that, rather than tidying up the landscape for tenants, we seem to be cluttering it?

**Bill Gibson:** You have just explained pretty well that it is a complicated issue, with lots of questions within it. However, to go back to a comment that I made earlier, the right to buy created pride in ownership, if you like. Even today, you can go round estates and tell which houses have been bought and which houses are rented. That should not be the case. If landlords came up to a standard whereby they brought in nice houses in good quality areas and worked on mending the wee things, the bigger changes would come along. If people had good-quality homes and got value for their rent, they would not be so desperate for the right to buy the houses.

**Jim Maryniak:** To respond to John Wilson's wee statement at the start, there are tenants and residents groups in East Lothian, as members will know. However, the residents came on board in the first instance because we have tenants' rights at heart. The residents were tenants in the past, so they know what tenants go through. When discussion round the table has anything to do with social housing issues, in particular rents, the residents take a back seat. Their opinions are always welcome, but they do not have any type of vote in that regard.

Those who had a right to buy before the Housing (Scotland) Act 2001 came into effect cannot have their right-to-buy entitlement tampered with or taken away from them. Again, from a tenant's viewpoint, the modernised right to buy, which has been mentioned, could be helped along where pressured area status dictates whether a house is available for sale. If a house comes under pressured area status, the right to buy under the modernised right to buy will be suspended for whatever length of time. I think that there is discussion in respect of the Housing (Scotland) Bill as to how long that time should be and whether it can be extended.

So, there are various stages, which may seem to be very complicated, but at the end of the day what tenants want is an increase in the housing stock that is available for rent.

**Lynda Johnstone:** As part of TIS's consultation of tenants and their representatives, we asked whether they agree with the safeguards that are being proposed for existing tenants who have the right to buy. There was an overwhelming "Yes" to

that. There was also overwhelming support for the proposal that the right to buy should not exist for new build or new tenancies. So, tenants say that they want existing rights to be protected.

**John Wilson:** I have a follow-up question, but it is not on the right to buy. I think that we have covered that, unless Mr McLetchie wants to raise more issues around it. My question is on the proposal for the Scottish social housing charter. I was intrigued by Mr Gibson's earlier comment about the work that the tenants and residents associations do in East Ayrshire on their visits with housing officers and others. I would commend that model to other local authorities; it is, unfortunately, not applied widely throughout the 32 local authorities in Scotland. The relationship that exists in some areas between tenants and residents associations and their housing departments and—Mr Gibson referred to this—elected members shows that they are willing to work together. However, in other areas, it is very difficult for tenants and residents associations to have any interaction with their landlords, particularly those in the public sector.

I know from experience that it is very difficult for local elected members in some areas to get involved with housing issues in their local authorities. What would you want in the charter that would enable the type of work that is being carried out in East Ayrshire—in relation to the best aspects of street visits and direct interaction with local tenants and residents associations—to take place across all 32 local authorities? How could we ensure that such work is done in the future by all 32 local authorities?

**Lynda Johnstone:** From a Tenants Information Service perspective, we would like to go back to basics with the key principles of tenant participation, as outlined in the 2001 act. We know that tenant participation is, as you rightly say, a bit patchy throughout Scotland. With that in mind, we would like tenant participation and tenant involvement aspects to be in the bill rather than in guidance, so that the motivation for landlords to work closely and collaboratively with their tenants at the stage at which there is a blank sheet of paper is statutory rather than just good practice.

**Bill Gibson:** Surely this is where good quality independent regulation would work. To come back to the encouragement aspect, if there is a role model, the regulations would say what is required of landlords and what standard they would have to come up to. The cautionary note on regulation is to say that if you take a big stick to a dog, you will eventually get it to do your bidding, but it will not respect you for it, so you end up with something that will not work. "Tenants and residents" is a phrase that I have never liked, because we are all residents and the residents—if you care to, then

call them “homeowners”—who become involved in tenants and residents groups care about the tenants because they are their neighbours and friends in the society in which we live. If there is a good role model out there, making use of it and passing on the good practice to inform everybody else must be a good thing.

**Jim Maryniak:** Throughout the country, through the regional networks, attempts are being made to bring local authorities, housing associations, tenants and residents together to discuss the housing charter. Meetings are proposed throughout the country to try to bring everyone together to deal with the issue and establish what should and should not be in the charter. The issue of estate inspections seems to be coming up quite a bit. A multitude of sins are highlighted when people go into estates and have a proper look at the conditions. Positives are also coming out about what is working well on the estates. Every attempt is being made to get the views of every tenant and to get every tenant in the country involved in the Scottish housing charter.

**Lynda Johnstone:** It is a very motivating thought at this particular stage of the bill that the tenants movement is very active and that the charter is on their lips right now. Events, public meetings and conferences are being planned for the summer, so the charter is right up there—it is high on their agenda.

**Jean Charsley:** I will return to a point that I made previously about the licensing boards. One problem in tenements is that the damage is done before people apply for licences—HMOs are inhabited before a licence is applied for, which is not supposed to happen. Licensing boards should be able to take account of that and to take into account offences against planning regulations and policies, the housing regulations and any other regulations that might impinge on whether a landlord has been doing what he ought to. Many unscrupulous landlords, and some reputable landlords, carry out alterations and put in more tenants than they are given planning consent for and then apply for a licence. That needs to be addressed.

11:00

**The Convener:** I have got the message this morning that it is all very well to have participation—everyone wants participation and thinks it is a good thing; the charter is also a good thing, although we need clarity about what it means for tenants—but I have also heard, this morning and in written evidence, that other legislation, such as the homelessness legislation

“while admirable does not take into account the negative effects that housing some people will have on communities and other tenants / residents, this is in particular reference

to Anti-Social Behaviour and drug dealing. It is our view that in some cases the Homeless legislation is abused by people who ‘queue jump’.”

If we go back to the list of what matters to tenants—allocations, tenant management, estate management and repairs—it does not matter what sort of participation there is, what table tenants sit at, or who they speak to if they cannot improve the situation and meet their priorities, which are to have a stable neighbourhood and a decent home, to see antisocial behaviour being dealt with, and to have a reasonable expectation that they can move through the rented accommodation and get suitable housing as required by their needs later in life. Will the charter and any amount of participation achieve those priorities, especially if legislation is in place that prevents it? How will you meet your goal? What will the charter and participation deliver for tenants? I know what it can deliver for the people around this table and those who have influence, but what will it deliver for the tenants’ agenda?

**Lynda Johnstone:** I hope that a flexible charter at a local level will join up with the national outcomes. That is the key. An outcome of the national charter is that tenants’ needs are met, and it must be relevant, flexible and SMART—specific, measurable, attainable, relevant and timely—enough to pan out at the local level as well.

**The Convener:** We have heard Mr Maryniak say that 80 per cent of housing goes to homeless people, and we have heard about queue jumping. How do we sustain the credibility of social rented accommodation when people cannot affect their communities?

**Jim Maryniak:** The support of MSPs, local councillors, and others all the way down, will help to stop the queue jumpers getting in. The only way to get a house in East Lothian at the moment is through priority needs—the council is trying to get away from the homeless stigma—or the medical points system. Obviously people with medical points require houses, but even there, people are selling off one or two houses to get social rented houses. How are they getting back on to the housing register when they have already exercised their right to buy? That puzzles me time and again. When we look further into it, we find that a lot of people have more than one ex-council property, but it cannot be taken into consideration because the legislation dictates who can go on to the register, who is allocated a house, and under what conditions.

I have a classic example. A guy who leaves school at 16 and works hard all his days will never get a council house in East Lothian, but someone who is being released from prison will.

**David McLetchie (Edinburgh Pentlands)**

**(Con):** Maybe we should not release them so quickly, but that is an issue for the Government and for another committee.

I will return to some of the issues surrounding the right to buy. I am interested in the comments made by Mr Maryniak and Ms Johnstone that tenants think that those who have an existing right to buy should retain it; I think that that is what you said. In my constituency, the council is, as part of a regeneration programme, demolishing several high-rise flats, which are home to 300 tenants at the moment. Those tenants will be rehoused by the council and they will have a right to return to the new social housing that is planned for the site of the high-rise flats. All the tenants have an existing right to buy. Should they be allowed to retain it?

**Jim Maryniak:** We in East Lothian have made study visits to other areas and when a person is forced to move by the council or the local housing association, because of demolition, for example, they retain their right to buy.

**David McLetchie:** Yes, but if they were allocated a new house as part of a regeneration programme, as I understand the proposals in the bill, they would not have a right to buy. Is that not correct?

**Jim Maryniak:** At the moment, under the new-build legislation, post-2001 tenancies would be entitled to the modernised right to buy. Pre-2001 tenancies might lose out at that stage.

**David McLetchie:** That is correct under the existing law, but we are discussing the bill. I have described a situation in which a tenant is removed from their home as part of a regeneration programme and subsequently rehoused by the council in the new homes that are built on that site. That is what is proposed in the north Sighthill area, which I represent. Under the existing legislation, as I understand it, they would retain a right to buy of sorts—I think you said, Mr Maryniak, that it would be the modernised right to buy. However, under the proposed legislation, they would lose that right to buy. That seems to be a contradiction and is contrary to the view expressed by you and Lynda Johnstone, if I heard you correctly, that tenants who have an existing right to buy should retain it. Is that correct?

**Lynda Johnstone:** The Tenants Information Service's statement on protecting the right to buy considers the proposal to end the right to buy for new tenancies and tenancies in new build to be based on an idea of choice. For tenants living in blocks of flats that are to be demolished, it might not necessarily have been their choice to move—it is an enforced move.

