The Scottish Parliament
Pàrlamaid na h-Alba

Official Report

INFRASTRUCTURE AND CAPITAL INVESTMENT COMMITTEE

Wednesday 14 May 2014

Session 4

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INFRASTRUCTURE AND CAPITAL INVESTMENT COMMITTEE
14th Meeting 2014, Session 4

CONVENER

*Maureen Watt (Aberdeen South and North Kincardine) (SNP)

DEPUTY CONVENER

*Adam Ingram (Carrick, Cumnock and Doon Valley) (SNP)

COMMITTEE MEMBERS

*Jim Eadie (Edinburgh Southern) (SNP)
*Mary Fee (West Scotland) (Lab)
*Mark Griffin (Central Scotland) (Lab)
*Alex Johnstone (North East Scotland) (Con)
*Gordon MacDonald (Edinburgh Pentlands) (SNP)

*attended

THE FOLLOWING ALSO PARTICIPATED:

Jackie Baillie (Dumbarton) (Lab)
Claudia Beamish (South Scotland) (Lab)
Margaret Burgess (Minister for Housing and Welfare)
Bob Doris (Glasgow) (SNP)
Patrick Harvie (Glasgow) (Green)
Jim Hume (South Scotland) (LD)
James Kelly (Rutherglen) (Lab)
John Lamont (Ettrick, Roxburgh and Berwickshire) (Con)
Drew Smith (Glasgow) (Lab)

CLERK TO THE COMMITTEE

Steve Farrell

LOCATION

The David Livingstone Room (CR6)

Scottish Parliament

Infrastructure and Capital Investment Committee

Wednesday 14 May 2014

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

Decision on Taking Business in Private

The Convener (Maureen Watt): Good morning everyone and welcome to the 14th meeting in 2014 of the Infrastructure and Capital Investment Committee. I remind everybody to switch of all their mobile devices as they affect the broadcasting system. Some members might be using their tablets to consult papers, however, so I hope that that is okay.

Agenda item 1 is a decision on whether to take business in private. I seek the committee's agreement to take in private agenda item 3, which is consideration of our approach to a review of progress on implementation of the 2012 homelessness commitment. Is that agreed?

Members *indicated agreement.*

Housing (Scotland) Bill: Stage 2

10:02

The Convener: Agenda item 2 is the Housing (Scotland) Bill. Today we are starting stage 2 of the bill and will go no further than the end of part 3. I remind members that the minister's officials are here in a strictly supportive capacity and cannot speak during proceedings or be questioned by members.

Everyone should have a copy of the bill as introduced, the first marshalled list of amendments and the first groupings of amendments. There will be one debate on each group of amendments. I will call the member who lodged the first amendment in the group to speak to and move the amendment, and to speak to all other amendments in the group. I will then call the other members who have amendments in the group. Finally, the member who lodged the first amendment in the group will be asked to wind up the debate and to indicate whether they wish to press or withdraw their amendment. Members who have not lodged amendments in the group but who wish to speak should catch my attention in the usual way.

If a member wishes to withdraw their amendment after it has been moved, I must ask whether any member objects to its being withdrawn. If a member objects, the committee immediately moves to a vote on the amendment. If a member does not want to move their amendment when it is called, they should say, "Not moved." Any other MSP can move it, but I will not specifically invite other members to do so. If no one moves it, I will call the next amendment.

The committee is required to indicate formally that it has considered and agreed each section and schedule of the bill, so I will put a question on each section at the appropriate point.

Section 1—Abolition of the right to buy

The Convener: The first group of amendments is on the abolition of the right to buy. Amendment 12, in the name of Alex Johnstone, is grouped with amendments 13 and 42 to 45. I draw members' attention to the pre-emption and direct alternatives information on the list of groupings.

Alex Johnstone (North East Scotland) (Con): The right to buy has been one of the most significant drivers for positive social change in Scotland in the past 50 years. Over much of Scotland, it has created mixed-tenure sustainable communities of which we can all be proud.

The policy's positive aspects are widespread. As I suggested in a recent debate, they include the

opportunity for some of the less well-off people in society to acquire wealth. We should all encourage property ownership, and the right to buy has had a role in that.

The right to buy has had its opponents; many housing organisations continue to this day to oppose it. The presence of section 1 indicates the success of that campaign.

If we look at the right to buy in recent years, it becomes fairly obvious that the policy has been withering on the vine because of neglect by successive Scottish Governments. In the last full year for which we have figures, only just over 1,500 houses were sold to their tenants. The vast majority of them—nearly 1,200—were sold to long-standing tenants who have the residual right to buy and not the modernised right to buy that we have had for the past 10 years or more.

Abolition of the right to buy will simply cause a feeding frenzy in the market; it will give all those who have the right today but are about to lose it an opportunity to decide whether to buy their homes. It suits my political perspective to encourage people to buy their properties, but the decision to include abolition of the right in the bill can only be counterproductive for the Government's policy intention. For that reason, it would serve my purpose and that of the Government if it did not move to abolish the right to buy at this time.

The main issue that amendments 42 to 44 concern is the suggestion that the three-year time limit in the bill should be shortened. It is important to provide a period for those who have the right to buy to decide whether to exercise that right. In all honesty, I believe that the minister's proposed reduction from three to two years will have no significant effect. However, it is part of a trend, and that proposal appears alongside an amendment that proposes to reduce the period from three years to one year, which would give me significantly greater cause for concern. Based on that principle, I oppose amendments 43 and 44.

Amendment 42, in my name, would remove the time limit altogether. The amendment stands along with my amendments 12 and 13. If amendments 12 and 13 are not agreed to, I will not move amendment 42.

I move amendment 12.

The Minister for Housing and Welfare (Margaret Burgess): The Scottish Government's policy is to end the right to buy. The majority of the committee supports that policy, and I am grateful for that support.

Ending the right to buy will preserve valuable social housing, increase choice for tenants and people who are on waiting lists, and it will help to make social housing a vital part of vibrant mixed-tenure communities in which people want to live. Again and again, stakeholders have told us that they support our policy and tenants have told us of the damaging impact that the right to buy has had on the social housing sector. Social landlords have told us that ending the right to buy will help them with planning and stock management.

However, in the face of all that evidence, Mr Johnstone continues to call for this outdated and unpopular policy to continue. I understand his party's historical attachment to the right to buy, but even he must surely accept that there is no longer a place for it in Scotland.

The Scottish Government has a number of other schemes to support and encourage home ownership and low-cost home ownership, and to help those who are on low incomes to get on to the housing ladder, so there is no place for the right to buy. I ask Mr Johnstone to seek to withdraw amendment 12 and not to move amendments 42 and 45.

Amendment 13 seeks to remove a provision that has nothing to do with the right to buy. Section 2 simply tidies up and clarifies two provisions that were amended by the Housing (Scotland) Act 2010 and which might have been open to misrepresentation. The bill seeks to clarify those until the right to buy ends. One of the provisions makes it clear that the right to buy of tenants who are moving to new-supply homes in circumstances that are outwith their control will be protected. That is something with which I would expect Mr Johnstone to agree. The other simply makes it clear that the new tenancy exemption in the 2010 act applies to anyone who might have been living in social housing before the cut-off, but was not a tenant. We want to end the right to buy. However, while it is still in place, it is important that we clarify the legislation in those two areas. Alex Johnstone's amendment 13 would prevent that, so I invite him not to move it.

On amendment 43, in my name, I share the wish of the committee and stakeholders to end as soon as possible the sale of social rented homes. However, I believe that tenants who have a right to buy that they are allowed to exercise should have a fair and reasonable opportunity to do so. European convention on human rights considerations are important, but I am also thinking about the impact of the notice period on tenants. It is important that tenants have time to read the guidance that the Scottish Government will produce, to consider their options and to obtain reputable financial advice. That is less likely to happen if tenants feel that they are being rushed into buying. Taking those factors into account, I believe that a minimum notice period of two years is fair and reasonable. Accordingly, I ask the committee to support amendment 43.

For reasons that I have already mentioned, I oppose Mary Fee's amendment 44, which would reduce the notice period to one year. I know that the amendment reflects what was in the committee's report and the views of many stakeholders who gave evidence to the committee. However, I want to start protecting social rented housing stock as soon as is reasonable. That is why I have lodged amendment 43, which will reduce the notice period from three years to two.

However, there are other things to consider. As I have already said, tenants have to be given a fair and reasonable opportunity to exercise their right to buy before it ends. ECHR considerations are important, but are not the only factor. I simply do not consider that one year is fair to tenants. I do not want tenants to rush into doing something that they cannot afford and which is not right for them. I think that there would be a real risk of that, if the period were reduced to one year. I do not believe that a shorter notice period will necessarily stop more houses being sold; it is more likely that there would be a marked spike in sales in one year than there would be in two.

For the reasons that I have outlined, I cannot support amendment 44.

Mary Fee (West Scotland) (Lab): Amendment 44, in my name, would amend section 85 and would abolish the right to buy in one year. Much of what I was going to say about abolition of the right to buy has been said. The right to buy's time has come; we need to remove it. By seeking to reduce the timeframe for that removal to a year, my amendment reflects the evidence that we heard in committee, and it reflects the majority recommendation of the committee in its report.

Unfortunately, I do not support Alex Johnstone's amendments 12, 13, 42 and 45. They would delete part 1 and thereby retain the right to buy.

As the minister has just explained, amendment 43 would reduce the time period for abolition of the right to buy from three years to two. Although I have sympathy with what she said, people who have the right to buy have known for a considerable time that they have it. I do not believe that shortening the period to one year will necessarily mean that people will be under pressure, or will be victimised or taken advantage of in any way. I think that one year is an adequate timeframe for people to read the guidance, get advice and come to a conclusion about whether buying is right for them. I cannot support the minister's amendment 43. I am disappointed that the minister did not agree with the recommendation of the committee, which—after we had heard a considerable amount of evidence—was for a period of two years. I will be moving amendment 44.

10:15

Alex Johnstone: The purpose of my amendments in this group is to remove completely from the bill reference to the right to buy and, in particular, to remove completely part 1 of the bill. Amendment 12 is the key amendment, on which the issue will hinge. As a consequence, I press the amendment.

The Convener: The question is, that amendment 12 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Johnstone, Alex (North East Scotland) (Con)

Against

Eadie, Jim (Edinburgh Southern) (SNP)
Fee, Mary (West Scotland) (Lab)
Griffin, Mark (Central Scotland) (Lab)
Ingram, Adam (Carrick, Cumnock and Doon Valley) (SNP)
MacDonald, Gordon (Edinburgh Pentlands) (SNP)
Watt, Maureen (Aberdeen South and North Kincardine) (SNP)

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

Amendment 12 disagreed to.

Section 1 agreed to.

Section 2—Amendment of right to buy provisions

Amendment 13 not moved.

Section 2 agreed to.

Section 3—Reasonable preference in allocation of social housing

The Convener: The next group is on reasonable preference in the allocation of social housing. Amendment 14, in the name of the minister, is grouped with amendments 1, 46 and 2.

Margaret Burgess: I want social landlords to be able to manage their stock effectively and to house tenants in the most appropriate size of property. I want tenants in social housing to be able to move to properties that suit their needs, and which they can afford. Amendment 14 will extend the existing provision in the bill so that social landlords must, when they are allocating houses, give reasonable preference to the tenants of any social landlord—not just their own—that they consider to be underoccupying, when they are allocating housing. I believe that amendment 14 will improve the provision in section 3 and will give landlords more flexibility to manage their valuable housing resources to meet tenants' needs better.

Amendment 1 was lodged by John Lamont. I recognise that social housing is a valuable resource and that many communities and social landlords want to take local connection into account in the allocation of social housing. However, social landlords can already take local connection into account, and some landlords are already doing so. Landlords can take account of the fact that a person lives in a particular area and can give priority to local people. Amendment 1 would make it a requirement for social landlords to give reasonable preference to applicants with a local connection. I would prefer that landlords had the flexibility—as is the case at the moment—to take local connection into account if they consider it to be right for their area.

I am concerned that amendment 1 does not take housing need into account, so that landlords could be required to give reasonable preference to applicants who had a local connection but who did not have housing need. That does not fit in with our approach, which is that need should be the key factor in allocating social housing.

Amendment 46, in the name of Jackie Baillie, would remove the definition of "unmet housing needs" that section 3 currently provides, and would instead require that the circumstances for unmet housing needs be prescribed in guidance. The definition makes it clear that a person has unmet need if a social landlord concludes that they cannot meet their housing needs through the options that are available to them—in effect, that the person requires the assistance of the landlord to meet their needs adequately. Having the definition set out in the bill clearly establishes that allocations should focus on addressing cases of unmet need, and that a landlord's "reasonable preference" categories should give priority to that. Without the definition, we would be relying solely on regulations to achieve the same effect. In my view, that would be a weaker and less robust approach.

I am aware that some stakeholders have asked for further explanation of what is meant by "unmet housing needs". We will issue guidance on priority for allocations, and interpretation of "unmet housing needs" will be covered in that guidance. The guidance will be developed in consultation with stakeholders.

I do not want to pre-empt the guidance, but I will say that as a general principle I expect landlords, in considering whether there are unmet housing needs, to consider alternative housing options in their areas, and whether such options are accessible to the applicant. That might include consideration of whether the applicant's needs could be met in their current property if suitable adaptations were made. I therefore think that the definition of "unmet housing needs" should remain in the bill, with further explanation in guidance.

Amendment 2 would allow landlords to take account of the length of time for which an applicant has been resident in an area, when allocating social housing. I have concerns about the approach. It could disadvantage applicants who have not lived in an area for long but who have a housing need. In addition, we have not consulted on such a proposal. I understand the motivation behind the amendment, which is that it should be possible for landlords to consider local connection and the housing needs of local people, but such consideration should be balanced with consideration of the needs of all applicants.