**David McLetchie:** Exactly. So in situations in which there has been an enforced move of the sort that I describe, it is your view that those tenants should retain the right to buy that they have under the present legislation. Is that correct?

**Jim Maryniak:** That is a difficult question.

**David McLetchie:** I know that it is a difficult question; that is why I asked it. What I am saying is that the existing legislation gives people a right in situations in which they are being forced from their home as part of a regeneration project that a decision-making body, such as a council, believes to be in the wider interest of the community. Under the proposals in the bill, people would lose those rights when they are rehoused. If I heard you correctly, Ms Johnstone, you said that people who have an existing right to buy should retain it.

**Lynda Johnstone:** Yes.

**David McLetchie:** But they will not retain it—the bill will take away their rights. Is that not correct?

**Jim Maryniak:** It is one of the grey areas that has not been discussed in full—

**David McLetchie:** It has been discussed, Mr Maryniak.

**Jim Maryniak:** Not in local areas.

**David McLetchie:** I can assure you that in "Firm Foundations"—the Government's housing paper that is the catalyst for the bill—it is specifically referred to as an issue. It has been up for discussion for nearly three years, since the publication of that paper. There is nothing new in the topic. I ask you again whether people in such situations who have an existing right to buy should retain it.

**Lynda Johnstone:** I cannot give you an answer today.

**David McLetchie:** But your tenants—those you have consulted—believe that they should.

**Lynda Johnstone:** Tenants believe that the existing right to buy should be retained, and agree that a move to a new build or a new tenancy should not have the right to buy—

**David McLetchie:** Unless a tenant is forced to move to another house.

**Lynda Johnstone:** Yes.

**David McLetchie:** So in other words, in the situation that I have described, tenants should retain the right to buy, which is contrary to what the Government is proposing. Is that correct? On the basis of the consultations that you have undertaken, is that what tenants think? You are allowed to agree with me—it is perfectly permissible.

**Lynda Johnstone:** My personal inclination is to agree with you, but I have not been given that mandate.

**David McLetchie:** I appreciate that you are an information service rather than a policy-making body. I am asking you what your tenants think.

**Lynda Johnstone:** I cannot answer that.

**David McLetchie:** Okay. I will move on to another existing right. We have heard about the existing right to buy of tenants in housing associations that was deferred to 2012 under the 2001 act, which came into force in 2002. Those tenants have a right to buy that was given to them by statutes that the Scottish Parliament passed in 2001 and which will come into effect in 2012. There is an expectation on the part of the tenants that it might even be stipulated in their tenancy agreements—I will explore that issue in a moment—that they have a right to buy that will kick in in 2012. Are the tenants whom TIS consulted aware that their landlords are lobbying the Parliament and this committee to remove the right that the Parliament gave the tenants in 2001?

**Lynda Johnstone:** I cannot comment.

**David McLetchie:** The evidence that we had from the Scottish Federation of Housing Associations is that 80,000 social landlord tenancies are in that situation and that the SFHA wants the Government to abolish or extend indefinitely the exemption when the current exemption expires in 2012. That refers to an existing right to buy that those tenants have. Have any of TIS's consultations with tenants shown that many of those 80,000 people are aware that their landlords want to take away their rights?

**Lynda Johnstone:** I am unable to comment.

**David McLetchie:** Do we know to what extent those tenants even know their rights?

**Jim Maryniak:** I cannot comment on that.

**David McLetchie:** How can we have a consultation about taking away or not the rights of people who do not even know that the rights exist?

**Lynda Johnstone:** I think that the confusion about whether tenants know their rights backs up my previous comment that we need to be given clear, accessible and direct information so that people understand the complexity around the right to buy.

**David McLetchie:** I agree with that. I was very interested in the comment in your paper, which I think you reiterated in response to a question from Mr Tolson about the lack of information or the confusion surrounding the various elements of the right to buy. Is it your experience that people's tenancy agreements with their council or housing association landlord set out any legal rights that

the tenant has that are specific to them, or to their development or housing association? Do people know?

**Jim Maryniak:** In East Lothian, the council found that a bit of excitement was involved with a tenant getting the keys to a house, especially if it was their first property—all they wanted was the keys in their hands. The housing officers understand that, so a system has been established whereby the tenant gets their paperwork and so on and gets signed up. The housing officer does a follow-up visit six weeks later to see how the person is settling in and to go through the terms and conditions of their missives and the allocation of that property. We find that that is a bit more successful and that the tenant is more aware of their rights and responsibilities.

**David McLetchie:** Does that include their right to buy? We talked earlier about the transfer of people who had a protected right to buy under the old legislation and who got a new tenancy in another house that gave them the modernised right to buy under the 2001 act. Is it made clear to tenants that, if they take on not a new house, but a new tenancy, they in effect give up the right to buy that they had under the earlier legislation in favour of a much more limited, so-called modernised right to buy under the new legislation?

**Lynda Johnstone:** I am unable to comment as I do not work for a landlord organisation. It is not something that tenants have identified as a gap in their understanding of their tenancy when they take up a new one, so I am unable to comment.

**Jim Maryniak:** A housing officer would sit down with a new tenant and explain their right to buy if it is the modernised right to buy. The example that you gave sounded like it involved a transfer. When people put in for a transfer in East Lothian, it is made clear to them that, if they are subject to the pre-2001 right to buy, the transfer will bring them under the modernised right to buy.

11:15

**Jean Charsley:** I am not up to date on right-to-buy legislation, but I was on the development committee of a housing association, so I know that tenants of charitable housing associations are not allowed the right to buy. People with the right to buy should not be able to transfer it if they become a tenant of a charitable association, because that would undermine the whole basis of tenants' rights in charitable housing associations.

**David McLetchie:** Right. Thank you for that comment.

**Bob Doris (Glasgow) (SNP):** Most of my questions have been asked, but I will focus, first, on the right to buy. Mr McLetchie's question about

whether people being forced to move to a new house should retain the right to buy reminded me of allocations policy in general. This might be an opportunity for the tenants' representatives to comment on the fact that, quite often, someone in a forced move from a run-down property goes to a new house. I wonder whether they feel that that is always appropriate or whether other tenants who have housing needs could move to the new-build house, with the tenant in the poor-condition house moving up the housing food chain, if you like, to a better-quality house, thus creating churn in the system. I know that, while many of my constituents welcome new housing in their area, they are not always clear why it is the constituent in the run-down area—for example, the final tenant in a close that gets demolished—who gets the new house, when they have been sitting on a waiting list for 10 or 15 years. Are there any brief comments on that point? I think that it is appropriate to consider it when we talk about the right to buy and how it is applied.

**Jim Maryniak:** Mr McLetchie also mentioned the right to return. If we take Castlemilk in Glasgow as an example, its previous population of 42,000 has been reduced to 14,000 through regeneration. How can everybody be given the right to return, when a reduced number of properties are being built through regeneration?

As far as I know, all landlords give all tenants an option through their transfer schemes that allows them to apply for a better house in a different area. Provided that they meet the criteria for the properties that they put in for, they will be considered.

**Bob Doris:** Okay. I was just giving people an opportunity to comment on a point that struck me during earlier questioning. It is fine if that is the only response.

My final comment is about what you said, Ms Charsley, about illegal HMOs and enforcement. I will read very briefly from your written evidence, where you say about a Kersland Street property:

"Two tenement flats had rooms subdivided, giving 1/3 of the window to half the room. ... On being refused planning consent for HMO use and also refused a licence, the management company was asked by me if it would ensure that the rooms were restored. "No: that's business." Both flats now operate as HMOs, despite having been refused consent."

The issue will be part of our stage 1 report. To be clear, what is the biggest barrier to enforcement?

**Jean Charsley:** There is nothing in the legislation that enables local authorities to use powers to correct that situation—that needs to be addressed. In addition, for enforcement, stop notices are not applicable if a building is already inhabited. When I was on the working group on enforcement, I asked whether it would apply to

HMOs that were not yet inhabited and was told yes, but I do not know whether that was continued into the legislation. It should apply to those that are not inhabited, but it does not apply where the building is already inhabited, even if it is inhabited illegally. So there is nothing to stop the kind of abuses that we are talking about.

**Bob Doris:** Just to be clear, there would be nothing to stop a criminal prosecution, if the local authority decided to do that; it is just that it would be a very expensive route to go down.

**Jean Charsley:** There must be legal grounds for a criminal prosecution. You cannot go to court if nothing in planning law or the housing or licensing legislation says that a landlord cannot make certain alterations.

**Bob Doris:** So you support the tying together of planning and licensing to allow for such prosecutions.

**Jean Charsley:** Yes, but it is essential that planning consents and considerations are in place before licences are applied for. Otherwise, people will simply apply retrospectively—and those who do so usually get approval because by then it is too difficult to do anything about it.

**Bob Doris:** I asked the question partly to give you the opportunity to put those comments on the record. Earlier, you seemed to suggest that councils that move to enforcement for whatever reason incur expense themselves. With the kind of criminal prosecution that we are talking about, it is more difficult to get a conviction and any fine that is raised goes not to the council but to the United Kingdom consolidated fund. Do you want these matters to be dealt with through civil prosecutions not just because that would make it easier to get a conviction, but because local authorities would be able to retain the income?

**Jean Charsley:** Yes. The local authorities need the money from those fines and they need to be awarded their costs. After all, it can cost £2,000 to take a case to court. Such a measure would also help reputable private landlords, who at the moment see themselves as subsidising the operation of HMO units. Those units must be self-financing but, when prosecutions are taken into account, they are not.

**Bob Doris:** So criminal prosecutions actually act as a financial disincentive for local authorities.

**Jean Charsley:** Yes. There is also the problem that places such as Glasgow have to deal with serious offences such as murder, so HMO cases might not be taken. The authorities must be persuaded to prosecute the case.