As I said, landlords can take account of local connection and give priority to local people, and they can consider how long an applicant has been on the housing list. Overall, therefore, the current arrangements have sufficient flexibility to enable landlords to take local connection into account, so the approach in amendment 1 is not the right way forward. I invite Mr Lamont and Ms Baillie not to move amendments 1, 2 and 46; if they do so, I invite the committee to reject all three amendments. I ask the committee to support amendment 14.

I move amendment 14.

John Lamont (Ettrick, Roxburgh and Berwickshire) (Con): I will speak to amendments 1 and 2, in my name. One of the biggest issues that concern my constituents is frustration that local people cannot always secure social housing in their own communities. People are often forced to apply for and take housing in some of the larger settlements in the Borders, which might be several miles from the rest of their family and community, as well as being some distance from their place of work. Such an approach is not consistent with local housing associations' aim to encourage a cohesive community. A few miles might not sound like a lot, but it is important to recognise that it can be a significant distance in a rural community such as the Borders.

The purpose of amendment 1, therefore, is to enable social landlords to give extra priority to applicants who have a local connection. I am not saying that having a local connection should be a trump card that overrules all other considerations. Of course applicants who are homeless or have medical needs should have priority. However, where all else is equal, a local connection should be taken into account.

Amendment 1 might have the greatest impact in rural communities such as those in my constituency, but I can see that it would also have a considerable impact in more urban areas and cities. In many ethnic minority communities people

want to live close to family and other members of their community, and amendment 1 would enable social landlords to accommodate such considerations.

I accept that the concept of "local" is different in each part of Scotland. What is local in the Borders will be completely different from what is local in Glasgow and other cities. Amendment 1 would therefore give social landlords discretion about how they define "particular connection", to meet their needs. In rural areas such as the Borders, the local area might be a particular town or village, whereas in a city it might be a particular street—it might be even more specific.

Amendment 2 would simply clarify and confirm the intentions behind amendment 1.

All political parties have paid lip service to the notion of supporting a local housing allocations policy. Indeed, the Labour Party said in its 2011 manifesto that it wanted to reform the allocations system to ensure that

"sufficient weight is given to meeting the needs of local people."

I hope that the committee will support amendments 1 and 2.

Jackie Baillie (Dumbarton) (Lab): I welcome the opportunity to speak at this meeting. Amendment 46 is supported by Homeless Action Scotland, Shelter Scotland, the Legal Services Agency, Scottish Churches Housing Action and Crisis.

Members know that I am always keen to get principles into the bill itself, but in this context there might be an issue with doing that, which I will explain. Amendment 46 would place a requirement on the Scottish ministers to include a definition of "unmet housing needs" in guidance and would remove the definition from the bill. I accept much of what the minister has said, and I will come on to that, but let me first set out why we lodged amendment 46.

There is a fear that, despite the minister's best intentions, section 3 will undermine the role of social housing—I know that that is not at all her intention. I recognise and welcome housing options and the approach that is being taken, but we need to reflect, to ensure that we have got it absolutely right.

Proposed new subsection (1ZB) of section 20 of the Housing (Scotland) Act 1987 defines "unmet housing needs" as those

"which are not capable of being met by housing options which are available."

That almost seems to suggest that social housing should be considered as a last resort once all other options are exhausted and that the role of social housing is somehow residual and as welfare housing. That approach, as the minister will know, is increasingly being taken in England. We would not want that approach in Scotland, which has a strong tradition of considering social housing as having a broad role in meeting housing needs. I am sure that the minister will agree with me on that.

Another concern is that the whole issue of reasonable preference appears to rest with the decision of each social landlord on whether someone's housing needs could have been met elsewhere. It is slightly vague and it is definitely subjective with regard to how the assessment would be made, at what point it would be made, and how social landlords would be held to account if it was felt that they were not giving appropriate priority to allocating properties to persons in housing need.

There is some genuine concern about that approach, although we recognise that the intentions behind it are probably good. Having unmet housing needs defined in guidance would remove from social landlords the burden of making subjective decisions and would ensure consistency—or a degree of it—across the country, which I am sure the minister agrees would be desirable. Amendment 46 protects the role of social housing as one viable option and goes on to link allocation policies far more to strategic housing priorities.

Having said all that, I very much welcome the minister's comments. Like her, we are keen to keep a balance and to get it absolutely right. I would be content not to move amendment 46, subject to a commitment to continuing dialogue with the minister before stage 3 to ensure that the guidance truly does reflect those concerns. Failing that, I can, of course, bring back an amendment at stage 3.

Alex Johnstone: I am speaking in favour of amendments 1 and 2. John Lamont has described his experience in the Borders and other areas of Scotland are affected by similar pressures, which sometimes manifest themselves in slightly different forms. My experience in the north-east is that my postbag often contains communications from people who have been allocated housing in a neighbouring town, which may be 10 miles away and may be in the catchment area for a different secondary school. With poor public transport, such a move often threatens the opportunity for individuals to maintain employment, which is a particular difficulty.

Another very specific difficulty, which has been brought to my attention on many occasions, is the housing pressures that exist in villages in the national park area, for example. There have been a number of examples of people from Ballater—

people who have been born and brought up in that community—who find the housing pressure so great that it is impossible for them to be allocated social housing in that area or anywhere near it. As a result, cohesive communities can begin to break down as young people are driven out of an area because of the inability to provide housing locally.

The subject that John Lamont has raised is one that needs to be addressed in greater detail. Amendments 1 and 2 would be a significant step towards allowing us to take that consideration into account.

Margaret Burgess: I am not dismissing amendments 1 and 2, in the name of John Lamont, out of hand—I am sympathetic—but I believe that social landlords can already take local connection into account when allocating housing. We are also concerned that amendment 1 does not require the applicant to have unmet housing needs. That cuts across the clear intention that housing need should be the priority in the allocation of social housing. The existing Scottish Government guidance sets out how a landlord can take into account residency and local connection when making housing allocations and we will revise that guidance to clarify that point further.

On amendment 46, in my view, having the definition of "unmet housing needs" on the face of the bill establishes clearly that landlords should focus on cases of unmet need. I understand what Jackie Baillie said about ensuring that that is not abused and that we do not look on social housing as welfare housing. We are certainly not looking to what is happening with social housing in other parts of the United Kingdom.

10:30

Having the definition in the bill should give landlords some flexibility, which I think they require to have, on who should have priority for housing. They should continue to focus on housing need to target those in the reasonable preference categories and those who are unable to access alternative housing solutions and to enable tenants to downsize. However, I am willing to work with Jackie Baillie before stage 3 to ensure that she is satisfied that what we put in the guidance will cover what amendment 46 seeks.

Amendment 14 agreed to.

Amendment 1 moved—[John Lamont].

The Convener: The question is, that amendment 1 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Johnstone, Alex (North East Scotland) (Con)

Against

Eadie, Jim (Edinburgh Southern) (SNP)
Fee, Mary (West Scotland) (Lab)
Griffin, Mark (Central Scotland) (Lab)
Ingram, Adam (Carrick, Cumnock and Doon Valley) (SNP)
MacDonald, Gordon (Edinburgh Pentlands) (SNP)
Watt, Maureen (Aberdeen South and North Kincardine) (SNP)

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

Amendment 1 disagreed to.

Amendment 46 not moved.

Amendment 2 moved—[John Lamont].

The Convener: The question is, that amendment 2 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Johnstone, Alex (North East Scotland) (Con)

Against

Eadie, Jim (Edinburgh Southern) (SNP)
Fee, Mary (West Scotland) (Lab)
Griffin, Mark (Central Scotland) (Lab)
Ingram, Adam (Carrick, Cumnock and Doon Valley) (SNP)
MacDonald, Gordon (Edinburgh Pentlands) (SNP)
Watt, Maureen (Aberdeen South and North Kincardine) (SNP)

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

Amendment 2 disagreed to.

Section 3, as amended, agreed to.

Section 4—Rules on priority of allocation of housing: consultation

The Convener: The next group is on guidance published by the Scottish ministers on social housing matters. Amendment 15, in the name of the minister, is grouped with amendments 17, 19 and 28.

Margaret Burgess: I will begin by speaking to an aspect of all four amendments. I am happy to accept the Delegated Powers and Law Reform Committee's recommendation, which was endorsed by this committee, that the guidance that is issued under the powers conferred by sections 4, 7 and 8 should be consulted on and published. That recommendation is included in amendments 15, 17 and 19. Amendment 28 also includes a requirement to consult on and publish the guidance that is issued under section 15, to ensure consistency in the way in which guidance is issued.

I have noted the committee's and stakeholders' recommendation that clear guidance should be published on section 7 of the bill, which relates to

suspending an applicant from receiving an offer of housing. I am happy to accept that recommendation, and amendment 17 extends the power to issue guidance on suspensions so that a wider range of issues can be covered.

Along with the requirement to consult on and publish guidance, amendment 19 does two additional things. First, it requires that the housing support services that the landlord considers appropriate are provided for tenants with the new short Scottish secure tenancy for antisocial behaviour. That is consistent with the requirements at present for other short Scottish secure tenancies on antisocial behaviour grounds. The requirement to provide support services is intended to enable the short tenancy to be converted to a Scottish secure tenancy at the end of 12 months.

Secondly, amendment 19 ensures that the statutory guidance on the new short Scottish secure tenancy covers all the actions that a landlord can take around this type of tenancy; for example, there will be guidance on landlords' powers to extend the term of this type of tenancy for a further six months. That will help to ensure that the necessary checks and balances are in place and that there is clarity about how the process should operate.

Amendment 28 introduces a power for the Scottish ministers to consult on and publish statutory guidance on recovering possession of a tenancy under the new simplified eviction process. The committee recommended in its stage 1 report that the guidance on the implementation of this measure include an emphasis on the importance of balancing the rights of both tenants and landlords and that it provide clarity on the types of conviction that might lead to an eviction. Social landlords should use the new simplified eviction process only where a tenant or a member of their household has been convicted of serious antisocial or criminal behaviour in the locality of a tenancy. The new simplified eviction process is not intended to be used where a tenant or a member of their household has been convicted of a minor offence that has not caused any harm to the community. The amendment will allow the Government to address the committee's recommendation on what should be included in guidance and will help to ensure that tenants have additional protection against inappropriate eviction.

I move amendment 15 and ask the committee to support all four amendments in the group.

Amendment 15 agreed to.

Section 4, as amended, agreed to.

After section 4

The Convener: The next group is on factors to be considered in the allocation of social housing. Amendment 49, in the name of Mary Fee, is grouped with amendment 16.

Mary Fee: Amendment 49 seeks to give social landlords more flexibility in their allocations policy in order to benefit the sustainability of communities and localities. As we heard in evidence, social landlords want that flexibility. For example, Jim Hayton of the Association of Local Authority Chief Housing Officers told us:

> "Councils ... absolutely accept that the principle should be based on need, but that should not involve following a set of rules blindly without regard to the make-up of a community and what is likely to lead to sustainability ... it is about allowing landlords to make sensible decisions in the interests of a sustainable community life"—[*Official Report*, *Infrastructure and Capital Investment Committee*, 5 March 2014; c 2714.]

while not ignoring the principle of housing need. I know of examples of local letting initiatives in my area, and I believe that it is important to give local authorities and RSLs a degree of flexibility as it helps to strengthen, build and maintain communities. We should not forget that RSLs and local authorities know best what is good for their communities. Ultimately, we all want sustainable communities that have good solid working relationships, and giving RSLs and councils more flexibility in their own areas, which, as I have said, they know better than anyone else, would help to develop, support and build those kinds of communities.

I believe that amendment 16, in the name of the minister, would remove that flexibility. The proposal in question was included in the bill at the last minute, was not consulted on and is being removed with equal haste. I have to say that I am not sure why the minister is removing it with such haste. There is merit in allowing flexibility in allocations policy; I accept that there has to be some guidance on the matter to ensure that there is no discrimination, but I believe that amendment 49 in my name would give councils the flexibility that they told us in evidence they want and would help to build sustainable communities. For that reason, I ask the committee to support amendment 49 and reject amendment 16, in the name of the minister.

I move amendment 49.

Margaret Burgess: I recognise that landlords have a difficult job in managing allocations—indeed, all MSPs will be only too aware of that—and, as we know, problems between neighbours can cause distress for the individuals concerned and give rise to challenges and costs for landlords. However, I am not convinced that amendment 49,

which Mary Fee has just spoken to, is the way forward to address these issues.

As Mary Fee has suggested, landlords already have flexibility within legislation to make sensitive lets, and I am not clear what amendment 49 would add in that respect. When making allocations, landlords can already take account of the overall circumstances, including an individual's housing needs and the housing options that are available, and the revised guidance on allocations that will be produced will include advice on making sensitive lettings. In addition, the bill contains additional measures to help landlords tackle antisocial behaviour.

I well understand the importance of making appropriate and sustainable allocations; after all, it is in the interest not only of the tenant who is being housed but of the neighbours and the wider community. However, I think the measures that we already have, along with the bill's antisocial behaviour provisions, will achieve the same effect. I therefore ask Mary Fee not to press amendment 49 and, if she does, I ask the committee to reject it.

Amendment 16 is a Government amendment that removes section 5 from the bill. Section 5 would have enabled landlords to take age into account in allocating social houses. I point out that the process was not rushed in any way. I know that section 5 was not in the bill initially and was not consulted on and that it has provoked a strong reaction. Landlords are understandably keen to have flexibility to manage their stock effectively; others, such as Scotland's Commissioner for Children and Young People, are concerned about the potential for discrimination against young people.

In the past few months, I have met stakeholders and have listened closely to all the points that have been made. As I indicated to the committee in my letter of 2 May, I have weighed up all the arguments and have decided to lodge amendment 16 to remove section 5 from the bill.

That was not an easy decision. I recognise that landlords have a challenging task and that there are difficult decisions to be made in allocating social housing. However, I think that the decision is the right one for the following reasons. First, age is not, of itself, an indicator of need and our housing allocations policy is based on making allocations to those in most need. I make it clear that I do not think that landlords would seek to discriminate against young people or any other group, but I am concerned about the potential for certain vulnerable groups to end up being disadvantaged in the allocation of housing.

Secondly, landlords have given me examples of where they would like to take age into account, in many cases to prevent difficulties between neighbours—for example, they would like to restrict allocations to a certain age group where there is a block of predominantly older people.

I am aware of the difficulties, which Mary Fee mentioned, that can exist when neighbours are antisocial or when neighbours with different lifestyles live next door to each other. It does not follow that it is only young people who lead chaotic lives and only older people who do not. The reverse can also be true.

Where there is the potential for clashes of lifestyle, there is already scope in the legal framework to make sensitive lets. Some landlords already make effective use of sensitive lets, and I think that more use could be made of that flexibility. I want to work closely with landlords to develop guidance to provide more advice on how sensitive lets can be used effectively in allocations without discriminating against any age group.

Finally, on the point about tenants behaving in an antisocial way and causing nuisance or distress to neighbours, I am introducing additional measures through the bill to help landlords deal with antisocial behaviour.

For those reasons, I think that it is right that age should not be taken into account in the allocation of social housing. I am grateful to the committee for its recommendations and to landlords and other stakeholders for their input and considered advice on this section. I have listened to all sides of the debate and have thought long and hard about the correct course of action. As a result, I have decided to lodge amendment 16 to remove section 5 from the bill and I ask the committee to support it.

Alex Johnstone: When the bill was published, I liked some bits better than others. I have to say that section 5 was one of the bits that I liked better. My experience from casework in the north-east—particularly in Arbroath, where a number of such cases have arisen—is that it is surprising how often the inappropriate combination of tenants in a block or next door to each other can result in what you and I might consider quite reasonable behaviour being a cause for complaint and, ultimately, the cause of accusations of antisocial behaviour. I therefore think that it is important that such sensitivities can be properly taken into account and I believe that section 5 would have that effect.

The minister has spoken at some length about the powers that currently exist and the concept of sensitive lets. I believe that they go some way towards achieving their objective, but I am extremely disappointed that the minister, having published section 5 in the bill as introduced, feels at this stage that it is necessary to take it out.

10:45

The Convener: The minister will be aware that there has been heavy lobbying from the likes of the Convention of Scottish Local Authorities in relation to this proposal, and something that has stuck in my memory is a more elderly woman telling us at our evidence-taking session with tenants groups during our away day in Dumbarton that she did not want to be housed next to loads of elderly folk and that she would rather live in a mixed community. The evidence suggests that we cannot please all of the people all of the time, but I wonder whether the minister will assure us that the reissued guidance on this matter will take the issue of sensitive lets into account. I know that in the north-east people are allowed to turn down a house three times; although they must take the next house that they are offered, they still have some choice about where they live.

Margaret Burgess: I have already indicated that I am keen to and will work very closely with stakeholders including local authorities, COSLA and RSLs to ensure that the guidance covers the issue of sensitive lets in a way that is not discriminatory. We absolutely recognise and want to address the difficulties that Alex Johnstone and Mary Fee highlighted and of which we are all aware, but we think that we can use the flexibility that already exists and work with stakeholders to ensure that the guidance addresses sensitive lets in a meaningful way. That is certainly our aim.

Mary Fee: I have listened very carefully to the minister. She has acknowledged that there are issues around the allocation of housing, and I am sure that she wants to build strong and sustainable communities as much as I do. However, I believe that amendment 49 would have given local authorities the flexibility to do that by allowing them to take a number of different issues into account without discriminating against anyone. Such an approach would have given local authorities and RSLs the ability to build strong communities and, indeed, to work with communities on developing and providing sustainability in the areas they live in.

I accept the minister's comment about guidance and look forward to seeing whatever guidance she produces in the long term. However, I will press amendment 49. Although I have sympathy with what the minister has proposed, I cannot support amendment 16, and I will abstain on it when it comes to the vote.

The Convener: The question is, that amendment 49 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Griffin, Mark (Central Scotland) (Lab)
Fee, Mary (West Scotland) (Lab)
Johnstone, Alex (North East Scotland) (Con)

Against

Eadie, Jim (Edinburgh Southern) (SNP)
Ingram, Adam (Carrick, Cumnock and Doon Valley) (SNP)
MacDonald, Gordon (Edinburgh Pentlands) (SNP)
Watt, Maureen (Aberdeen South and North Kincardine) (SNP)

The Convener: The result of the division is: For 3, Against 4, Abstentions 0.

Amendment 49 disagreed to.

Section 5—Factors which may be considered in allocation: age

Amendment 16 moved—[Margaret Burgess].

The Convener: The question is, that amendment 16 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Eadie, Jim (Edinburgh Southern) (SNP)
Ingram, Adam (Carrick, Cumnock and Doon Valley) (SNP)
MacDonald, Gordon (Edinburgh Pentlands) (SNP)
Watt, Maureen (Aberdeen South and North Kincardine) (SNP)

Against

Johnstone, Alex (North East Scotland) (Con)

Abstentions

Fee, Mary (West Scotland) (Lab)
Griffin, Mark (Central Scotland) (Lab)

The Convener: The result of the division is: For 4, Against 1, Abstentions 2.

Amendment 16 agreed to.

Section 6 agreed to.

Section 7—Determination of minimum period for application to remain in force

Amendment 17 moved—[Margaret Burgess].

The Convener: The question is, that amendment 17 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Eadie, Jim (Edinburgh Southern) (SNP)
Ingram, Adam (Carrick, Cumnock and Doon Valley) (SNP)
Johnstone, Alex (North East Scotland) (Con)
MacDonald, Gordon (Edinburgh Pentlands) (SNP)
Watt, Maureen (Aberdeen South and North Kincardine) (SNP)

Against

Fee, Mary (West Scotland) (Lab)
Griffin, Mark (Central Scotland) (Lab)

The Convener: The result of the division is: For 5, Against 2, Abstentions 0.

Amendment 17 agreed to.

The Convener: The next group is on the minimum period for application to remain in force. Amendment 18, in the name of the minister, is the only amendment in the group.

Margaret Burgess: I want landlords to have the flexibility to manage allocations effectively, which may in certain circumstances include suspending an applicant or tenant from receiving an offer of housing for a period. A landlord should also have the flexibility to review its decision and to withdraw or shorten a suspension, if circumstances change. If the reasons for an applicant's having been suspended change, he or she could apply to the landlord to have the suspension reviewed, and it could be lifted.

Amendment 18 makes it clear that a landlord has the right to shorten or withdraw a suspension if it chooses to. It will not enable a landlord to increase the period of a suspension; it can only shorten or withdraw the suspension.

I move amendment 18.

Amendment 18 agreed to.

Section 7, as amended, agreed to.

After section 7

The Convener: The next group is on duties with respect to homelessness. Amendment 3, in the name of Jim Hume, is grouped with amendment 8.

Jim Hume (South Scotland) (LD): I welcome the opportunity to speak in support of my amendment 3, which aims to ensure that all statutory homelessness referrals from local authorities to registered social landlords are dealt with as referrals under section 5 of the Housing (Scotland) Act 2001.

I am aware that some social landlords are not in favour of my amendment and prefer to use informal nominations for homelessness. However, a section 5 referral not only ensures a consistent and transparent approach to housing homeless households, but affords certain safeguards to the people in those households, who are among our most vulnerable members of society. For example, if a person's application is the subject of a section 5 referral, they have the right to a response from the registered social landlord within a reasonable period, and their request will not be declined without good reason, which could be lack of stock.

The use of a less formal approach is harder to monitor. Given the importance of the issue, we must ensure that the system is robust. That is possible only through effective monitoring, which would be made easier through mandatory use of section 5 referrals.

I want to move from only 65 per cent of homeless households being referred under section 5 and afforded all the relevant safeguards to 100 per cent of homeless households being in that situation. I refer the committee to the Scottish Housing Regulator's 2009 report on homelessness, which said that councils should work more effectively with RSLs. The regulator said that there are

"some specific areas where current practices could be improved ... This may mean setting aside their current reluctance to use section 5 powers."

We have an opportunity to iron out inconsistent practice among local authorities in referring homeless households to registered social landlords. We must ensure that those families enjoy the safeguards that they deserve, and that the system is more transparent and consistent.

It is not just I who would appreciate committee members' support for my amendment; the many homeless people who are not given the safeguards of a section 5 referral would also appreciate it. The amendment would help them and all of us to go a long way towards fighting homelessness wherever possible.

I move amendment 3.

Jim Eadie (Edinburgh Southern) (SNP): I am pleased to have the opportunity to speak to amendment 8, which is a probing amendment. I am also pleased to have the support of my colleague Alex Rowley, which underlines the cross-party support on the issue.

Amendment 8 would ensure that homeless children and homeless pregnant women are not placed in temporary housing that is of a very poor physical standard or is in serious disrepair. The amendment would give homeless households that include pregnant women and children the right to challenge their placement in temporary accommodation that is of a very poor standard. The majority of temporary accommodation is of a good standard and is an important positive step away from what would otherwise be a crisis of homelessness for the people and families who are affected.

It is worth noting that amendment 8 would affect only a fairly small percentage of vulnerable households and would not have a big impact on local authorities. I record my appreciation for the work of Shelter Scotland, Debbie King and Fiona King in highlighting the issue.

The proposed measure would be a key safeguard for families who are placed in very poor-quality temporary accommodation that it is unhealthy and dangerous for children to live in.

Amendment 8 would not have an impact on the majority of families who are in good-quality temporary accommodation, but for those who find themselves in damp, derelict and substandard housing, it would provide a lifeline.

Families who are in temporary accommodation are already vulnerable, and living in temporary accommodation that is in poor physical repair is an additional burden that has a serious impact on their health, wellbeing and ability to cope.

Shelter Scotland has also asked the Government to commit to amending the Homeless Persons (Unsuitable Accommodation) (Scotland) Order 2004 as soon as the bill receives royal assent, because that would allow households to challenge local authorities about temporary accommodation that is in poor physical repair. Shelter Scotland has argued strongly in favour of my amendment 8, which it believes is necessary because it has acted on behalf of families who have been in temporary accommodation that is in a terrible state of repair. Shelter strongly contends that it has been unable to challenge local authorities using the current legislation. This specific issue is not covered by existing legislation, and although the code of guidance defines good practice around temporary accommodation, that is not legislation, so vulnerable families currently have no recourse to challenge the conditions that they face.

Amendment 8 will protect the most vulnerable households in temporary accommodation—those that include pregnant women and children—and it will affect only a very small, but important, number of households. We have seen how successful the existing legislation has been in preventing families from being put in bed and breakfast accommodation, with a reduction in the use of such accommodation of 92 per cent over the past 10 years. I believe that this small change will prevent families not only from being put in unsuitable types of temporary accommodation, but from being put in accommodation that is in poor physical repair—for example, accommodation that has extreme damp.

For all those reasons, I hope that the Scottish Government will welcome my amendment and support its inclusion in the bill. I strongly urge the Government to instruct its officials to engage with Shelter Scotland in a serious, meaningful and constructive dialogue in order to address the concerns that it has raised, and to explore what further progress may be possible in advance of stage 3. I also request that the minister meet me, Shelter Scotland and Alex Rowley to further discuss and explore the issues.

Margaret Burgess: Amendment 3, in the name of Jim Hume, would place a duty on the local authority to use section 5 of the 2001 act every time it asked a registered social landlord to rehouse a homeless household. I do not believe that that is necessary or appropriate. Local authorities already have the power to use section 5 to request that registered social landlords rehouse a homeless household. They can choose to use the power if they decide that it is necessary.

Local authorities and RSLs have indicated that they see no need to have section 5 referrals made a mandatory route for rehousing homeless households. I am therefore concerned that, if amendment 3 were passed, it could damage the positive working relationships that local authorities and RSLs have developed, which could in turn impact on outcomes for homeless people.

I do not consider that there is evidence to justify the change that is proposed in amendment 3. It is not supported by local authorities or RSLs, so I invite Jim Hume to seek to withdraw amendment 3, and I ask the committee not to support it.

I turn to amendment 8, in the name of Jim Eadie. I do not consider that it is necessary to amend the Housing (Scotland) Act 1987 for unsuitable accommodation orders. Before I talk about the detail of amendment 8, I want to make the committee aware that the Scottish Government is working with the Convention of Scottish Local Authorities and other stakeholders, including Shelter, to develop a standard for temporary accommodation. The work is well under way and the aim is to develop clear standards by this summer.

Amendment 8 seeks to require a definition for

"applicant with family commitments".

That is already set out in the Homeless Persons (Unsuitable Accommodation) (Scotland) Order 2004. It covers applicants who are pregnant, applicants with whom a pregnant woman resides or might reasonably be expected to reside, and applicants with whom dependent children reside or might reasonably be expected to reside. I assume that amendment 8 seeks to cover that group of vulnerable people.

The second part of amendment 8 seeks to introduce the tests of

"reasonably fit for human habitation"

and

"wind and watertight"

to the unsuitable accommodation order. Under that order, accommodation must be suitable for children, so it must already be fit for human habitation and be wind and watertight. The unsuitable accommodation order sets out the criteria that accommodation must meet. It must have adequate toilet and personal washing facilities for the exclusive use of the household. It

must be able to be used by the household 24 hours a day and, importantly, it must be suitable for occupation by children.

The "Code of Guidance on Homelessness" provides further statutory guidance to local authorities. In order to comply with the code, local authorities must apply their own houses in multiple occupation standards when considering whether accommodation is appropriate.