**Bob Doris:** That is a really powerful argument. That is why I gave you the opportunity to clarify the point.

**The Convener:** That concludes the evidence taking—

**Jean Charsley:** I am sorry—can I come back on one point?

**The Convener:** Certainly.

**Jean Charsley:** We think that temporary licences should be given to HMOs that are being used for homeless people. Another problem in our area is the lack of co-ordination among the various bodies that house the homeless, which has resulted, for example, in drug addicts being housed next to children's homes, with consequent problems.

Moreover, authorities that are not providing for their own homeless people are using private bed-and-breakfast accommodation in Glasgow. There is little control of that, because it is the area's social workers who have control. We have had to send fire officers into these places, where some of the homeless are living in appalling conditions. There are also concentrations of such B and Bs, which is not good for areas that have a transient population in any case, or where there are a lot of HMOs or young people. That issue should be addressed.

**The Convener:** Okay. We also have your extensive written submissions. Thank you very much for taking the time this morning to give us evidence.

We will pause for a moment to set up the next panel of witnesses.

11:23

*Meeting suspended.*

11:27

*On resuming—*

**The Convener:** We move to our second panel of witnesses. I welcome Alan Ferguson, director of the Chartered Institute of Housing in Scotland; Robert Aldridge, chief executive of the Scottish Council for Single Homeless; and Rosemary Brochie, policy officer with Shelter Scotland. We have received extensive written evidence, so we intend to move to questions right away.

**Mary Mulligan:** I thank the witnesses for their comprehensive written submissions. I want to move on to something completely different, however. What could be added to the bill to strengthen it or to introduce anything new that might be appropriate?

**Rosemary Brochie (Shelter Scotland):** I thank the committee for inviting us to give evidence. In general, we support the bill's aims of improving the value of social housing and safeguarding its supply. However, we would like to

offer a set of proposals that we believe would strengthen the bill and which are consistent with the bill's purpose of securing the future of social housing.

The first of those proposals is on access to support for homeless people. We would like the bill to contain a provision to ensure that local authorities provide an assessment of support needs when somebody is assessed as homeless and then secure the services that will meet that household's needs based on that assessment. All homeless and potentially homeless households should be given access to housing support if it is required. Housing support is the key to preventing homelessness and to meeting the 2012 homelessness target.

In addition, we propose changes to the way in which homelessness referrals are made between local authorities and housing associations. Currently, the Housing (Scotland) Act 2001 gives local authorities the power to make referrals through what is known as the section 5 referral process. We would like that to be extended to all homelessness referrals that are made between local authorities and RSLs. That would offer significant advantages over some of the more informal arrangements that are used at present.

11:30

**Mary Mulligan:** Do the other witnesses support those proposals or do you have other ideas?

**Robert Aldridge (Scottish Council for Single Homeless):** We do not have any further proposals. We very much support the proposal that a support assessment should be carried out for all those who are affected by homelessness. However, we would like to look a little further into the implications of a requirement to provide support once that assessment has been carried out. Given that the ring fence on supporting people funding has been removed, we are in a financial position in which support funding might be reducing rather than increasing. We want to ensure that there would be no perverse outcomes from such a requirement. For example, if all the money was focused on those who are experiencing the crisis of homelessness, less money might be available at either end, for support to prevent homelessness or to sustain tenancies. We would like to work that through, but there is certainly no disagreement on the principle of carrying out a support assessment. We recognise that support is essential for a large number of homeless people.

On section 5 referrals, for us the issue is what produces the best outcome. Section 5 referrals work well in some areas and not so well in others. In some local authority areas, there are other

arrangements, and the view is taken that using section 5 is a bit of a failure of the partnership approach. Again, we want to consider whether the proposal would produce better outcomes. A bit more work needs to be done, but we are relatively happy with the principles.

**Alan Ferguson (Chartered Institute of Housing in Scotland):** On the first proposal, support is essential, as has been outlined, so there should be a support assessment. In discussing the issue in the institute and with our board, we have found that the problem with a duty is delivering on it, particularly when it involves health, because there is an issue about the way that local authorities have in the health service, so there are issues about delivering aspects of the support. However, we agree absolutely with the principle of carrying out support assessments, because support is necessary.

We take a slightly different view on section 5 referrals. There should not be only one route. Currently, a range of routes is used. For example, in areas where local arrangements such as common housing registers or choice-based letting schemes are working, our members are asking why everything would need to be done through section 5. The important point is that, whatever the route, people should get access to housing.

**Rosemary Brothie:** Would it be okay if I came back on some of those points?

**Mary Mulligan:** Briefly.

**Rosemary Brothie:** It is not only us who say that section 5 referrals should be used more widely. The Scottish Housing Regulator, in its thematic report "RSLs and homelessness", which was published last year, identified that local authorities should set aside their current reluctance to use section 5 referrals. According to the report, RSLs should take a much bigger role in helping to meet the needs of homeless people and councils should work more effectively with RSLs to meet housing need. The reason why we suggest that section 5 referrals should be used as standard, rather than some of the more informal arrangements that my colleagues have mentioned, is that the process offers significant advantages. It provides transparency and allows comparison between RSLs in meeting the needs of homeless people.

**Mary Mulligan:** If you have any evidence on how section 5 is used and the different impact in local authorities, that might be useful to us in considering the advantages or disadvantages of the proposal. If you could come back to us on that, that would be helpful.

**Rosemary Brothie:** A research exercise that the Scottish Government conducted last year was not able to provide evidence on outcomes. That is

a weakness on both sides of the debate. It is not easy to tell whether outcomes are better for people who are housed through informal arrangements or for those who are housed through section 5 referrals. However, we think that section 5s offer advantages in other areas—I talked about the transparency of the process and the ability to compare the actions of different RSLs in housing people who are homeless.

**Mary Mulligan:** Given what Mr Ferguson said, if a local authority is able to use other arrangements, whether a common housing register or nomination arrangements, and such arrangements are working, I would not want to say that everyone should operate in one particular way. If the arrangements are not working, I can understand why someone might want to introduce such an approach. That is why it might help to have the evidence that I mentioned.

**Rosemary Brothie:** What we are suggesting would not affect arrangements whereby people are housed through choice-based letting procedures. We are talking specifically about referrals to RSLs. When we talk about section 5 referrals, we are not talking about an onerous or big-stick approach, as some people have suggested. It does not have to be like that and there is no reason why informal arrangements or informal relationships that local authorities have with RSLs could not continue. Sometimes there is a good relationship between a particular homelessness worker and their counterpart in an RSL. Such relationships enhance the opportunities to place homeless clients.

We are talking about the ability properly to record the referral and the information about the person's housing needs, so that we can ensure that the information is transferred accurately between the local authority and the RSL, and whether a placement is made as a result of the referral. Such an approach would enable us to compare RSLs. As I said, the Scottish Housing Regulator looked into the issue and found that some RSLs play a much greater role than others do. Currently, it is hard to determine what is happening across the board.

Local authorities, too, want to be able to maximise the use of accommodation from RSLs, so the ability to have a good sense of and to record who provides accommodation and who does not would enable local authorities to plan and to meet housing need more effectively.

**Mary Mulligan:** I think that all members have anecdotal evidence about RSLs who play a bigger part than others do.

Mr Aldridge talked about the resource implications for agencies who deliver support. Is there a way round the issue? Are we introducing

new burdens, or should support already be being provided?

**Rosemary Brothie:** It is good practice for local authorities to conduct support needs assessments and provide support as a result of a homelessness referral. Local authorities across the board accept that housing support is an extremely important part of preventing homelessness, so such support should be being provided. We propose making that good practice a requirement for local authorities. Such a duty would not be onerous for local authorities who are already providing support; local authorities who are not providing support would have to come up to scratch and do so.

We must consider the issue in the context of the 2012 commitment, to which parties in the Parliament signed up. We are getting closer to 2012, so we must consider how we can ensure not just that housing supply needs are met but that we do all that we can to prevent homelessness. Assessing people's support needs as they come through the homelessness route is about preventing long-term and repeat homelessness, by ensuring that we take action. The local authorities that are already doing that already signpost people to support; we are concerned that all local authorities should take account of support needs, so that nobody slips through the net.

It could be argued that we should be considering the housing support needs of everyone who is housed in the social rented sector. However, we can legislate to make the homelessness assessment the point at which support needs are assessed. That is a good point at which to assess support needs, and such an approach would ensure that we did not miss anybody.

**The Convener:** We took evidence from tenants on what they want from the Scottish social housing charter and so on. About 10 priorities came up, and homelessness was not one of them. Indeed, members of the East Ayrshire tenants and residents federation said in their submission:

"We are concerned that the Government's aim to abolish homelessness by 2012, while admirable does not take into account the negative effects that housing some people will have on communities and other tenants".

It is their view that, in some cases, the homelessness legislation has been abused by people who have queue jumped, and we heard evidence that a significant number of tenants are against that. It prevents tenants from moving to better homes and locks them into a home that they must adapt as their family grows and they get older. How are we going to convince those communities that we can support people in that way?

The East Ayrshire tenants and residents federation written submission goes on to say:

"there needs to be more support available in terms of managing tenancies of young people."

Most of us around the table would testify to that. If there is a single tenancy in a property, they will come every year or every two years, round and round and round—the support is not there for them. Tenants on the ground view the homelessness legislation pretty negatively.

**Rosemary Brothie:** You refer to evidence of queue jumping. I have not seen that evidence, and I am not sure that such evidence exists. I am sure that there are anecdotal accounts of that happening, but—

**The Convener:** Do you believe that the issue is important enough for your organisation to need to rebut the assertion effectively? The committee would welcome any work that you have done to rebut that assertion.