11:00

Although the Homeless Persons (Unsuitable Accommodation) (Scotland) Order 2004 allows exceptions to be made, a local authority must always ensure that accommodation meets the safety standard for children. A household that has been placed in accommodation that its members consider to be unsuitable has the right under the homelessness legislation to ask the local authority to review its decision. That covers the temporary accommodation that they have been placed in, so there is an existing legal right to challenge the local authority's decision to place them there. I believe that the existing legislation provides significant safeguards. In addition, the work that is being taken forward by the temporary accommodation standards group will set agreed minimum standards. I ask members to reject amendment 8.

On Jim Eadie's point, I have not yet been persuaded by the arguments that have been put forward, but I am more than willing to meet Jim Eadie, Alex Rowley and Shelter Scotland to discuss the issue in more detail before stage 3.

The Convener: I ask Jim Hume to wind up and to say whether he wishes to press or to seek to withdraw amendment 3.

Jim Hume: Thank you, convener. I am obviously disappointed that the minister is not at this stage minded to support amendment 3, and that she talks about local authorities having the choice of whether to use the section 5 referral. However, the facts and figures show that not all local authorities are doing that. Amendment 3 is obviously about the rights of people who are homeless: God forbid that any of us find ourselves in such a situation.

I obviously do not agree that what amendment 3 proposes would create a bad relationship between social landlords and tenants, because all the amendment proposes is that there be a response within a reasonable period, and that a homeless person should not be declined without good reason. I do not see that as being too onerous.

I appreciate that the minister has offered to meet Jim Eadie, Alex Rowley and Shelter Scotland. Of course, Shelter Scotland also supports my amendment 3 and worked hard on it with me. I request that the minister meet me, too, regarding my amendment. I press amendment 3.

The Convener: The question is, that amendment 3 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

Against

Eadie, Jim (Edinburgh Southern) (SNP)
Fee, Mary (West Scotland) (Lab)
Griffin, Mark (Central Scotland) (Lab)
Ingram, Adam (Carrick, Cumnock and Doon Valley) (SNP)
Johnstone, Alex (North East Scotland) (Con)
MacDonald, Gordon (Edinburgh Pentlands) (SNP)
Watt, Maureen (Aberdeen South and North Kincardine) (SNP)

The Convener: The result of the division is: For 0, Against 7, Abstentions 0.

Amendment 3 disagreed to.

Section 8—Creation of short Scottish secure tenancy: antisocial behaviour

Amendment 19 moved—[Margaret Burgess]—and agreed to.

The Convener: The next group is on the short Scottish secure tenancy created on antisocial behaviour grounds. Amendment 50, in the name of Mary Fee, is grouped with amendments 20 to 24, 39 and 40. I ask Mary Fee to move amendment 50 and to speak to all the amendments in the group. I hope that you do not have to say "short Scottish secure tenancy".

Mary Fee: No. I will say "SSST", which is much easier.

Amendment 50 would amend section 8 by requiring landlords to notify the tenant of the details of the behaviour that had led to the service of a notice that the tenant is being moved to an SSST. More important is that the section would also detail the guidance and support that the landlord would be expected to provide to support the tenant to move back to a more sustained tenancy, thereby benefiting both the tenant and the community.

Our aim is to have tenants living in secure and settled housing; supporting individuals is a crucial part of that. I am grateful to Shelter Scotland for its support. It is important that a person who is being placed on an SSST has a full understanding of the behaviour that has brought them to that circumstance. A number of factors could have led to that, and there could be mitigation because of family circumstances, for example. However, it is very important that the person is in absolutely no doubt as to why they are in the position that they are in.

Just as important is that the landlord must work with the person, and must detail what support will be offered and given, as well as how they will work through the situation with the person in order to move them back on to a more secure footing. We all want people to be living in sustained housing, to be happy, to be taking part in their community and to be part of community life. It is incumbent on us to work with individuals to ensure that that is the case.

I support amendment 20, which is in the minister's name. It will give greater clarity and it will tidy up the wording of section 8.

Amendments 21 and 22, which are also in the minister's name, are linked. I would be grateful if the minister could explain in a bit more detail the meaning behind amendment 21 in particular. She talks about removing provision for an SSST, but she says that it can continue by express agreement or "tacit relocation". Perhaps the minister could clarify exactly what she means by "tacit relocation".

Amendment 23, which is also in the minister's name, is a tidying-up amendment, which clarifies some wording. I am happy to accept it.

Amendment 24 is linked to amendments 21 and 22. Perhaps the minister could give me a bit more clarity around the thinking behind those three amendments. I would appreciate that.

Amendments 39 and 40, which are also in the minister's name, will provide additional clarity. They will tighten up the wording of schedule 2. I support both the amendments.

I move amendment 50.

Margaret Burgess: First, I will deal with Mary Fee's amendment 50, which would require specific information to be included in the notice by the landlord who is, because of antisocial behaviour, converting a tenancy to a short Scottish secure tenancy.

Amendment 50 is in two parts, as Mary Fee explained. First, I will speak to paragraph (a) of new subsection (2A), which the amendment proposes to introduce to section 8. The proposed paragraph (a) seeks to place a requirement on landlords to provide

"details of the actions of the tenant or person that have caused the landlord to issue the notice".

I agree with Mary Fee that a tenant should be provided with that information, which will allow the tenant to challenge the decision to convert the tenancy—either with their landlord or in court—if they think that it is wrong. However, I instead propose what is in amendment 20, which will place such a requirement on landlords in the notice to the tenant. On paragraph (a) in the provisions proposed in Mary Fee's amendment 50, I am willing to work to ensure that we are clear on the matter. I am absolutely clear that the tenant should get that information. They should be advised of what the offence is, and of which member of the household committed the offence. I will work with Mary Fee to ensure that amendment 20 covers that.

Paragraph (b) in amendment 50's proposed new section 8(2A) seeks to place an additional requirement on landlords to include details of

"the support the landlord proposes to provide to the tenant or person in order to assist the tenant to sustain a ... tenancy."

We all agree that we want tenants to sustain their tenancies.

Landlords have flexibility in legislation to provide, or ensure the provision of,

"such housing support services as they consider appropriate"

to enable the tenancy to convert to a short Scottish secure tenancy. There are good reasons for that flexibility. For example, it is often the case that tenants will not engage with their landlords to allow them to assess what their support needs are. In some cases, it is not the landlords themselves who will be providing or arranging the support. Support that the landlord considers to be appropriate may already be in place, having been provided by another organisation such as an addiction centre or a money advice centre.

A tenant may choose to refuse support, or support may not be what is needed to change the behaviour of someone who, for example, used to have wild parties at the weekend, but who then recognised that that was not appropriate and agreed to take action on that. I do not want to place undue burdens on landlords to provide support when that is not what is needed, or if it is already being provided by another organisation. I absolutely understand the purpose behind Mary Fee's amendment 50, but I believe that landlords need to continue to have flexibility around providing housing support services in antisocial behaviour cases.

For those reasons, I invite Mary Fee to seek to withdraw amendment 50.

My amendments in the group are technical amendments that will ensure better operation of the bill's proposals. As I mentioned, amendment 20 deals with the notice that is issued to a tenant to convert a tenancy to a short SST on antisocial behaviour grounds. As I indicated, I want to ensure that we cover some of the areas that Mary Fee mentioned. The change will ensure that the tenant has enough information to challenge the decision, if they wish to do so.

Amendments 21, 22, 23, 24, 39 and 40 are technical amendments that deal with operational matters. The amendments will provide further clarity in the bill on the rules that apply specifically to short SSTs that are created on antisocial behaviour grounds.

Amendments 21, 22 and 23 will ensure that the Housing (Scotland) Act 2001 is clear about the term of the short SST for antisocial behaviour. The intention is that those tenancies will convert back to secure tenancies at the end of the 12-month period, provided that the landlord has not taken action either to extend the SSST for a further six months or to recover possession of the tenancy in court. Mary Fee asked about tacit relocation; that is when a lease continues because neither the landlord nor the tenant has done anything to stop it. Amendments 21 to 23 are purely technical amendments; they bring about no changes.

Amendment 24 clarifies the circumstances under the 2001 act in which a court must make an order for recovery of possession of a tenancy in cases where the new short SST for antisocial behaviour applies. This technical amendment will ensure, as intended, that the court must make an order for recovery of possession at the end of the 12-month term—or, if the tenancy has been extended, the 18-month term—if the landlord has properly followed the process to end the short SST.

Amendments 39 and 40 will add the new short SST for antisocial behaviour to the types of accommodation that are considered to be permanent accommodation for the purposes of discharging a social landlord's homelessness duty. That will ensure consistency of approach with what happens currently where short SSTs have been granted because of an antisocial behaviour order, or in situations in which there has been an order for recovery of possession of a tenancy for antisocial behaviour in the past three years. The amendments are just about consistency.

In conclusion, I invite Mary Fee to seek to withdraw amendment 50 and I ask the committee to support the technical amendments 21, 22, 23, 24, 39 and 40.

Mary Fee: I am grateful to the minister for her explanation of the issues that I queried. That has helped to clarify the thinking and intention behind the amendments.

On amendment 50, I am grateful to the minister for agreeing to work with me on the issue in the first part of my amendment. I look forward to working with her to ensure that we find a suitable way of working through that.

I am less happy about the fact that the minister does not seem to agree with me that landlords have a duty to explain or detail the support that will be available to people who are on a short SST. That support could range from simple signposting to more detailed intervention. However, given the minister's assurance that she will work with me on the first part of the amendment, I am content to seek to withdraw amendment 50 at this time. However, I will reintroduce the issue that is in the second part of my amendment at a later stage if I cannot make progress with the minister.

Amendment 50, by agreement, withdrawn.

Amendment 20 moved—[Margaret Burgess]—and agreed to.

Section 8, as amended, agreed to.

Section 9 agreed to.

Section 10—Short Scottish secure tenancy: term

Amendments 21 to 23 moved—[Margaret Burgess]—and agreed to.

Section 10, as amended, agreed to.

Section 11 agreed to.

Section 12—Short Scottish secure tenancy: recovery of possession

Amendment 24 moved—[Margaret Burgess]—and agreed to.

Section 12, as amended, agreed to.

Section 13—Assignation, sublet and joint tenancy of Scottish secure tenancy

11:15

The Convener: The next group is on the Scottish secure tenancy: assignation, sublet, joint tenancy and succession. Amendment 25, in the name of the minister, is grouped with amendments 26, 27 and 47.

Margaret Burgess: Sections 13 and 14 introduce a 12-month qualifying period for persons other than spouses and civil partners in relation to joint tenancy and assigning, subletting and succeeding to a tenancy. There will be a requirement to notify the landlord of residency.

The purpose of the provisions is to help to ensure the best use of social housing, by limiting the potential for abuse of joint tenancy, assignation, subletting and succession. However, the provisions on notification of residency might be too restrictive. Sections 13 and 14 do not allow for a situation in which the current or previous tenant has notified the landlord that another person is living in their home. In practice, it is often the tenant who notifies the landlord that someone has moved into their home. Indeed, the tenancy

agreement might require such notification to come from the tenant.

Amendments 25, 26 and 27 are minor technical amendments, which will help to ensure that the new 12-month residency requirement for joint tenancy, assignation, subletting and succession operates fairly and effectively in practice, by allowing for a situation in which the current or previous tenant has notified the landlord that someone is living in their home.

Amendment 47, in the name of Jackie Baillie, would remove section 14, which changes the residency rules in relation to succession. Currently, the only residency requirement in law that relates to succession to a tenancy on a tenant's death is the six-month qualifying period for a cohabitee. That means that there is no residency requirement that a family member or carer must meet before they take over a tenancy on the death of a tenant. Landlords have told us that in some cases people have moved into properties for only a few weeks or days so that they could succeed to the tenancy. That is clearly not the best use of social housing stock, which is an issue that the bill aims to address.

In its evidence to the committee, Carers Scotland expressed concern that section 14 will potentially disadvantage unpaid carers. I do not think that that will happen. In exceptional circumstances, landlords have the flexibility—depending on how they frame their allocations policies—to decide that a person merits the allocation of a tenancy even when they do not qualify to succeed to it. Landlords can consider each case on an individual basis and can decide to use that flexibility, for example if a carer has had to give up their home and move to another part of the country to care for a terminally ill relative, even if the carer has not lived in the house for the 12-month qualifying period before the tenant dies.

Amendment 27 will allow the notification of residency at a property as a person's only or principal home, for succession purposes, to come from the tenant or the person themselves. The approach will help the provisions on succession to work fairly and effectively in practice.

I ask the committee to reject amendment 47 and thereby retain section 14 and to support amendments 25, 26 and 27.

I move amendment 25.

Jackie Baillie: I thank the convener for giving me the opportunity to speak to amendment 47, which has already excited a bit of comment on Twitter.

I took the time to consider the stage 1 report. The minister is right to say that a number of housing organisations, particularly providers, welcomed the Government's intentions, but a number of them remain concerned. It is right that we test those concerns, including those of Carers Scotland. Amendment 47 is supported by Homeless Action Scotland, Shelter Scotland, the Legal Services Agency, Scottish Churches Housing Action and Crisis, so it does not come from nowhere.

What I struggled with most was finding the evidence to suggest that we should change the period to 12 months. As I far as I could see, the policy memorandum appeared to be silent on the matter. I know that my colleague Mary Fee asked about the background to the proposed change and that the information was not forthcoming. Despite the explanation that the minister has provided, I still struggle to understand why a period of 12 months is thought to be preferable to one of six months. I can understand the desire to have consistency, but I do not understand why the period has to be 12 months.

The concern centres on carers. If a carer has given up their principal home to care for someone and that person dies after four months or eight months rather than after 12 months, they will face a genuine practical difficulty. Carers are motivated mostly by their desire to care rather than by a timescale, so they will not necessarily remember to notify the landlord in the required way and, if the tenant is ill, the tenant might not remember to notify the landlord of what has taken place. I acknowledge what you say about flexibility. Nevertheless, I am concerned that, unintentionally, we might increase the risk of homelessness.

There are one or two people who will test the system, but I think that the overwhelming majority try to do the right thing by the person who is being cared for and the right thing in terms of housing, and I ask the Government to reflect on the issue further to ensure that we get the provisions right.

What is proposed is also an erosion of the rights of unmarried partners, because the qualifying period is being doubled. Despite the minister's explanation, I have no appreciation of why that is being done. Some partners might have been in the property for less than 12 months but in a stable relationship for considerably longer than that. At the point at which someone is bereaved, we will just add to their grief in a completely unhelpful way.

I recognise that a balance needs to be struck. I know that, in its report, the committee sought clarification. We want to find out about the policy basis on which the Government made its decision. It is appropriate to make changes—some people have certainly argued that that is the case—but I think that the way in which it has been done opens the way to unintended consequences.

I am prepared not to move amendment 47 if the minister indicates that she will take the opportunity to reflect on the matter further with those who have concerns to ensure that we get the balance absolutely right.

Margaret Burgess: I note the points that Jackie Baillie has made. I absolutely agree that carers do not operate on a timescale and that they are there to care. I well understand the concerns that they have highlighted.

I think that landlords have flexibility on the matter and can consider cases on an individual basis, but I am happy to take on board Jackie Baillie's suggestion and to hold further discussions before stage 3.

Amendment 25 agreed to.

Amendment 26 moved—[Margaret Burgess]—and agreed to.

Section 13, as amended, agreed to.

Section 14—Succession to Scottish secure tenancy

Amendment 27 moved—[Margaret Burgess]—and agreed to.

The Convener: Does Jackie Baillie wish to move amendment 47?

Jackie Baillie: I am happy not to move amendment 47 in the light of the minister's comments.

Amendment 47 not moved.

Section 14, as amended, agreed to.

Section 15—Grounds for eviction: antisocial behaviour

Amendment 28 moved—[Margaret Burgess]—and agreed to.

Section 15, as amended, agreed to.

Section 16 agreed to.

After section 16

The Convener: The next group is on a Scottish starter tenancy. After that, I intend that we will have a short comfort break of five minutes. [*Interruption*.]

Sorry—I forgot to call amendment 8, in the name of Jim Eadie. Jim, do you want to move or not move amendment 8?

Jim Eadie: I will not move it, but do I have an opportunity to—

The Convener: Do you want to say something?

Jim Eadie: Please.

The Convener: Okay. On you go.

Jim Eadie: I will not move my amendment 8 today in view of the minister's commitment to meet me, Shelter Scotland and Alex Rowley to explore the issues that I highlighted on behalf of Shelter Scotland this morning.

I note that the minister is not minded to accept amendment 8, but I would like to reiterate and place on record the point that there appears to be an inconsistency that requires further clarification. The Government is clear that the current legislation allows families that are placed in temporary accommodation to challenge that, while Shelter Scotland, based on its experience on the ground, contends strongly that that is not currently possible.

Further clarification on that point is necessary primarily because, although we are talking about a small number of people who are placed in temporary accommodation, we are talking about the most vulnerable people, who are pregnant women and children. If they are not able to mount a legal challenge, that strikes me as something that is not acceptable in a civilised society. I do not believe that the Government wants that to be the case and I feel that further clarification is necessary.

However, I very much welcome the minister's commitment to meet me, Shelter Scotland and Alex Rowley. I know that the minister is always willing to engage constructively and to listen to reasoned arguments that are put forward throughout the passage of the bill.

The Convener: Okay, so Jim Eadie is not moving amendment 8. [*Laughter*.]

Amendment 8 not moved.

The Convener: Just before we have a short break, we will deal with the next group, which is on a Scottish starter tenancy. Amendment 51, in the name of Alex Johnstone, is grouped with amendment 57.

Alex Johnstone: Convener, I am delighted that you have offered everybody a short break after this group. I was intending to take hours over my amendment.

I hate it when people bring along amendments that take up whole sheets of paper, but here I am doing it myself. However, I reassure members that much of my amendment is simply a means to an end. The key element that I wish to talk about is subsection (5).

I believe that the Government consulted on the idea of an initial tenancy at an early stage of the bill, but it did not appear in the bill that was eventually introduced.

One of the problems in Scotland today is that a significant minority of people who enter social housing seem to step into a revolving door. They find themselves continually going round the system and in many cases become homeless again and require to be rehoused. Much of that is caused by the fact that we fail to give adequate or appropriate levels of support. My proposal would require the creation of a starter tenancy, which would require appropriate levels of support to be given and an appropriate appeals mechanism and dispute resolution system to be put in place. That would allow new, first-time tenants to go into a system in which support is provided and there is a clear route, through the supported period, to their becoming secure tenants at the end of it.

That objective would, I believe, help to ensure that we create more stable tenancies at the outset and would deliver, at the end of the process, a block of tenants across Scotland who are less likely to fall into the mechanisms that we have discussed a lot today.

11:30

Many housing providers already provide such support, but the problem is that such provision is not universal. By creating a Scottish starter tenancy, I believe that the vast majority of tenants could be supported through to a full tenancy, which will give stability. I am aware that a similar type of tenancy exists in England and that increasing levels of success are being reported in supporting people into stable tenancies. It was an oversight not to include such a provision in the bill initially. If the measure is properly applied, we can achieve good results with this direction of travel.

As we are at stage 2, I am keen for the minister to respond not to the exact wording that I have drafted but to the principles that I am raising.

I move amendment 51.

Mark Griffin (Central Scotland) (Lab): I have a degree of sympathy with Alex Johnstone's amendment 51. I accept that he wants to have a discussion on the principles, but I feel that I need to go into the wording. If we are to consider starter tenancies and how they assist tenants, we need to consider the reasons why those tenancies should be terminated. Those reasons should be to do with the sustainability of local communities and how behaviour, or antisocial behaviour, affects communities. I do not support section (3)(a) in the amendment, under which rent arrears could be taken into account. Rent arrears can be managed within a tenancy and landlords should not have the power to terminate a tenancy on that ground. The focus should be more on how a tenant's behaviour affects the wider community than on rent arrears.

On that basis, I cannot support the amendment as drafted, but I welcome the discussion of the general principle of starter or initial tenancies.

Margaret Burgess: As we have heard, amendment 51 would require the Scottish ministers to make regulations to introduce a Scottish starter tenancy. I have explained my views on initial or starter tenancies before. I understand that such tenancies have the support of some tenants groups and landlords, and I have listened carefully to their views. However I remain convinced that this is not the right time to introduce them. I am concerned that the benefits of introducing an initial tenancy would be outweighed by the potential additional insecurity for new tenants at a time of so much uncertainty, which is caused by the United Kingdom Government's welfare reforms and the changes to housing in other parts of the UK.

As I have said before, I feel strongly that people who might have had to wait a long time to get a house in the social sector, and have been building up to it, should not be put on trial for a year once the house is allocated. That concerns me.

I know that landlords and tenants are concerned about antisocial behaviour, which is part of the reason for suggesting initial or starter tenancies. However, the bill contains other measures to help landlords on that front, including the use of short Scottish secure tenancies, simplified eviction procedures and the ability to suspend tenants from receiving an offer of housing in certain circumstances, including antisocial behaviour. Those measures will give landlords extra tools to address antisocial behaviour without the need for initial tenancies.

In the committee's stage 1 report, it gave its view that there is no clear indication that it would be appropriate to introduce initial tenancies at this time. I am of the same opinion, and I invite the committee to reject amendments 51 and 57.

Alex Johnstone: I will press amendment 51, because it is my nature to push these things through to the end of the process. I was interested to hear what the minister said. I am aware that, during the bill process, the minister has considered the inclusion of measures to support tenancies. I wonder whether, during the process, we might have the opportunity to strengthen the measures that are already in the bill. Nevertheless, the bill is an important opportunity to create a class of tenancy that has already demonstrated its success in other areas, and it will be a missed opportunity not to introduce it in Scotland. I therefore press amendment 51.

The Convener: The question is, that amendment 51 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Johnstone, Alex (North East Scotland) (Con)

Against

Eadie, Jim (Edinburgh Southern) (SNP)
Fee, Mary (West Scotland) (Lab)
Griffin, Mark (Central Scotland) (Lab)
Ingram, Adam (Carrick, Cumnock and Doon Valley) (SNP)
MacDonald, Gordon (Edinburgh Pentlands) (SNP)
Watt, Maureen (Aberdeen South and North Kincardine) (SNP)

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

Amendment 51 disagreed to.

The Convener: We will now have a five-minute comfort break.

11:35

Meeting suspended.

11:42

On resuming—

Section 17—Regulated and assured tenancies etc

The Convener: The next group of amendments is on the transfer of the sheriff's jurisdiction to the first-tier tribunal. Amendment 52, in the name of Jim Hume, is grouped with amendment 29.

Jim Hume: Thank you, convener, for giving me the opportunity to speak to this amendment.

I was compelled to lodge amendment 52 because I did not believe that the bill was clear about what access there would be to legal representation at tribunals. With the transfer of jurisdiction for civil private rented sector cases to the tribunal system, the new first-tier tribunal will have to deal with sensitive and important issues. Indeed, one of the most serious issues over which it will now preside is the loss of a person's home through eviction.

I welcome the introduction of the tribunal system, and the tribunal will undoubtedly provide a more relaxed environment that might be more conducive to a satisfactory resolution being reached between a landlord and a tenant. However, I believe that the issue of eviction is so serious that there must be a guarantee that the tenant can obtain legal representation in order to make the best possible case.

In the absence of such a guarantee in the bill, I felt it necessary to lodge amendment 52 to enshrine in law the ability for tenants or occupants to access legal representation, should they find themselves involved in such serious cases. I believe that it would be a mistake, and indeed a failing on our part, if we introduced such an important new system without there being a clear understanding of how tenants can access justice under the new framework. It would therefore be helpful, and I would be grateful, if the minister could confirm clearly that those at risk of losing their homes would be entitled to legal representation, and that those affected would be able to afford such representation either through legal aid or some equivalent—assuming, of course, that the necessary eligibility criteria were met and that the legal aid available for solicitors' fees was no less for representing someone in an eviction case at the tribunal than for appearing at the sheriff court.

11:45

I would be grateful for clarity from the minister on some of those points and I believe that the points that I have made would be best addressed by members supporting my amendment. The amendment is supported by Homeless Action Scotland, Shelter Scotland, the Legal Services Agency, Scottish Churches Housing Action and Crisis.

I move amendment 52.

Margaret Burgess: Amendment 52 would require that provision is made for legal representation. That could undermine the system that we are aiming for, in which legal representation is not the norm and in which most people can engage directly with the tribunal.

As Jim Hume said, tribunal procedures are designed to be more relaxed. They should be accessible and understandable and should not generally require legal representation. We intend that that will be the case for the private rented sector tribunal.

Having said that, we recognise that there are still likely to be people who will need—or wish for—assistance to present their case. We will consider the most appropriate method of support as part of the detail of the operation of the private rented sector tribunal. That support could be provided through some form of lay representation such as advocacy, or through funding for legal representation. I am grateful for the committee's support for that approach in its stage 1 report. I have undertaken to keep Parliament informed regarding operational detail, including policy regarding access and representation.

I hope that that explanation is sufficient to allow Jim Hume to withdraw amendment 52.

Amendment 29, in my name, is a technical amendment that ensures that appeals for private rented sector cases from the first-tier tribunal to the upper tribunal are handled consistently. The

amendment removes wording from the Antisocial Behaviour etc (Scotland) Act 2004 that sets out the current route of appeal for cases about landlord registration decisions by local authorities.

Appeals to the upper tribunal will still be allowed for those cases but, as with other appeals relating to private rented sector cases, such appeals will be under provisions in the Tribunals (Scotland) Act 2014. That is relevant as the Courts Reform (Scotland) Bill contains provisions that set conditions that must be met for a decision of the upper tribunal to be judicially reviewed. If appeals are provided for other than by the Tribunals (Scotland) Act 2014, those conditions will not apply.

I ask for support for amendment 29 and for amendment 52 to be rejected.

Jim Hume: The committee report asked the Scottish Government to provide further information regarding access to and representation at private rented sector tribunals. I appreciate that tribunals should be a more relaxed environment but when the case concerns eviction, that is very serious—someone is facing homelessness.

Until we have further clarity, I am minded to press amendment 52. I appreciate that the amendment may not be agreed to today, but I would be inclined to bring it back at stage 3 if it is not supported at this stage or if we do not get further clarity from the minister in the meantime.

The Convener: The question is, that amendment 52 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Fee, Mary (West Scotland) (Lab)
Griffin, Mark (Central Scotland) (Lab)

Against

Eadie, Jim (Edinburgh Southern) (SNP)
Ingram, Adam (Carrick, Cumnock and Doon Valley) (SNP)
Johnstone, Alex (North East Scotland) (Con)
MacDonald, Gordon (Edinburgh Pentlands) (SNP)
Watt, Maureen (Aberdeen South and North Kincardine) (SNP)

The Convener: The result of the division is: For 2, Against 5, Abstentions 0.

Amendment 52 disagreed to.

Section 17 agreed to.

Schedule 1—Transfer of jurisdiction to First-tier Tribunal

Amendment 29 moved—[Margaret Burgess]—and agreed to.

Sections 18 to 20 agreed to.

Schedule 1, as amended, agreed to.

Sections 21 and 22 agreed to.