**Rosemary Brothie:** I would be happy to get back to the committee later today or in the near future with discussion on that area, if that would be helpful.

**The Convener:** If you have any facts and figures on that, that would be helpful.

**Rosemary Brothie:** There is pressure on lets—I am sure that everyone around the table accepts that—and more people are having to spend longer on housing waiting lists. However, that is just as much an issue of supply as it is to do with an increase in housing need or more people becoming homeless. The fact that more people are having to wait in temporary accommodation or on housing lists is to do with a reduction in supply. One of our aims for the bill is to increase, or prevent further reductions in, the supply of social housing.

**The Convener:** So, it is nothing to do with antisocial behaviour, a person's health, drugs or any of those things.

**Rosemary Brothie:** Do you mean people becoming homeless?

**The Convener:** I mean the feeling in communities that homelessness legislation is being used against their interest.

**Robert Aldridge:** There is sometimes confusion and homeless people are blamed for all the ills in an area. However, problems with addictions and antisocial behaviour often come from existing tenants. I am not saying that every homeless applicant will be ideal, but that is the situation across the range. The problem is that we have a shortage of affordable rented housing and a high level of demand for it.

The Scottish social housing charter provides a good opportunity for us to have a debate about what state subsidy for social housing is for and whether social housing should be for those who are in the greatest need. Our organisation believes that it should be. If that is the case, it is a matter of ensuring that the correct support is in place to enable those who are in the greatest need to live successfully in the community.

It is not a matter for the homelessness legislation that people have addictions, and it is not just homeless people who have addictions or behave in an antisocial manner.

**The Convener:** Why do housing associations throughout the country, when they are questioned about inappropriate allocations that lead to antisocial behaviour, other problems and flight from communities—which all make them unsustainable in the longer term—tell us that they have to place a certain person because of the homelessness legislation? Are housing associations misrepresenting the homelessness legislation?

11:45

**Rosemary Brothie:** We are looking for a requirement for local authorities to provide support. If we put forward from a local authority to an RSL somebody who has been homeless and has complex needs and we do not back them up with the support that they need to maintain the let, to live successfully in the community and to avoid some of the problems that you have identified, we are setting that person up to fail in that tenancy.

With our proposal on access to support, we are trying to ensure that anybody who is housed through the homelessness route has their support needs assessed and has those needs addressed, whether they are to do with addiction or problems with antisocial behaviour. Complex needs such as those may be missed when somebody is rehoused. Somebody might also need debt advice or help with handling and managing money. All those things can contribute to someone's further homelessness down the line if people's needs are not addressed.

**Alan Ferguson:** We are focusing on tenants, whether they are in council housing, social housing or RSL properties, being the ones who are antisocial, but we know that one reason why the registration of private landlords was brought in through the Antisocial Behaviour etc (Scotland) Act 2004 was that private landlords were not dealing with antisocial behaviour among their tenants. We know that owners can also be antisocial, so it is particularly unfortunate that the discussion has focused on RSL tenants being the only ones who are antisocial.

The discussion started with mention of the proposal for a Scottish social housing charter. The Government and the regulator are absolutely clear that the charter is about tenants, homeless people and other service users; it is not just about tenants of landlords. It is a charter for all, and it is important that at a local level it reflects what the landlord will do for everyone. If members of the tenants movement see the charter as being only about them, that is unfortunate—although I do not think that that is a broad view across the tenants movement.

Mr Aldridge made a point about supply. One reason why we struggle so much with homelessness and allocations is that we are not providing enough housing. I would have thought that some of members' time—and that of other politicians—is taken up by constituents who come to surgeries to speak about housing. There is a need for more housing across Scotland. We need to deal with homelessness and the issues surrounding it, and it is clear that we need to provide more support, but there is an overall need to provide more affordable housing for people and more access for first-time buyers and others who want to get on the property ladder.

**The Convener:** The people who come to my surgeries are complaining about inappropriate allocations and people being in the wrong type of housing with a lack of support. The charter is on the tenants' agenda not because it is a theoretical discussion for them but because they feel the effect of those decisions 24 hours a day, seven days a week. I suggest that those people should be listened to. We are talking about their lives and homes. None of us experiences that directly.

**Alan Ferguson:** I do not think that any of us has suggested that tenants or others should not be listened to; indeed, I think that all of us here would put more emphasis on listening to tenants and involving them in shaping what goes on.

I do not understand what you mean by the term "inappropriate allocations". All housing organisations allocate homes, and that is done clearly—usually on the basis of points and trying to house the people who are in the most need. If by "inappropriate" you mean that people get properties that you do not think they should get or that certain people should not get allocations, the question is then one of how organisations allocate properties.

The difficulty is that allocation policy can be confusing and might not be understood by everyone, but it is based on needs at a particular point in time. If both you and I want a house, how do we determine who should be allocated the property? At the moment, we do that on the basis of people's needs while trying to maintain

sustainable communities, but that is a difficult balance.

**The Convener:** I am grateful that I have got the debate going.

You could probably do a better job than I could of explaining why it was not inappropriate to put a 20-year-old in the top flat of a block of four along with three pensioners. Given their different lifestyles, should we not have expected the outcome, which was that the pensioners fled the building, with the result that before long the building had to be demolished? On the issue of policies being understood, communities understand the issues very much. They know that the person who was declared homeless after being evicted was then rehoused, and they want to know why he was rehoused with them.

Anyway, I am going on. I see that Rosemary Brothie wants to respond, but we can come back to that point after Patricia Ferguson's question.

**Patricia Ferguson:** It is fair to say that we all support the homelessness legislation and defend it all the time at our surgeries, but there are occasional problems that we can all cite.

In my constituency, a small successful complex of deck-access housing units for pensioners that was built in the 1960s was very popular. All of a sudden—within two to three years—the situation has changed. Now, at my surgery I am constantly getting elderly people who are unhappy, upset, worried and anxious for their safety. They are upset not because a homeless person has been put into their block—for all of them, that is not the issue—but because, despite the fact that none of them is under 75, suddenly they are having to deal with a 19-year-old homeless person who has been housed in one of the units because it is the right size for that individual. The lifestyles just do not work together. If people need to pass by the five elderly people living in that deck-access property to get to the party in the young person's house at the end of the close and they then trip over the plant pots on the way, the situation is not good for either the older people or the homeless person.

How do we ensure that those sorts of situations are minimised? We can never iron all the difficulties out of any process, but might it help to provide additional support, so that we have a better understanding of the needs of such homeless people and of their likely lifestyle once they have their new house, which we hope they will enjoy and invite their friends to visit?

**Robert Aldridge:** I would say a mixture of things. Yes, we need to provide support and better information, but I think that there is a myth that a local authority is required to allocate any particular house to a homeless applicant. That is not the case. It is up to every local authority and RSL to

look at its allocation policies and to allocate sensitively. That is not an easy process given the huge demands that exist, but it is perfectly within the law for local authorities to ensure that allocations are handled in a sensitive fashion.

**Rosemary Brothie:** On the convener's point about RSLs making inappropriate allocations, our proposal that every homelessness referral should be made under section 5 of the 2001 act would ensure proper transferral of information between the local authority and the RSL. Establishing the homeless person's support needs and housing needs—what their profile will be as a tenant—would allow allocations to be made more properly.

Robert Aldridge is absolutely right that no particular house must be allocated to a homeless person, but the root of all these problems—having made this point before, I say this at the risk of sounding repetitive—is that there are just not enough social rented houses available to meet all the housing need. When there is such an undersupply, we end up requiring people to live in circumstances that, as Patricia Ferguson said, are far from ideal for all the parties involved.

Under our proposal on access to support, if a homeless person who has been housed has different lifestyle choices from those of their near neighbours, such as in the circumstances that Patricia Ferguson described, perhaps the person could be provided with support about what is appropriate, what is expected of people in community living and how to get on better with neighbours and those who live round about.

Such support provided in such instances could very well help to alleviate some of the problems. Shelter works across Scotland, particularly helping families to settle into new accommodation after being in homelessness. What we find in helping a lot of those families is that the softer issues often get missed. We need to take people, who perhaps are leaving care and are not used to living in communities in the way that we would expect people in Scotland to be, and give them hands-on support and talk them through what is expected of them. Being with them throughout the temporary accommodation and on into their tenancy will greatly help their ability to sustain the tenancy in the future.

**Patricia Ferguson:** I am sure that that would be very helpful. However, just for information, the housing provider in question tells me that it has a difficulty because it cannot designate the block of flats in question to be purely for elderly people. Therefore, those properties have to be considered when homeless people are being housed. The Scottish Housing Regulator backed up the housing provider in that regard when I wrote to him about the issue. However, that is not really what I wanted to talk about.

What sort of resources and additional support need to go to housing providers to make the system the kind that I think we would all like to see and to prevent the kinds of problems that we have discussed?

**Rosemary Brothie:** We obviously thought about what the proposal in our written submission would cost councils. We estimate that to assess what support is required and then provide it would cost around £40 million. Most of that is not additional money but resources that are already being spent on homelessness provision. We were considering the total for support for people coming through the homelessness route. To put that in context, the total budget for homelessness support was £100 million in 2004-05, which is the last time that we were able to assess it as a separate pot of money. So, £40 million is just a fraction of that, and the cost would be an adjustment of existing budgets. We are not naive about the situation, though, because we recognise that local authority budgets are already under pressure. However, our proposal is about improving the way in which councils work, rather than introducing new programmes that demand additional budgets. What we are talking about is reducing tenancy turnover and allowing local authorities to make efficiency savings through that. Homelessness costs money; it costs a lot of money to take somebody through the homelessness route.