After section 22

The Convener: The next group is on the repairing standard. Amendment 31, in the name of Jim Eadie, is grouped with amendments 53, 54, 48, 5 and 30.

Jim Eadie: I am pleased to speak to amendments 31 and 5.

The purpose of amendment 31 is to ensure that all private rented sector properties will have carbon monoxide alarms. Carbon monoxide, or CO gas, is known as the silent killer because it is invisible and has no smell. CO can be emitted by any faulty appliance that burns a carbon-based fuel such as gas, petrol, oil, coal or wood, and a level of just 2 per cent in the air can kill within one to three minutes. Children, older people, pregnant women and people with respiratory problems are particularly at risk from carbon monoxide poisoning.

A YouGov survey from March this year highlighted that one in 20 tenants in the private rented sector in Scotland have experienced some problems with carbon monoxide—typically drowsiness, nausea and headaches—in the past five years. Furthermore, according to Department of Health figures for England and Wales, 50 people a year die from CO poisoning and around 4,000 people are taken to accident and emergency.

The Scottish Government recently reported at least one death a year in Scotland from CO poisoning—that is one death too many. A recent survey of tenants in the private rented sector in Scotland found that 3 per cent said that they had experienced carbon monoxide poisoning in the past year. Amendment 31 seeks to reverse those figures by introducing an inexpensive and effective way to safeguard tenants' safety.

At present, all private landlords in Scotland must provide a valid gas safety record and annual checks for the appliances in the property that they rent out, but there is no legal requirement for them to provide a carbon monoxide detector and alarm. I am keen for CO alarms to become part of an evolution in private renting in which stability and security become the norm and, as a result, tenants feel comfortable in asking for the services and improvements that turn a private let into a home.

I place on record my thanks to Shelter Scotland for its work in highlighting the issue and in supporting me in lodging the amendment.

I welcome the opportunity to speak to amendment 5, which is intended as a probing amendment. Its purpose is to prevent landlords

from failing to contribute to the cost of common repairs that are required to be carried out in order for their property to meet the repairing standard.

The issue has been highlighted by the City of Edinburgh Council. Around 67 per cent of all homes in Edinburgh are flats, and more than 45,000 households rent their home from a private landlord. It is essential that those buildings are maintained, but issues with mixed ownership often complicate the process.

Although common parts of a building are already covered by the repairing standard, it may be difficult for owners to recover the cost of common repairs if a landlord does not contribute. The amendment will help to avoid situations in which responsible home owners pay to maintain common areas, which contributes to enabling a privately rented property to meet the repairing standard, while the landlord fails to contribute to the costs.

For example, a secure door entry system in a block of flats may need to be repaired, and the majority of owners may agree to carry out the work. A private landlord may not have engaged with the owners regarding the work, but the owners may decide to go ahead with the repair anyway, as the building's security is compromised. The landlord would therefore not have paid for their share of the work that ensures that their flat now complies with the repairing standard.

Under the current provisions in the Tenements (Scotland) Act 2004, the onus is on the other owners to recover costs from the landlord. That can be complex and time-consuming, and it can act as a disincentive to responsible owners who want to actively maintain their property.

Amendment 5 would mean that the landlord could be referred to the private rented housing panel. If it is proven that the landlord has not been contributing to common repairs, they could be found guilty of an offence and face removal from the landlord register or a fine.

I strongly urge the Scottish Government to engage in constructive dialogue through its officials with the City of Edinburgh Council to address what is a serious and widespread issue throughout the city, and to explore what further progress may be possible in advance of stage 3.

I move amendment 31.

Mark Griffin: Amendment 53 is a simple amendment that would ensure that all smoke alarms in houses are connected to the mains electrical supply. We know about the issues with the safety and reliability of battery-operated smoke alarms, and I know that the Government supports the move to hard-wired detectors.

The Government's position is that, since 2007, smoke alarms that have needed to be replaced have been replaced by hard-wired alarms. However, we should simplify the position, so that rather than make tenants wait five to 10 years for their alarms to be upgraded to the safer, hard-wired alarm, and rather than have tenants worry about when a warranty will expire and when they should ask their landlord to replace an alarm, we make the position clear and increase the safety of all houses in the private rented sector by ensuring that all smoke alarms are connected to the mains supply.

Bob Doris (Glasgow) (SNP): I welcome the constructive dialogue that I have had with the Government and with Electrical Safety First—the campaigning name of the Electrical Safety Council—which proposed the approach in amendment 54.

Amendment 54 would introduce a requirement for five-yearly checks by a registered electrician of fixed electrical installations and any electrical appliances that are supplied with a let, in all properties in the private rented sector.

Such checks are supported by 12 trade associations, businesses and charities, including key housing stakeholder organisations such as the Scottish Association of Landlords, Shelter Scotland, the Royal Institution of Chartered Surveyors Scotland and the Chartered Institute of Housing Scotland. The approach therefore has broad support.

The approach would be achieved by amending the repairing standard in the Housing (Scotland) Act 2006. Amendment 54 would require private landlords to arrange for a suitably competent person to carry out an electrical safety check every five years; landlords would also be required to provide a copy of the inspection record to the tenant or subsequent tenants in the five-year period. A power to issue guidance on electrical standards would be introduced, and the approach would be enforced through a complaint to the private rented housing panel.

The majority of accidental domestic fires in Scotland—indeed, 69 per cent of such fires—are caused by electricity. Research indicates that private tenants are at much greater risk of electrical fires and electric shocks. Amendment 54 is therefore needed. The private rented sector itself supports such regulation, which is key.

Claudia Beamish (South Scotland) (Lab): Amendment 48 would confer on the Scottish ministers a duty to make provision on energy efficiency standards in the private rented sector. Ministers would set regulations that required landlords to adhere to a minimum energy efficiency standard, which would come into force

by 1 January 2015, following a consultation. There would also need to be regulation for a system of inspection.

Amendment 48 would also give the Scottish ministers the power to set penalties for landlords who failed to ensure that their properties met the minimum standard, including when a house formed only part of the premises. I appreciate that that is a difficult aspect of the proposed approach, but it requires serious consideration, because people are often left isolated in poor conditions.

I was surprised that the bill as introduced does not include provisions on such an important issue. My Labour colleagues and I thought that it was necessary to lodge an amendment on energy efficiency. Increased energy efficiency would bring many benefits, in the context of not just tenants' general comfort but reduced fuel poverty and carbon emissions.

The Parliament passed the Climate Change (Scotland) Act 2009, which requires us to achieve annual carbon emissions reduction targets. We have missed the first two targets, for complicated reasons. Legal standards on energy efficiency in the private rented sector could go some way towards addressing greenhouse gas emissions in Scotland.

We also have a target on fuel poverty, which must be addressed. That is as important in rural areas as it is in urban areas. The Scottish Government set an ambitious target of eradicating fuel poverty by November 2016. The target is achievable, but only if we address the issue, in part through the bill.

If the target is to be realised, it is essential that we improve energy efficiency standards. The existing homes alliance certainly supports that way forward. I am not a member of this committee, but I understand that the Royal Institution of Chartered Surveyors, the City of Edinburgh Council and Friends of the Earth Scotland are also supportive of moves being made in the bill.

I am aware that the Scottish Government has put together a ministerial working group to look at energy efficiency standards in the whole of the private sector. As I understand it—and if I am wrong, I apologise; the minister will no doubt confirm as much—the group is likely to report in the autumn. Although I welcome that news, I have lodged amendment 48 to help focus minds now on how in this section of the bill we might have the best means of addressing this issue with regard to the private rented sector.

I would argue that, as the bill contains a number of other repairing standards provisions, my proposal would be a sensible way of addressing energy efficiency and ensure that the standards are in place, at least in the rented sector, by 2015, instead of the later date that would be required if we had to wait for separate measures.

12:00

Margaret Burgess: I will take the amendments in the order in which they were spoken to.

On amendment 31, I thank Jim Eadie for raising the issue of carbon monoxide poisoning in private rented homes. The installation of carbon monoxide detectors provides additional protection to tenants in the private rented sector; indeed, Mr Eadie has already indicated how many deaths occur in the UK as a result of carbon monoxide poisoning. His amendment seeks to add the requirement for the installation of carbon monoxide detectors to the repairing standard for private rented homes. As such a proposal would strengthen housing standards and improve the safety of tenants in the private rented sector, I welcome it and urge the committee to support amendment 31.

Amendment 53 in the name of Mark Griffin seeks to require the installation of hard-wired smoke alarms in properties in the private rented sector. As I said at stage 1, private landlords have since September 2007 been required to install such alarms to achieve the repairing standard if they have not already put in place provision for smoke detection. Moreover, any battery-operated alarms that landlords installed prior to September 2007 must be replaced with hard-wired detectors at the end of their five to 10-year lifespan. That means that all battery-operated detectors should be replaced with hard-wired systems by 2017. I believe that such a phased approach is sensible and proportionate and will achieve the amendment's desired purpose in an incremental way and ensure the steady improvement of fire safety standards. Accordingly, I ask that Mr Griffin not move amendment 53 and, if he should, that the committee reject it.

I am grateful to Bob Doris for lodging amendment 54 and raising the important issue of electrical safety in private rented homes. Regular electrical safety testing will give additional protection to tenants in the private rented sector and reduce the risk of exposure to unsafe electrical installations. As Mr Doris has pointed out, his proposal has been strongly supported by the Electrical Safety Council—or Electrical Safety First, as I believe it is now called—whose research suggests that 70 per cent of accidental fires in Scotland are caused by electricity. Amendment 54 will require landlords to ensure that such a test is completed at least once every five years, and tenants will also be provided with a copy of the most recent record of an inspection. As I believe that the proposal will strengthen housing standards and improve the safety of tenants in the

private rented sector, I welcome it and urge the committee to support amendment 54.

I have some concerns with Claudia Beamish's amendment 48, which seeks to introduce a provision on energy efficiency standards in private rented sector properties. Under the Climate Change (Scotland) Act 2009 and the Energy Act 2011, the Scottish ministers already have powers to introduce minimum standards for energy efficiency in private sector housing, and we are committed to improving energy efficiency to address fuel poverty and reduce carbon emissions from housing. We are already working with stakeholders, including environmental, fuel poverty, local authority, private rented sector and consumer interests, to identify proposals for minimum energy efficiency standards for consultation in spring 2015. As well as being unnecessary, amendment 48 would not give us sufficient time to understand the issues that the working group has identified; after all, we need to take proper account of the evidence that we have commissioned on the level of regulation that is technically feasible and appropriate.

Consultation on the Scottish Government's sustainable housing strategy also indicated strong support for sufficient lead-in time for the sector to prepare for minimum standards. It is unsatisfactory that amendment 48 seeks to undermine that process: it would severely limit the opportunities to develop proposals that will be appropriate to the sector as a whole, and it could constrain its ability to deliver on it.

I have proposed amendment 30 to enable the repairing standard to be amended by regulations, so, if the steering group on minimum energy efficiency standards in the private sector identifies that it would be appropriate to use the repairing standard to support improvement in energy efficiency work, that could be looked at in future, after appropriate consultation.

For those reasons I do not consider that amendment 48 is necessary or that it would achieve the desired purpose, and I invite Ms Beamish to not to move amendment 48 and members not to support it.

I have concerns about Jim Eadie's amendment 5, which seeks to force private sector landlords to comply with majority decisions to complete repairs to common parts of a property. Owners already have a right under the tenement management scheme to pursue any non-complying owner for work agreed under a majority decision. In addition, owners already have a common duty to maintain any part of the building that provides support or shelter to any other part, and an owner can recover costs from any other owner.

This bill takes important steps forward, as section 72 contains an amendment to the Tenements (Scotland) Act 2004, which will allow a local authority discretionary power to pay a missing share on behalf of a non-co-operating owner and to recover the debt.

For those reasons, amendment 5 is unnecessary to achieve the desired purpose and I ask members not to support it. I add that officials and I are continually in discussion and are happy discuss amendment 5 with Jim Eadie, but I do not think that we need to support it.

Amendment 30, in my name, will create a new regulation-making power for the Scottish ministers to vary the detail of the repairing standard for private rented property without the need for further primary legislation. Any such variation to the standard will remain subject to parliamentary scrutiny. The amendment will make it easier to introduce improvements to accommodation standards in the private rented sector, including any further improvements to safety in the home for private tenants, should they be required.

The Scottish Government's proposed work on cross-tenure housing quality standards later this year will provide stakeholders with the opportunity to raise further issues regarding housing quality. The outcome of the consultation will be important in determining any further changes to housing standards. Amendment 30 will provide assurance that further changes to the repairing standard can be made following the outcome of the consultation. I therefore ask members to support amendment 30.

Jim Eadie: I am grateful to the minister for her positive response to amendment 31 and the constructive engagement that there has been between me, the minister and the Scottish Government on this issue. I am delighted that the amendment will strengthen the rights of people who live in the private rented sector.

In relation to amendment 5, I note the minister's clarification that the existing proposal in section 72 would allow a local authority to recover a contribution from a private landlord for a common repair. I welcome the minister's commitment to an on-going dialogue with the City of Edinburgh Council on the issues that amendment 5 highlighted.

Amendment 31 agreed to.

Amendment 53 moved—[Mark Griffin].

The Convener: The question is, that amendment 53 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Fee, Mary (West Scotland) (Lab)
Griffin, Mark (Central Scotland) (Lab)
Johnstone, Alex (North East Scotland) (Con)

Against

Eadie, Jim (Edinburgh Southern) (SNP)
Ingram, Adam (Carrick, Cumnock and Doon Valley) (SNP)
MacDonald, Gordon (Edinburgh Pentlands) (SNP)
Watt, Maureen (Aberdeen South and North Kincardine) (SNP)

The Convener: The result of the division is: For 3, Against 4, Abstentions 0.

Amendment 53 disagreed to.

Amendment 54 moved—[Bob Doris]—and agreed to.

Amendment 48 moved—[Claudia Beamish].

The Convener: The question is, that amendment 48 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Fee, Mary (West Scotland) (Lab)
Griffin, Mark (Central Scotland) (Lab)

Against

Eadie, Jim (Edinburgh Southern) (SNP)
Ingram, Adam (Carrick, Cumnock and Doon Valley) (SNP)
Johnstone, Alex (North East Scotland) (Con)
MacDonald, Gordon (Edinburgh Pentlands) (SNP)
Watt, Maureen (Aberdeen South and North Kincardine) (SNP)

The Convener: The result of the division is: For 2, Against 5, Abstentions 0.

Amendment 48 disagreed to.

Amendment 5 not moved.

Amendment 30 moved—[Margaret Burgess].

The Convener: The question is, that amendment 30 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Eadie, Jim (Edinburgh Southern) (SNP)
Ingram, Adam (Carrick, Cumnock and Doon Valley) (SNP)
Johnstone, Alex (North East Scotland) (Con)
MacDonald, Gordon (Edinburgh Pentlands) (SNP)
Watt, Maureen (Aberdeen South and North Kincardine) (SNP)

Against

Fee, Mary (West Scotland) (Lab)
Griffin, Mark (Central Scotland) (Lab)

The Convener: The result of the division is: For 5, Against 2, Abstentions 0.

Amendment 30 agreed to.

Section 23—Third party application in respect of the repairing standard

The Convener: The next group is on enforcement of the repairing standard. Amendment 6, in the name of Jim Eadie, is grouped with amendments 10, 11, 32 and 41.

Jim Eadie: I am pleased to introduce amendment 6, the purpose of which is to enable neighbouring owners who are adversely affected by a property that does not meet the repairing standard to refer the owner of the said property to the Private Rented Housing Panel. The amendment would also allow advice services to make referrals to the Private Rented Housing Panel, where those services are providing support to tenants whose property does not meet the repairing standard.

It is worth noting that common repairs can be complex, especially in a city such as Edinburgh, where 67 per cent of all homes are flats, 49 per cent of homes were built before 1945 and more than 45,000 households rent privately. Data from the Scottish house condition survey shows that 76 per cent of private sector homes are in some form of disrepair. Although the majority of landlords who operate in Edinburgh take responsibility for their obligations on common repairs, more can be done to ensure that tenants and neighbouring home owners have the power to hold bad landlords to account.

Allowing neighbouring owners to make a referral to the Private Rented Housing Panel would help to reinforce the message that people need to take responsibility for the maintenance of their home as well as the common areas of the building. Neighbouring owners might be more likely to take a proactive approach to reporting the need for a repair than tenants, who might fear the reaction of the landlord. Landlords might be less likely to take an interest in the upkeep of the building and common areas if they do not actually live in the building, or they might be less aware of the general state of repair of the building, especially if they do not visit the property regularly.

Some tenants might prefer to access support through an advice agency rather than their local authority. It might be more convenient for a tenant to use an advice agency if it is located in the community or if they have a relationship with an agency or have had positive experiences of support from one in the past. Taking all that into account, I hope that the Scottish Government will consider amendment 6 and the potential views of neighbouring owners, landlords and tenants.

I move amendment 6.

The Convener: The next amendment in the group is amendment 10, which is in the name of Malcolm Chisholm, but I think that Mary Fee is

going to speak to it and to the other amendments in the group.

Mary Fee: Yes, convener. I am going to move amendments 10 and 11, which are in Malcolm Chisholm's name. They are fairly straightforward and simple amendments. Amendment 10 would enable the owner of a house neighbouring a house that is owned by a landlord, where the landlord has not contributed to the cost of maintenance and repair, to recoup the cost and enforce the standard. As elected representatives, all members will have had people come to see them about an adjoining or neighbouring property that is not maintained to a particular standard and the difficulties that that subsequently brings for them. Amendment 10 would cover that by allowing neighbours to enforce the repairing standard.

Similarly, amendment 11 would extend the ability to enforce the repairing standard to contractors. Quite often, when contractors come out to do work, they could highlight that the repairing standard has not been met. The amendment would enable them to ensure that the standard is met.

I support amendments 32 and 41, in the name of the minister.

12:15

Margaret Burgess: As we heard, amendment 6, in the name of Jim Eadie, seeks to specify two additional types of person who may apply to the private rented housing panel for a determination in respect of the repairing standard.

The bill, as it stands, will enable local authorities to make such applications. I would expect neighbours and advice bodies to provide evidence of poor property condition to the relevant local authority for it to consider whether the application is needed. The bill provides ministers with the power to extend the range of bodies that can make applications in the future if that is considered useful. In addition, new powers for inspection that I am proposing as part of the provisions for third-party reporting support the strategic role that local authorities play in ensuring that properties right across Scotland meet minimum standards.

The power of entry for local authorities to inspect a property in relation to the repairing standard will be an important new tool. Taken together with existing powers of inspection, it will enable local authorities to enter private rented sector properties for a variety of housing-related issues.

I believe that the bill strikes the right balance in allowing local authorities to make the applications but granting a power to ministers to broaden access to the Private Rented Housing Panel through secondary legislation if that is considered necessary and appropriate in the future. In the meantime, it is important to let local authorities exercise the new powers that are in the bill to tackle poor standards in the private rented sector.

I therefore invite Mr Eadie to withdraw amendment 6.

What I have just said is also relevant to amendments 10 and 11, in the name of Malcolm Chisholm. As I have said, third parties such as service managers can report evidence of poor property condition to the local authority. There is a power to allow service managers to make direct applications if experience shows that that would be advantageous. I think that it is preferable to let local authorities operate the provisions for applications to the panel and consider how effective that proves to be before extending the range of bodies that can do so. I ask members not to support amendments 10 and 11.

Amendment 41 is a technical amendment that removes redundant references to Scottish Homes from section 22 of the Housing (Scotland) Act 2006. I ask members to support amendment 41.

Amendment 32 is a more significant change. I want local authorities to be able to take effective action when there is evidence that property condition falls below the legal minimum standards. The provisions for third-party reporting provide an additional and important tool that will enable local authorities to take action and enforce the repairing standard.

In some cases, it may be difficult for a local authority to gather evidence on property condition without a power of entry to inspect a property that is suspected of failing to meet the repairing standard. The new power of entry that is introduced by amendment 32 is significant and can be used much more easily than the powers that were previously considered in the policy memorandum for designating a specific geographic area as an enhanced enforcement area.

After further consideration, I believe that allowing all local authorities to inspect properties that give them concern, regardless of their geographical location, provides a more appropriate and effective solution. Amendment 32 will enhance the provisions for third-party reporting and will significantly strengthen the hand of local authorities in tackling substandard housing. I therefore urge members to support amendment 32.

Jim Eadie: I am grateful to the minister for her explanation and clarification, particularly in relation to the broadening of access to the Private Rented Housing Panel through secondary legislation. I also note her comments on the need to allow the

new proposals in the bill to bed down before taking any further powers. However, I encourage the Scottish Government to engage in a continuing dialogue with the City of Edinburgh Council on the issues that are highlighted in amendment 6.

I seek agreement to withdraw amendment 6.

Amendment 6, by agreement, withdrawn.

Amendment 10 moved—[Mary Fee].

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

Members: No.

The Convener: There will be a division.

For

Fee, Mary (West Scotland) (Lab)
Griffin, Mark (Central Scotland) (Lab)

Against

Eadie, Jim (Edinburgh Southern) (SNP)
Ingram, Adam (Carrick, Cumnock and Doon Valley) (SNP)
Johnstone, Alex (North East Scotland) (Con)
MacDonald, Gordon (Edinburgh Pentlands) (SNP)
Watt, Maureen (Aberdeen South and North Kincardine) (SNP)

The Convener: The result of the division is: For 2, Against 5, Abstentions 0.

Amendment 10 disagreed to.

Amendment 11 moved—[Mary Fee].

The Convener: The question is, that amendment 11 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Fee, Mary (West Scotland) (Lab)
Griffin, Mark (Central Scotland) (Lab)

Against

Eadie, Jim (Edinburgh Southern) (SNP)
Ingram, Adam (Carrick, Cumnock and Doon Valley) (SNP)
Johnstone, Alex (North East Scotland) (Con)
MacDonald, Gordon (Edinburgh Pentlands) (SNP)
Watt, Maureen (Aberdeen South and North Kincardine) (SNP)

The Convener: The result of the division is: For 2, Against 5, Abstentions 0.

Amendment 11 disagreed to.

Amendment 32 moved—[Margaret Burgess]—and agreed to.

Section 23, as amended, agreed to.

Sections 24 and 25 agreed to.

After section 25

The Convener: The next group is on rent reviews and rent increases—private rented housing. Amendment 33, in the name of James Kelly, is grouped with amendments 33A and 37.

James Kelly (Rutherglen) (Lab): I welcome the opportunity to move the amendments in my name. Aside from the crisis in housing supply, the biggest issues that face housing in Scotland today are the growth of the private rented sector and the issues that derive from that. The private rented sector has almost doubled in size to more than 300,000 and, as a result, there have been substantial rent rises, particularly in certain parts of Scotland. For example, in Aberdeen, the average rent rise is 8.6 per cent.

The growth in the private rented sector has put some tenants in a position where they are vulnerable in having to deal with landlords. There are many responsible landlords in the country, but there are some who are not so responsible, and they take advantage of the position that tenants find themselves in of not being able to find alternative accommodation and put rents up. We see many examples of that in our constituency casework. Added to that, 120,000 households in the private rented sector are below the poverty line, and we know that that results in 40 per cent of those households cutting back on heating and a third cutting back on food.

It is therefore incumbent on us as a Parliament to try to address some of the issues around rising rent levels, which lead to poverty issues for some households. Amendment 33 seeks to address that by ensuring that rent reviews take place no more than once a year and that rents are capped at a particular level to prevent a situation where there are irregular rent reviews and unreasonable rent rises are imposed on tenants.

Amendment 33A, in the name of Patrick Harvie, seeks to ensure that the regulations for such a scheme must

"be laid before the Scottish Parliament"—

as opposed to "come into force"—by 1 January 2015. On reflection, I think that that is sensible. In amendment 33, I do not propose a particular scheme. I think that it makes sense for ministers to bring forward a scheme and lay it before the Parliament by 1 January 2015, and I therefore accept the amendment to amendment 33.

In summary, I note that the effect of amendment 33 is clearly to introduce rent caps in the private rented sector in order to alleviate the issues that many tenants face with unreasonable rent rises. We have real problems in the private rented sector, as we know from the issues that we face in our constituencies, and the bill gives us an opportunity here and now to act to make a difference to the lives of many tenants throughout the country.

I move amendment 33.

Patrick Harvie (Glasgow) (Green): I was pleased that James Kelly lodged amendment 33. In the stage 1 debate and in housing debates before the bill was introduced, I consistently argued that we should address rent levels in the private rented sector, particularly in this extended period of low interest rates, which have been a benefit to owner-occupiers as well as owners of property that is rented in the private rented sector who have a mortgage on such property. Owners have gained that benefit in the period of low interest rates, but it has not been passed on to those who live in the private rented sector in their housing costs.

I am not sure whether I would have taken precisely the same approach as James Kelly has taken. The Labour Party at UK level has decided on its policy, which there is a good case for. My approach would have been to look at the variations in the private rented sector in different parts of the country.

Scotland is not the same as south-east England. Prices in Aberdeen are not the same as those in rural parts of Scotland. Even different parts of Glasgow or Edinburgh are not the same as each other. My instinct would have been to provide a power to introduce controls on rent levels in areas where the evidence demonstrates a particular problem. That approach would be less likely to have a wider disruptive effect on the private rented sector.

However, as the committee is to debate and decide on amendment 33 as it is framed, I think that it should refer to an achievable date. The proposed timescale of the beginning of 2015 seems to provide enough time for ministers to consider their options, consult on the issue, draft regulations and introduce them in Parliament. Given the requirement for Parliament to take evidence on, scrutinise and make a decision on the regulations, for the regulations to come into force and for any systems to implement them to be in effect, the beginning of 2015 is a wee bit ambitious as a timescale.

As the committee is to decide on amendment 33, I think that it would be reasonable to move the timescale back a wee bit. I am grateful to James Kelly for acknowledging that. If the committee decides that the proposed approach is not the right one, I hope that there will be willingness to look at variations on the theme of rent levels when we reach stage 3.

The Convener: Will you move amendment 33A?

Patrick Harvie: Not yet.

The Convener: You have to move it now.

Patrick Harvie: Oh—it is an amendment to an amendment. I beg your pardon.

I move amendment 33A.

Margaret Burgess: I have reservations about amendment 33, because it would require the Scottish ministers to introduce rent controls by 1 January 2015, as Patrick Harvie highlighted. Amendment 33A would provide a slightly longer timescale; it would allow regulations to be laid by that date and it takes into account the possibility that Parliament might not support the regulations.

I cannot support James Kelly's proposal or the amendment to it from Patrick Harvie. Amendment 33A would improve the drafting, but it does not address the reasons why amendment 33 is flawed.

The amendment proposes a significant new duty in respect of matters that formed no part of the bill on introduction. If I had lodged such an amendment at this late stage, I would rightly have been criticised for failing to consult stakeholders, for not producing any assessment of the impact that the duty would have on landlords or tenants and for denying the committee the opportunity to consider and take evidence on the provision at stage 1.

A measure of such significance would require full public consultation on the basis of clear proposals, followed by close parliamentary scrutiny of detailed provisions that appeared in the bill on introduction. As none of those conditions has been met, I urge members to reject the amendments in the group.