Local authorities already place a high value on sustaining tenancies, but it is quite difficult to quantify the benefit from housing support. Research by the Scottish Government looked at the social return on investment in a support programme in East Ayrshire called the fab pad project—that is a hard one to spit out. The research found that for every £1 invested in housing support, there was a social return of £8.38, but that is quite a hard piece of analysis to do. It is very difficult for local authorities to assess what they get back for the money that they put into support. However, it is quite clear from that isolated example that we are not necessarily talking about additional budgets; it is money that local authorities already have through supporting people funding. We want to target that funding and say, “This is a really important way of spending it.” Local authorities that employ best practice will do that already, and it will not be an additional, onerous burden on them. It is about bringing all local authorities up to the same level and meeting the 2012 target.

**Patricia Ferguson:** If the resource was available and being used, would you want it to stay with the local authorities, which have responsibility for homeless people, or be devolved to other RSLs in particular areas?

**Rosemary Brothie:** Maybe I should be clear that we do not necessarily mean that local authorities themselves should provide the services. They commission services, and RSLs and voluntary organisations provide services. For example, Shelter provides support, information and advice. In any one local authority area, a wide range of people will provide support, which can be anything from very intensive, one-to-one counselling on support needs, to somebody who is just able to give information and advice on debt handling or money management. So, the support provided can be very small or very intensive. It is already being provided, but we want to ensure that local authorities are best able or are required to signpost people to the support projects that are available in their area, based on the assessment of need. If support projects are not available, it is about looking at making them available.

**Patricia Ferguson:** Would you want to be able to track that money? Would you prefer it to be ring fenced, for example?

**Rosemary Brothie:** That decision has already been taken. The money to provide housing support is already available. The issue is about ensuring that it is spent and enabling people to receive the support that they need to prevent homelessness.

12:00

**Patricia Ferguson:** We cannot see it being spent and we do not know where it is being spent. Would it be better if there was a pot of money and we knew that it was being spent as intended?

**Rosemary Brothie:** Our proposal perhaps does not require that. If local authorities were required to assess support needs and then to provide that support, they would do that in effect using the pot of money that they have already set aside. We would not necessarily have to ring fence the money at the national level.

**Robert Aldridge:** Not all the money needs to be housing support money, because people have other needs. Mary Mulligan mentioned some people's multiple needs. It is important that the new alcohol and drug partnerships that operate throughout Scotland give priority to ensuring that services are available to people when they are housed and when they need them. There is a requirement on health boards to have health and homelessness action plans. They should deal with the health needs of homeless people at the time when they are housed. That would be a co-ordinated approach to dealing with the needs of homeless people. The approach should deal with the range of support needs and help to prevent some of the problems to which the convener drew attention.

**Patricia Ferguson:** My worry is that the money is available but it is not having that effect. That is why I came back to the issue of whether we know where it is being spent.

**Alan Ferguson:** There is no doubt that some of us would like a ring-fenced budget for support. The concordat is positive in that it gives local authorities flexibility to spend money to meet needs as they determine necessary. The downside is that that might mean that the money is spent in other ways. If we are all concerned about the need for support, we and the committee must try to get across to local politicians the importance of spending money on it, as it will meet needs and it might stop the revolving door that the convener talked about and reduce some of the costs, for example the costs of voids or lost rent. The issue is trying to get across to others the importance of providing that support.

**Jim Tolson:** One key measure in the bill is on the right to buy. The witnesses might have heard me put questions to the tenants representatives on the previous panel. I am interested in the views of your organisations on the proposal on the right to buy and the effects on housing supply and stock. Do you believe that, in the short, medium and longer term, there will be changes in stock levels and therefore availability? Mr Aldridge touched on what some of us would call a crisis, which is the housing shortage and the huge waiting list that we all deal with daily. Will the reforms help that? Should we go further to give more protection to the stock and, therefore, the availability of housing?

**Robert Aldridge:** As my name was mentioned, I will answer first. My organisation supports the proposals in the bill. We take the view that the right to buy should be minimised because, in the long term, that will mean that a broader range of housing is available in the renting pool than would otherwise be the case. We recognise that the change will not instantly supply additional lets, but the 2012 homelessness target is not something that just happens on 31 December 2012—it is a long-term commitment by Scotland and we need to ensure the required range of housing supply.

We support the measures in the bill. Further, we believe that it would not be sensible to introduce the right to purchase to RSL tenants in 2012—the restriction should be extended indefinitely. We must consider the profile of RSL stock: it is likely to be more modern and include some of the most popular housing types. Our fear, which I think that the SFHA echoed, is that we will lose from the long-term renting pool some of the houses—the larger houses, the houses with gardens and so on—that will be most needed in future.

We are also concerned that some of the exemptions in the bill whereby the right to buy will continue are quite complicated and tortuous. Our

view is that if someone has been forced to move, for example because of demolition, they should retain their right to buy. However, if the issue is less clear, the local authority or RSL should have the flexibility to decide on an individual basis whether it is in its interest to sell, because new-build property, in particular, is important and will be at a premium.

We are happy with what is in the bill so far, but it could go a bit further. We certainly think that the suspension of RSL tenants' right to buy should be extended indefinitely.

**Alan Ferguson:** Love it or hate it, there is no doubt that the right to buy has helped to create mixed communities and has helped to give asset wealth to people who might not otherwise have had it. There have been benefits. However, we support the Government's attempts to safeguard the supply of social housing. As members well know, the shortage of social housing is a real problem, so it is right to try to retain as many properties as possible.

The proposed changes to pressured area status, for example to enable particular housing types to be designated, are important. We have got ourselves into difficulties in Cumbernauld and elsewhere where tenants have bought in tower blocks and we are still trying to regenerate communities. We might be able to prevent such problems from happening in future. The right to buy has had benefits, but there is a need to retain properties, because there is a real need for more housing. While building more houses involves a financial struggle, the emphasis on trying to retain as many houses for rent as possible is the right way forward.

**Rosemary Brotchie:** Shelter supports the proposals to curtail the right to buy, but we think that they could be strengthened, to safeguard remaining stock, and simplified. I think that in a previous meeting the committee heard about the complex system that the bill will introduce.

We propose two changes, which would achieve the objectives of strengthening and simplifying the proposals. First, all tenants who take on a new social housing tenancy, including tenancies that are created through transfers and successions, should no longer have the right to buy, with the exception of people who are forced to move because of demolition or whatever. Secondly, all remaining tenants who currently have the right to buy should be able to exercise that right on modernised terms and conditions, rather than on the generous terms that exist for some tenants who have a preserved right to buy. The proposals would have the effect of giving additional force to the pressured area designation, which the bill will amend.

**Jim Tolson:** Mr Aldridge has covered very clearly the issue that I was going to raise in a follow-up question, which was about whether RSL tenants' exemption from the right to buy should continue beyond 2012. Do Shelter and the CIHS agree that the exemption should be extended? Mr Aldridge suggested that it should be extended indefinitely.

**Alan Ferguson:** In our response to the draft bill we supported the extension of the exemption.

**Jim Tolson:** Did you put a deadline on that?

**Alan Ferguson:** We did not. There has been a discussion about whether it should last for 10 years or indefinitely, but we have not come to a fixed view.

**Rosemary Brothie:** Our proposal to put everybody on a modernised right to buy would, in itself, give added weight to the reduction that we seek in the number of right-to-buy sales. There is a case for considering extending the current right-to-buy exemptions.

**The Convener:** I have a general question that takes us back to the point about the tensions between homelessness legislation and tenants. You suggest that the future of successful homelessness legislation is to diminish tenants' rights. Is that a sustainable way forward?

**Robert Aldridge:** Most tenants want to live in a good-quality, decent home and are happy to pay rent in it. We are saying that, if we maintain as broad a profile in the rented sector as possible, they will have the chance to move around to good-quality houses in the sector that otherwise might have been lost to the right to buy. It is in the interest of tenants that that stock be available.

**The Convener:** We heard evidence earlier that tenants wish to retain the right to buy.

**Rosemary Brothie:** We have to come back to Robert Aldridge's earlier question: what is the purpose of social housing?

**The Convener:** It is for those tenants.

**Rosemary Brothie:** Is it to provide the opportunity for people to purchase their own home or to provide a way of meeting housing need? The Parliament has already legislated on homelessness and said that its priority is meeting housing need. Shelter is not against people owning their own homes, and there is a case for people being helped into low-cost home ownership, but there are probably ways of doing that other than selling off our social rented stock. The Government has already considered low-cost home ownership schemes, and perhaps we could think about ways of extending them to people who want to purchase in the social rented sector.

**The Convener:** Do you deny that what you propose would take away the existing rights of 80,000 tenants? I think that that is the number given in previous evidence. Yes or no?

**Robert Aldridge:** It would change their rights but, for us, one of the strange things about the situation is that the right to buy gives an opportunity for a leg-up into home ownership for people who happen to have gone through a certain route. It gives those who have gone through local authority housing or RSLs a state subsidy into owner occupation, whereas others, who might have gone through the private rented sector, do not get that subsidy. If it is the Government's intention to move people into owner occupation, surely there is some equitable way in which one can assist people into it rather than it being an accident of which form of renting they happen to have.

**Alan Ferguson:** There are different views. Just as the committee members have different views, so tenants or homeless applicants have different views about whether they should have the right to buy and whether that right should be at the same level of discount as others'. When the modernised right to buy was introduced, the tenants to whom it applied did not, after a particular date, have the same level of discount as previous tenants. Regardless of whether you agree with that, you need to decide what you want as politicians and we will have a view. In some instances, that will mean some tenants not having the right to buy or having a lower level of discount.

**The Convener:** The general point that I was attempting to make was that you are asking to diminish the rights of 80,000 tenants on behalf of the client group that you represent. They have existing rights.

**Rosemary Brothie:** Perhaps we need to weigh up again what those rights are. If we want to put it in such terms, we are talking about the right to purchase a home against the right to have a home in the first place. We are clear that the latter takes precedence. Do not forget that homelessness does not only mean rough sleeping: it can mean being in unsuitable or insecure accommodation—accommodation that does not meet the occupier's needs for whatever reason. The needs of the people who are in those housing circumstances are greater than the right of the people who want to exercise their right to purchase.

**David McLetchie:** I want to pursue that. The right to purchase under the modernised right to buy is the right to purchase after five years at a maximum discount of £15,000, is it not?

**Rosemary Brothie:** Yes.

**David McLetchie:** On the level playing field to which Mr Aldridge referred, people who started in the private rented sector can, of course, access some of the Government's low-cost home ownership schemes, such as the shared equity scheme, to get on the housing ladder, can they not?

**Robert Aldridge:** Yes, but so can tenants.

12:15

**David McLetchie:** Is it not the case that the Government pays something like £60 million for low-cost home ownership schemes to encourage people on lower incomes and help them into home ownership?

**Robert Aldridge:** Yes, that is a fine and perfectly legitimate method. However, I do not understand why there should be another form of subsidy to move into house purchase simply because a person happened to fall into a particular form of tenure. If the Government seeks to give people a leg-up into home ownership, it should be equitable help.

**David McLetchie:** But do you not think that it is slightly odd that, on the one hand, we have a policy of spending millions of pounds to give people the opportunity, with substantial Government subsidy and support, to buy a new home under shared equity, yet, on the other hand, we should not allow them to buy the house that they have lived in for five years in their own community at a very modest discount of £15,000? Is that not rather odd, to say the least?

**Rosemary Brotchie:** You refer to the economic cost to the public purse of the discount being £15,000.

**David McLetchie:** Yes. On the one hand, the public purse is shelling out tens of thousands of pounds in subsidised low-cost, home ownership shared equity schemes, and on the other hand, there is a much more modest discount for someone to buy a property at market value. Having one that is much more expensive than the other seems a rather odd way of going about promoting home ownership, if your goal is to promote home ownership for people on lower incomes.

**Rosemary Brotchie:** But we are not suggesting that the economic cost of selling a house through the right to buy is just simply the discount; it is the discount plus the rental income that is lost from that property, against which you can borrow.

**David McLetchie:** No, you cannot. The rental income services the maintenance costs, the management costs and the loan costs of the money that was borrowed to build the property in

the first place. There is not a surplus rental income.

**Rosemary Brotchie:** It is not just the discount. It is—

**David McLetchie:** No, but there is not a surplus rental income.

**The Convener:** Let the witness answer.

**Rosemary Brotchie:** It is the rental income that is lost. There is also the cost of replacing—

**David McLetchie:** No. Excuse me, but the rental income—let us just get this right—is used to pay the maintenance cost, the management cost and the loan cost. There is no surplus rental income to borrow against. Is that correct?

**Rosemary Brotchie:** I accept that point.

**David McLetchie:** Thank you.

**Rosemary Brotchie:** However, I think that my point remains, and that does not detract from what I was trying to say, in that the rental income is lost. You are right in saying that the rental income goes to pay the loan cost. Once the rental income is gone, the loan does not go away—it still has to be serviced.

**David McLetchie:** Excuse me, but can you not repay the loan from the proceeds of right to buy?

**Rosemary Brotchie:** You could, but then the cost is not just the £15,000, is it? It reduces even further.

If I may, I will finish the point that I was making. You also then have to shell out from the public purse to replace the property that has been sold, to meet further housing need that will carry on appearing through the social rented sector, so it is not as simple as saying that there is a straightforward comparison between a discount in the social rented sector and money that is spent on incentive schemes for people to enter low-cost home ownership, potentially from other sectors. There is a much bigger calculation or equation. As Robert Aldridge said, low-cost home ownership schemes are open to people in the social rented sector as well. Arguably, they are a better route into home ownership, because they do not take away much-needed stock from the social rented sector.

**David McLetchie:** I think that we might have to agree to disagree on that. I just think that it is a rather odd situation when you pay more to subsidise people to buy a new house than you give them in a discount to buy the one that they have lived in for years, but obviously we will have to agree to disagree on that point.

**The Convener:** Can we let others on the panel respond, David? They have been anxious to do so.

**David McLetchie:** Yes, by all means.

**Alan Ferguson:** In the context of the current economic climate, it is right that the Government helps people on to the home ownership ladder, if that is what they want. We are probably all concerned about the impact on people on low incomes over the past few years, so Government is right, in my view, to help people through shared equity schemes or whatever else. What is missing in the conversation so far is consideration of whether those tenants are on the preserved right to buy and what level of discount they get.

The average discount in Scotland just now is 55 per cent, but the average discount in England is 25 per cent, and all right-to-buy discounts are capped. My reading of the parties' manifestos for the UK election, including the Conservatives' manifesto, is that they do not propose to do anything in England about the right-to-buy discount. Although the Conservatives' green paper on housing recognises the reduction in the right-to-buy discount in England, it does not propose to redress that.

We are not talking only about the modernised right to buy or the Government's proposals—we must consider the whole right to buy. The Government provides help for people to get into home ownership through shared equity or discounts. The issue is whether the level of discount is right or whether it could be reduced, as has happened elsewhere in the UK. In England, there has been no discussion of a concern about taking away people's rights—the discount in the right to buy has been capped and that has been made retrospective.

**David McLetchie:** That is interesting. I am glad that you have read such a fascinating document as the Conservative manifesto. I encourage many more people to read all those wise policies.

I want to ask you about your manifesto, or at least your report "Reforming the Right to Buy in Scotland: A Capital Investment?" Paragraph 15 of your organisation's written submission states:

"In making reforms to RTB, it must be recognised that landlords use RTB sales receipts to fund capital projects and that projected receipts are factored into future budgets."

You then refer to your report, which demonstrates that. What fall in receipts does that report project, annually or over a particular period, if the bill's reforms are enacted?

**Alan Ferguson:** There are several aspects. There is no doubt that housing organisations and social landlords say that the use of the right to buy

has declined in the past couple of years. That is to do with the economic climate and issues such as access to mortgages and the level of deposit that is required. Our research showed that all local authorities and a significant number of RSLs have been dependent on those sales receipts for other capital works, for example for reprovisioning and providing new housing or meeting the housing quality standard. Many organisations are used to having those capital receipts. When we asked what they would do if they lost them, we received a mixture of responses ranging from, "We don't know yet," through to, "We will have to borrow more," and, "We will have to put up tenants' rents to make up the difference."

The direct answer to the question is that I do not have figures that show what the impact would be. However, our survey showed that all local authorities and most RSLs have depended on those capital receipts.

**David McLetchie:** The Finance Committee report to this committee suggested that the loss of receipts—in respect of council houses rather than RSL stock—would be in the order of £100 million. Do you recognise that figure?

**Alan Ferguson:** Sorry—I do not know.

**David McLetchie:** Is it your evidence that, if the landlords—the councils—do not have access to the receipts from the right to buy, without an alternative source of funding they will have to either defer planned maintenance programmes or put up existing tenants' rents?

**Alan Ferguson:** As I said, when we asked the organisations they told us that they will have to either borrow more—through prudential borrowing for councils or through private finance for RSLs—or change rent levels. Alternatively, they will try to be more effective and efficient or reduce services. There are different ways of dealing with the issue, but it will have an impact.

**David McLetchie:** Have any of those landlords or councils estimated by how much rents will have to go up if the Government abolishes or restricts the right to buy?

**Alan Ferguson:** I am not aware of any evidence to that effect.

**David McLetchie:** But rents will have to go up. That is what you have been told.

**Alan Ferguson:** In some instances, yes.

**David McLetchie:** But nobody has calculated the cost to existing tenants, through rent increases, of abolishing the right to buy. That is an unknown.

**Rosemary Brotchie:** Local authorities have lots of means of funding—

**David McLetchie:** Sorry, I just want to get an answer to this question. To your knowledge, has anyone calculated the increase in rents for existing tenants that will arise if the Government limits the right to buy?

**Rosemary Brothie:** We know that the Scottish Government modelled the impact on investment capacity that would be caused by its proposed changes and by some of the changes that we proposed. The impacts of the reforms were compared in different market scenarios. Those reform packages were shown to have only a marginal impact on the investment capacity of local authorities in comparison with wider changes in the housing market.

Local authorities need to consider a range of scenarios and funding mechanisms to meet their commitments. The thing about right to buy is that local authorities cannot guarantee what sales will be made, so the policy is not a good tool to rely on in forward planning. Quite apart from the fact that local authorities cannot plan for future housing need when they do not know what sales will be made under right to buy, it is difficult for authorities to predict accurately their income from those right-to-buy receipts.

A restriction of right to buy would, through additional rental income, increase the prudential borrowing capacity of certain local authorities. In turn, that would strengthen their financial position. The proposed reforms would achieve an impact over the medium to long term, but there might not be immediate benefits as a result of reducing the right to buy.

**David McLetchie:** However, abolishing or limiting the right to buy will lead to an increase in tenants' rents. Is that correct?

**Alan Ferguson:** I have said that that might well be the case in some instances. A third of organisations that responded said that their business plans were robust, so there would be no impact from changing the right to buy. A third said that there would be an impact but did not quantify it. A further third said that they did not know because they had not thought about the issue at that point. Given that two thirds either did not know or were unclear what they would do, rents might be affected.

**Rosemary Brothie:** However, lots of things affect rents—

**David McLetchie:** Excuse me, Ms Brothie. Would it not be a good idea if the Government did some modelling so that it could tell tenants by how much their rents would increase if the Government's right-to-buy reforms were implemented? Would that not be a reasonable contribution to the debate?

**Rosemary Brothie:** As I said a moment ago, I think that the Government has already done modelling on the impact of its right-to-buy proposals.

**David McLetchie:** But it has not modelled by how much rents will increase.

**Rosemary Brothie:** I think that it is for local authorities to decide their own rent levels, which are determined after taking into account a number of different factors. The one might not necessarily impact on the other, although there could be an impact if local authorities chose to pass on the cost in that way.

**David McLetchie:** I just hope that the tenants federations of Scotland will ask the Scottish Government to do some more modelling so that people know by how much their rents would increase as a result of the Government's proposals. That is an important aspect.

**The Convener:** I do not often get the opportunity to plug "Holyrood" magazine, but the February edition included an article by Professor Steve Wilcox that covers some of the issues that Alan Ferguson mentioned. Basically, Professor Wilcox has found that there is "no economic case" for abolishing the right to buy. He said:

"The idea of abolishing the right to buy going forward has very little if anything to commend it—it's a political choice, fine. But there's no kind of solid economic housing policy rationale behind it".

The proposals in the bill might not have too much of an effect, but we cannot predict how many new houses will be built that will be exempt from the right to buy and, as we have just heard, we cannot predict with any accuracy what the impact will be on tenants, who could face an increase in their rents as a result of people pushing a policy that might, or might not, tackle homelessness and address the lack of available housing. This is a political choice; there are no clear outcomes here at all.

**Rosemary Brothie:** Although the bill will not abolish the right to buy but simply amend the levels of discount and the entitlement to right to buy in certain circumstances, we are quite clear that those changes will help us to meet the homelessness targets by, for example, having an impact on the availability of accommodation. We are not saying that, as soon as those entitlements to right to buy are changed, lots of new lets will suddenly become available. The issue is not as simple as that. However, there will be an impact in the medium to long term. The right to buy has played a part in changing the social housing landscape in Scotland and has made it harder to meet housing need. Addressing the impact of the right to buy is one way of encouraging or enabling

local authorities to meet the housing need in their area.

**The Convener:** Yet again, a lot of work has been done on the ambition of building successful neighbourhoods and on what that might do for your client group, but there has been not a jot of concern about what impact the proposals might have on the rents that are paid by the people who live in those communities.

12:30

**Alan Ferguson:** If you want to get into the rents thing, there are broader issues to consider. At the moment, prudential borrowing by local authorities can lead to an increase in tenants' rents. In certain areas, the provision of new housing has led to an increase in rent for existing tenants. Another issue is the extent to which tenants are informed, consulted and involved. The regional networks of registered tenants organisations have raised concerns with the minister on what the housing revenue account is spent on and on how transparently that money is spent. In some instances—it has ever been thus—local authorities have spent tenants' rent money on things that should be paid for by the council tax or from the general fund. If we are to discuss rent levels, we will need to have a debate about all sorts of things that tenants' rents are paying for and on which we need more transparency. That includes the issue about how restricting the right to buy might reduce local authorities' income and what impact that might have on rents for existing tenants.

**Rosemary Brothie:** I would be happy to provide the committee with more evidence about the impact on rents, if we are able to do that. I will certainly have that discussion to see whether we can provide a better answer to that question.

**John Wilson:** Some of the exchanges on the right to buy have been rather robust. Mr McLetchie and the convener have particular points of view on the economic impact that restricting the right to buy might have on local authorities, but we need to bear in mind who introduced the right-to-buy policy and who carried it forward over the past 30 years.

However, the social impact of the right to buy has not been addressed so far. The previous panel spoke about the restricted housing options that are available to tenants as a result of the right to buy, which has resulted in the better properties—if I may put it in those terms—being sold off or bought by the sitting tenants. The earlier panel also highlighted the concerns of tenants and residents associations about future housing provision if certain aspects of the right to buy are retained. Do members of the panel want to comment on the social impact—both the

previous impact and the future impact—on the communities that have been affected by the right to buy and on what that means for many communities throughout Scotland?

**Rosemary Brothie:** We do not doubt or challenge the point that the right to buy has had an impact in breaking up the monotenure of estates that was seen in Scotland perhaps 10 or 20 years ago. In some cases, the right to buy has enabled individual prosperity. However, it is arguable whether those benefits will continue to have an impact as we move forward. Right to buy has also had a cost for families and other households. In talking about what tenants feel about the right to buy, we should not forget the large number of tenants on housing waiting lists who are waiting to be rehoused in family accommodation, which has often been the first to be sold under the right to buy. Those tenants are sometimes living in situations of overcrowding with no hope of getting suitable accommodation in the next 10 years. As I said, there are also people who are in acute housing need.

The impact of the right to buy has been to reduce the quality and choice of social housing that is available to those who are most in need. Shelter firmly believes that the priority must now be to safeguard the remaining social rented houses for those who are stuck on waiting lists or in temporary accommodation.

**Robert Aldridge:** To return to a point that was made earlier, a key issue is what will happen to RSL housing, which includes some of the most modern, best-quality and larger social housing units that have not yet been sold under the right to buy. If we are to maintain a housing profile that includes semi-detached houses with a front and back garden in reasonable areas—all those things to which tenants aspire—and if such housing is not to be lost to the renting pool in the longer term, it is really important that we restrict the right to buy for such properties.

**Alan Ferguson:** Access to larger properties for families or others is an issue. For example, in Glasgow, there is no large family accommodation left—it is not available. It is even very difficult to buy houses in the private sector, because flats seem to be all that we build. There is a real issue about access to housing for families with a number of children.

As I am sure that the committee is aware, there is also an issue about regeneration. We have spent a lot of money, time, effort and energy trying to regenerate communities, but that is really difficult to do. We have benefited from having multitenure, but that has a downside for trying to regenerate areas. We find that tenants in some areas do not get their houses improved, because the owners will not provide resources. In other

cases, tenants' rents have to pay for improvements for owners. There is an issue about how we regenerate properly when there is mixed tenure.

That takes us to the broader issue of the responsibility of owners, in the traditional sector or through the right to buy, for long-term maintenance of the property. For tenement property with four in a block and semi-detached property, getting owners to take responsibility is an issue, which is made worse in regeneration areas where there has been the right to buy.

The right to buy has had quite a profound impact in all sorts of ways, notwithstanding the fact that many people have benefited from it.

**John Wilson:** I think that my next point will develop one of Alan Ferguson's points. Problems and issues are encountered in housing management. We heard from the earlier panel that housing officers in East Lothian do follow-up visits for new tenancies six weeks after the tenant has moved in, in order to advise people of their rights and responsibilities with regard to their tenancy.

Over a number of years, we have failed to deliver on follow-through work in housing management to ensure that the tenancies that have been granted are being adhered to. We heard about the example of a 20-year-old being moved into a four-in-a-block tenement with three elderly neighbours round about, the tenancy breaking down and the situation ending up with the dispersal of the three elderly people. The management issues that tenancies can create are not dealt with, nor are the problems that tenants identify and take to their landlord, whether that is the local authority, an RSL or a landlord in the private rented sector, to which Mr Ferguson alluded. For example, a landlord can purchase a house and let it to undesirable individuals without checking the tenants, monitoring the tenancy or trying to control the behaviour of those who live in the house.

The bill does not address such issues. However, perhaps the charter could say to landlords that they have a duty and responsibility not only to work with tenants, but to ensure that they provide management services that are more than adequate—almost perfect—to ensure that we do not see the breakdown and disintegration of tenancies in communities that we have seen over the past 30 years.

Does the panel wish to comment?

**Robert Aldridge:** There is a lot of good practice out there. Some local authorities and RSLs are doing precisely what you recommend, and it is important that we encourage those who are perhaps not as good to come up to that standard.

You have raised a point in my mind. Something has happened partly as a result of the right to buy. People have bought or inherited properties in traditional council areas, become amateur private landlords and let out their properties without having the experience or skills to manage them. Probably all members have come across inexperienced landlords who have let out properties to people whom they cannot manage. If a property is within the control of a local authority or an RSL, professional management experience is available and there is the possibility of getting support. If an amateur landlord who has no experience of or skill in managing private lets is involved, that can be disturbing to the local community. I know that that issue has been raised in the past, but it may be for another bill to address.

**Alan Ferguson:** John Wilson's starting point was to do with support and follow-up visits to people in properties. There should be pre-tenancy agreements, and information, advice and support should be available at that point. Many organisations should be involved. Robert Aldridge mentioned good practice. Many organisations provide welcome packs. A problem for many tenants, particularly young tenants, is that they do not have furniture. Packages on the availability of furniture could be provided, or at least there could be signposting to where people can get furniture. John Wilson is right: follow-up work should then be done. Some organisations follow things up, but more could do so, although resources may be an issue. We should try to encourage such work.

Robert Aldridge made the point that there is a growing issue with the private rented sector. Whether we are talking about the traditional private rented sector or the private rented sector in areas that used to be council house areas, there is a problem with private landlords being unable, or unwilling, to deal with antisocial behaviour. The registration of private landlords was supposed to help with that, but it is clear that that is not working. Govanhill is one example in that context. It is not just about overcrowding; it is about how to drive up standards of service and quality.

In house condition surveys, the private rented sector still has the worst-quality houses. The sector is mixed and there are some very good landlords, but there is no doubt that we need to improve it. It is not just about the charter; it is about whether there should be legislation to regulate the sector. We do not want to frighten off the sector, which has a crucial role, but we want to drive up standards. Where is the discussion about that? Where is the discussion about letting agents and property managers and how we accredit or regulate them? An important discussion that we need to have is on how we can improve things in the private rented sector.

**Rosemary Brothie:** Alan Ferguson mentioned landlord registration. Under the Antisocial Behaviour etc (Scotland) Act 2004, local authorities have powers to encourage or force landlords to deal with tenants who commit antisocial behaviour. The landlord registration process is due to be reviewed this year. The committee has already heard views from other witnesses on landlord registration. For us, a key part of the review is how local authorities are enforcing provisions. Is the objective that was set to drive out rogue landlords or landlords who are not conducting themselves as they should be and not managing their tenancies appropriately being met?

**John Wilson:** I look forward to Ms Brothie's response on the allocations that are taking place through RSLs and local authorities. There is a perception that 80 per cent of allocations are to people on homelessness waiting lists, and it will be interesting to see what evidence there is to support that. It is clear that a perception-versus-reality check must take place on how we are moving towards the 2012 target of eradicating homelessness. It will be interesting to see the figures on how RSLs and local authorities are meeting the targets.

12:45

**Bob Doris:** My question relates to the right to buy. I indicate qualified acceptance of some of Mr McLetchie's comments on lost capital receipts. However, his approach towards the affair was not balanced as it moved towards being alarmist about rent levels. Mr Wilson was keen to redress that balance slightly, and I hope to do that further.

Is there an economic cost to the overcrowding and homelessness that are created when, through the right to buy, homes are lost from the overall pool of houses that tenants in the social rented sector can use? I am thinking of factors such as poorer educational attainment for children, antisocial behaviour within housing estates, the quality of life for many communities and health outcomes. If we are going to put an economic poundage on the move to end the right to buy, is there a yin and yang? Is there another side of the fence? Is there an economic reason to say that having a greater pool of houses would create better outcomes for communities and could save society money?

**Rosemary Brothie:** We are all nodding in agreement. It is difficult to quantify such matters in economic terms, as I am sure you are aware. It is not as simple as making a straightforward calculation and those things are not comparable. However, as I am sure everybody acknowledges, we are considering the rights of individuals and their rent levels—although I am not absolutely

certain that that is a key issue, as you said—versus the wider issues, such as what social housing is for and the needs of people who are in acute housing need just now. I refer to those who are on housing waiting lists with no hope of having their housing needs met. Through not only the reforms that are in the bill but the suggestions that we make to strengthen them, we are trying to address some of those needs and retain a common pool of social housing.

**Bob Doris:** I saw nodding heads there, so I will go on to my next question. I put it to the witnesses that the right to buy did not create mixed communities as much as we would like to think it did. In my experience, in areas of society that were already economically active and which had a high standard of housing within the social rented sector, people simply bought their houses because they had the right to. There was no great churn within the system to create mixed communities; the same people stayed in the same houses and we did not get the social dynamic that we were led to believe we would get.

I mention that to lead on to the idea of pushing the bill further and possibly not implementing the right to buy for the 80,000 housing association tenants. Is there a fear that, if a sizeable amount of the good-quality housing association properties were to go, it would create further stagnation within the social rented sector? In other words, it could damage the housing aspiration that there used to be within the sector and accelerate the ghettoisation of those who were left in social rented houses. The best way to bring about mixed communities might be to maximise the pool of houses in the social rented sector. It is a difficult challenge for the committee and the Scottish Government, but do the witnesses feel that the retention of those 80,000 houses would help us to develop balanced communities?

**Robert Aldridge:** In general, yes. However, it is horses for courses in different communities. It is really important that an examination of the sale of social rented housing should form part of the discussions around the local housing strategy to determine whether there are areas in which there have traditionally been large, monotenure estates that perhaps need to be broken up.

We must consider each area individually. There may be issues in particular rural areas that need to be dealt with differently. It is important that local authorities draw up local housing strategies with their partners and that they decide where the housing would be sold on the basis of those strategies rather than the blunt instrument of extending the right to buy to all RSL tenants who are not in charitable housing associations.

**Bob Doris:** That theory is interesting. Would you support that rather than the Scottish

Government using a big stick and legislating to say that the right to buy cannot be exercised for 80,000 homes? If local authorities, in conjunction with their partners, could decide in their next local housing plans whether it was suitable for the right to buy to apply, would that be a halfway house or a reasonable local solution?

**Rosemary Brothie:** The powers that local authorities have under pressured area status provisions and the extensions that the bill makes to those powers will enable them to plan much more effectively. Our proposal to move everybody on to the modernised right to buy would enhance the position further. At present, pressured area status covers only people who have the modernised right to buy. Many people in Scotland still have preserved or existing terms, which pressured area status does not cover. I agree with what Robert Aldridge said about local authorities' ability to plan strategically to meet housing need and to use the tools that they have.

**Alan Ferguson:** We return to an issue that the committee covered earlier and in previous discussions—a right to sell, or the ability of local authorities to sell. When a local authority as a strategic body develops its local housing strategy, it considers need, demand and housing markets in its area and it should be able to make the decisions. The delegation to local authorities of decisions on pressured area status is an example of that.

Local authorities could decide that they want in some areas to encourage people to buy their property and that they want to sell their property. They might decide that, in other areas, the right to buy does not apply and they do not want to encourage people to buy, because of shortages or because the properties are new. Local housing strategies come into that. The approach can be more strategic than it is at present. As Rosemary Brothie said, that is not strategic. It could be more strategic if local authorities could determine where they want to sell properties and perhaps the discounts that they want in such areas.

**Bob Doris:** That is helpful.

**The Convener:** I ask for clarification. Bob Doris has talked about abolishing the right to buy, but the bill will not abolish it. In fact, the witnesses' view is that the bill as it stands will have little or no impact—or would it have a big impact?

**Rosemary Brothie:** The Scottish Government has calculated the impact that the proposals would have—they would reduce sales by 21 per cent.

**The Convener:** In general terms and according to academic study, the bill will have little or no impact—it misses the point. I return to the point that was made by Mr Ferguson and you that, to have an effect and to save the houses that are

apparently being lost—that is somebody else's emphasis and not mine—a cap on the discount would be more effective. Alternatively, one proposal—you have made it—is giving everybody the modernised right to buy, which equals a cap, because big gains could be made, and suspending the right to buy for the 80,000 people who might assume a right in 2012 to do so. The bill does not propose to abolish the right to buy; it tinkers with it and does not deal with the real issues.

**Robert Aldridge:** I disagree with that conclusion.

**The Convener:** You made the case for the other actions.

**Robert Aldridge:** We very much support the suggestions that you described. We have all said that the impact will not be immediate, but the renting pool will be maintained over the medium to long term, which will be significant. We have all said that passing the bill this year will not suddenly extend the number of lets in the social rented sector the following year, but it will mean that a broader range of social rented housing is available in the future for tenants to use and that a broader range is available to deal with people who are in need.

**Rosemary Brothie:** The bill will increase the number of lets that are available and it will enable local authorities to plan more strategically to meet housing need in their areas, which is just as important.

**Alan Ferguson:** There is no doubt that we are left with a confusing landscape of people with all different rights and discounts. We are not abolishing the right to buy—we are saying that no right to buy will apply to some properties and some tenants but that others will have the modernised right to buy and that, unless a change is made, many others will have the preserved right to buy. The picture is mixed.

**The Convener:** But if we were serious about providing homes for the future for tenants in need, we would abolish the right to buy or cap the discount, or put everyone on the modernised right to buy or suspend the right to buy forthwith for housing association tenants—that would be a serious way to tackle the issue.

**Alan Ferguson:** If the outcome or principle was—

**The Convener:** Is that not what you want?

**Alan Ferguson:** We want to retain as many properties as possible. As you said earlier, the decision on how far we go to ensure that we can do that is political. The ways that you outlined are certainly ways of trying to move forward and to maintain as many properties as possible. The

issue is whether that would be politically acceptable.

**Mary Mulligan:** I have a brief final question. From written evidence, I noted comments on cyclical inspections and a landlord's right to discuss decisions as they are made or to appeal them. In evidence to the committee, the Convention of Scottish Local Authorities said that local authority housing should not come under the Scottish Housing Regulator. What are the witnesses' views on that?

**Alan Ferguson:** Do you want a yes or no?

**Mary Mulligan:** If possible.

**Alan Ferguson:** Local authority housing should be regulated by the Scottish Housing Regulator. I think that that is the view of many of our members who work in local authorities and, indeed, the view of tenants.

**Robert Aldridge:** I agree. On the point about cyclical inspections, it is important that there is at least one further round of homelessness inspections as we approach 2012. There was an initial round, in which most local authority homelessness services performed a lot worse than their housing management services did. If we are to make the policy work, it is important to carry on the inspections to ensure that the support exists to ensure that the 2012 target is met and that the work continues beyond that.

**Rosemary Brothie:** COSLA's argument is for breadth, whereas we want to see depth in inquiries and investigations, particularly those on homelessness services. In the initial homelessness inspections, which were baseline inspections, local authority homelessness services scored very low. We want to see continued emphasis on ensuring that those services are brought up to a much higher standard.

**Mary Mulligan:** Just to reassure you, we have taken on board the points that you made in written evidence.

**The Convener:** That concludes our question session. I offer sincere appreciation to the witnesses. In giving evidence, you have engaged with the committee in a frank, honest and robust way, which has been greatly appreciated and has made for a very interesting session. I thank you all for your attendance and for your evidence.

12:58

*Meeting continued in private until 13:21.*

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