12:30

James Kelly: I take on board Patrick Harvie's comments on the scheme that is set out in the amendment and on variations throughout the country. I have deliberately not been specific about a particular scheme. If the amendment is unsuccessful, I will not look to bring it back at stage 3. If the idea is considered at stage 3 or beyond, I am certainly sympathetic to a proposal that would involve variations across the country. I recognise that a blanket Scottish approach would not be the best approach in these circumstances so I take on board those comments.

I think that the minister's response is inadequate. Tenants face big issues in all our constituencies and in communities throughout Scotland. Patrick Harvie is right to highlight the fact that there has been a shift in power in favour of landlords—not in favour of tenants—because of the growth of the sector and low interest rates.

The minister does not seem to acknowledge that the growth in rent levels in the private rented sector is an issue. I think that it is an issue and

that it should have been addressed in the bill. If she had listened to stakeholders, the minister would have heard a number of stakeholders saying loud and clear that it is an issue. It almost seems as though she is turning a blind eye to a big issue in housing.

You are the housing minister and you are therefore responsible for making a positive impact on housing policy. The bill gives you the opportunity to do that and if the proposal that is before us is not one that you like, you could try to make an alternative proposal at stage 3. However, you seem set on taking no action on this issue. That approach will be greeted with disappointment by many tenants and by people on the ground throughout Scotland.

Patrick Harvie: Given that James Kelly has indicated that he does not object to my amendment to his amendment, I have nothing further to add. I press amendment 33A.

The Convener: The question is, that amendment 33A be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Fee, Mary (West Scotland) (Lab)
Griffin, Mark (Central Scotland) (Lab)

Against

Eadie, Jim (Edinburgh Southern) (SNP)
Ingram, Adam (Carrick, Cumnock and Doon Valley) (SNP)
Johnstone, Alex (North East Scotland) (Con)
MacDonald, Gordon (Edinburgh Pentlands) (SNP)
Watt, Maureen (Aberdeen South and North Kincardine) (SNP)

The Convener: The result of the division is: For 2, Against 5, Abstentions 0.

Amendment 33A disagreed to.

The Convener: The question is, that amendment 33 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Fee, Mary (West Scotland) (Lab)
Griffin, Mark (Central Scotland) (Lab)

Against

Eadie, Jim (Edinburgh Southern) (SNP)
Ingram, Adam (Carrick, Cumnock and Doon Valley) (SNP)
Johnstone, Alex (North East Scotland) (Con)
MacDonald, Gordon (Edinburgh Pentlands) (SNP)
Watt, Maureen (Aberdeen South and North Kincardine) (SNP)

The Convener: The result of the division is: For 2, Against 5, Abstentions 0.

Amendment 33 disagreed to.

The Convener: The next group is on security of tenure—private rented housing. Amendment 34, in the name of James Kelly, is grouped with amendments 34A to 34G and amendment 38.

James Kelly: Amendment 34 seeks to address the fact that there has been real growth in the size of the private rented sector and a major issue facing many people in that sector is short tenancies. A number of years ago, the Scottish Parliament information centre provided the information that 74 per cent of tenancies were short tenancies. That is a somewhat outdated figure, but I am sure that it is not totally out of the ball park.

Short tenancies mean lack of stability for tenants, who do not know whether they will be able to stay in the accommodation for any length of time; the landlord can come along and say that their tenancy is ended and move them on. That causes a lot of consequential problems and, as I said in the previous debate, it places too much power in the hands of landlords, as opposed to tenants, which can be illustrated by a lack of repairs being done to properties. A property might not be in a fit state, but if a tenant has only a short tenancy, they can do very little about it.

Amendment 34 seeks to introduce more secure tenancies and proposes a three-year standard tenancy. After the first six months, the tenant would have the ability to terminate the contract on one month's notice, and the landlord would have the ability to terminate it on two months' notice, if the tenant was acting in an antisocial manner or had rent arrears, or if the landlord planned to refurbish or change the use of the property.

Although Patrick Harvie's amendments bring a number of reasonable points into consideration, I do not support them at this stage. If amendment 34 is agreed to, I will consider lodging such amendments at stage 3. If amendment 34 is not agreed to, I will lodge similar amendments at stage 3 and will consider some of the points that Patrick Harvie has made in his amendments.

In summary, the purpose of amendment 34 is to address the insecurity that many tenants face, and their lack of power in dealing with landlords. I believe that longer and more stable and secure tenancies are required in order to give more power to tenants so that we can address some of the problems that exist in the private rented sector.

I move amendment 34.

Patrick Harvie: I am pleased that an amendment on security of tenure is being considered because, as members will recall, I have emphasised the issue in previous discussions. Security of tenure underpins many of the other improvements that I think all members would like to be made in the private rented sector.

Without it, very many of the other rights that both we and the Government want to give tenants in that sector to improve their situation will be difficult to exercise in practice.

We should recognise that the Government has previously indicated that it does not intend to address security of tenure in the bill, but has begun work to examine the issue, although I think that this is a useful forum for rehearsing the arguments. I hope that the discussion that takes place on the amendments in the group will help to inform the Government's consideration of security of tenure, even if the committee does not agree to them.

I have sought to make a few changes to the scheme that James Kelly has proposed so that we can discuss particular aspects of that scheme. Amendments 34A, 34B, 34C and 34D would remove the idea of a six-month initial term. If the reasons that are set out in subsections (1)(d)(i) to (1)(d)(vi) of the new section that amendment 34 seeks to insert in the bill are the reasonable grounds on which a landlord could terminate a tenancy, get rid of the tenant and tell them that they had lost their home—which is a very serious step—I do not think that there is a case for having additional grounds on which a landlord could do so during the first six months. If the tenant does not breach the terms of the tenancy, act in an antisocial way or get into rent arrears—the reasons that are set out in subsections (1)(d)(i) to (1)(d)(iii)—no additional conditions should apply in the first six months. I am not clear about the reason for that interim term.

Amendment 34E suggests that, when refurbishment or change of use is the reason for ending a tenancy, six months' notice might be given. If a landlord intends to change the use of a property or refurbish it, it seems reasonable to expect them to plan ahead for such action and to give sufficient notice to ensure that the tenant does not have their life unduly disrupted and has time to make alternative arrangements.

Amendment 34F suggests that, when a property is to be refurbished, a tenant should at least have the option to move back in when that has been done. The intention behind amendments 34F and 34G is to close down the possibility that the reasons in subsections (1)(d)(iv), (1)(d)(v) and (1)(d)(vi) might be misused.

We have probably all heard of constituents who are told that a property is going to be sold, which is why they have to move out, but then find that within weeks the property is back on the market for a higher rent. That is a very common practice. If refurbishment was a ground for removing a tenant from their home, it is entirely conceivable that only minor refurbishments could be done, which would not be extensive enough to genuinely require someone to be removed from their home, and the property could then go back on the market.

Amendment 34G is similar in intent as it tries to cut down the possibility that one of the reasons that are given in amendment 34 could be used as an excuse, rather than a genuine ground. It suggests that if a property is going to be sold, or if the landlord is going to move back into it, that would have to happen in practice—as opposed to the property just being put back on to the market. I have suggested that in such cases, the property could not be put back on the market for private rent for six months.

I recognise that the Government is probably unlikely to budge on this, but some discussion of these questions in relation to the scheme of secure tenure that we might move to in time will, I hope, help inform the Government's consideration in further work that it does on the issue.

I move amendment 34A.

Margaret Burgess: Amendment 34 would place a duty on ministers to introduce regulations to establish a new type of tenancy in the private rented sector. Amendment 38 would require that Parliament's affirmative procedure be adopted for the proposed new regulations that are detailed in amendment 34. As amendment 33 in James Kelly's name would have done, amendment 34 would introduce a significant new duty on ministers in respect of matters that formed no part of the bill on its introduction.

As I said earlier, it is not about ignoring things or not taking things into account; I am always willing to consider the views of stakeholders and have done so throughout the development of the bill. However, before embarking on major legislative changes, we need to establish the nature and scale of any problem, understand clearly how we would go about addressing it and be sure that we would help those who need help.

Patrick Harvie has previously raised the issues of rent control and security of tenure in the private sector, but that is the only mention of that that has come to me from anyone in Parliament. We have discussed security of tenure with stakeholders. I object to the amendments in the group on the ground that there has not been appropriate consultation on the issue.

However, we recognise that the tenancy regime is central to efficient functioning of the private rented sector. That is why in our private rented sector strategy we undertook to carry out a review of the tenancy regime. To drive that work forward, I asked Professor Douglas Robertson to chair a stakeholder-led review group to examine the suitability and effectiveness of the current private sector tenancy regime, and to consider legislative

changes, where such might be required. The review group was established in September 2013 and it presented its final report to me last Friday. I want to consider that report and to decide, in the light of it, whether we should introduce a bill to give effect to any of its recommendations.

Patrick Harvie: It would be helpful for the discussion if the minister could say when that report is going to be published.

Margaret Burgess: I saw the report for the first time on Friday.

Patrick Harvie: That is understood.

Margaret Burgess: We will publish it as soon as possible; I have said clearly that if we need to introduce regulation on the tenancy regime, we will do so in separate legislation. It was made very clear—the review group was aware that it was not part of the Housing (Scotland) Bill. The work has been going on for some time within the Government. I will certainly make sure that the research is published as soon as possible.

Patrick Harvie: Thank you.

Margaret Burgess: I want to consider the report. That way, any legislation to change the private rented sector regime would reflect the findings of the group and—importantly—it would be the subject of full consultation and parliamentary scrutiny.

I ask Mr Kelly to seek to withdraw amendment 34 and not to move amendment 38.

Amendments 34A to 34G would amend Mr Kelly's amendment 34. As I have said about amendment 34, we need to take time to consider the findings from the private rented sector tenancy review group before we make any changes to the tenancy regime. We must also ensure that any changes are fully discussed and explored with stakeholders. The amendments represent major changes; they are not just tinkering around at the edges of the bill. Stakeholders require to be consulted and any changes need to have undergone a full and robust public consultation and parliamentary scrutiny.

I ask Mr Harvie not to press amendments 34A to 34G and I urge the committee to reject all the amendments in the group.

12:45

James Kelly: There were two central themes to Patrick Harvie's comments. The first was the initial tenancy and the second was on provisions relating to a landlord's ability to terminate a tenancy, for example in the case of refurbishments.

Essentially, my amendment 34 would move us where from where we are now with short tenancies to a three-year tenancy, and proposes an initial period of tenancy before a longer three-year secure tenancy. My mind is not closed to Patrick Harvie's points; I will consider them if I bring back an amendment at stage 3, as I expect I will have to do.

Similarly, on refurbishment, we do not want anything in legislation to be misused in any way by landlords. Proposed changes to legislation must be tight enough to ensure that that does not happen.

I am disappointed that the minister is not prepared to attempt to address, in the bill, the significant issues in the private rented sector. I do not accept the minister's assertion that the issues have not been raised before; they have been raised in the sector and in Parliament. For example, when Patrick Harvie spoke in the Labour housing debate in November, he raised the issue of rent control, and when I summed up, I specifically said that Labour is considering raising rent control and would use the Housing (Scotland) Bill to test that out. They are significant issues and work is being done on them at the moment. It might help if the minister were to be clearer about the timescale and whether legislation will be introduced in the future.

In the meantime, however, although we remain unclear about that, we cannot ignore the issues in the sector that are brought to our surgeries and constituency offices. Therefore, when a bill such as this is going through Parliament, we must take the opportunity to amend it in order to make a difference to the lives of our constituents. That is what I am seeking to do, which is why I will press amendment 34.

The Convener: I would like to point out to Mr Kelly that the issues were not raised in evidence at stage 1 and that Labour members on the committee did not raise them with any of the stakeholders who came to the committee to give evidence.

Patrick Harvie: I do not have a great deal to add. I would simply echo James Kelly's comments about timescale. I am slightly sorry that some members do not seem to welcome the idea of having even a discussion about these important issues, either in committee or in the chamber. It would be most useful to Parliament as a whole if the minister were at some point able to give a clear indication of the timescale for consideration of these issues in the expert group, and a commitment to legislate during this parliamentary session.

The Convener: The question is, that amendment 34A be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

Against

Eadie, Jim (Edinburgh Southern) (SNP)
Fee, Mary (West Scotland) (Lab)
Griffin, Mark (Central Scotland) (Lab)
Ingram, Adam (Carrick, Cumnock and Doon Valley) (SNP)
Johnstone, Alex (North East Scotland) (Con)
MacDonald, Gordon (Edinburgh Pentlands) (SNP)
Watt, Maureen (Aberdeen South and North Kincardine) (SNP)

The Convener: The result of the division is: For 0, Against 7, Abstentions 0.

Amendment 34A disagreed to.

Amendments 34B to 34D not moved.

Amendment 34E moved—[Patrick Harvie].

The Convener: The question is, that amendment 34E be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

Against

Eadie, Jim (Edinburgh Southern) (SNP)
Fee, Mary (West Scotland) (Lab)
Griffin, Mark (Central Scotland) (Lab)
Ingram, Adam (Carrick, Cumnock and Doon Valley) (SNP)
Johnstone, Alex (North East Scotland) (Con)
MacDonald, Gordon (Edinburgh Pentlands) (SNP)
Watt, Maureen (Aberdeen South and North Kincardine) (SNP)

The Convener: The result of the division is: For 0, Against 7, Abstentions 0.

Amendment 34E disagreed to.

Amendment 34F moved—[Patrick Harvie].

The Convener: The question is, that amendment 34F be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

Against

Eadie, Jim (Edinburgh Southern) (SNP)
Fee, Mary (West Scotland) (Lab)
Griffin, Mark (Central Scotland) (Lab)
Ingram, Adam (Carrick, Cumnock and Doon Valley) (SNP)
Johnstone, Alex (North East Scotland) (Con)
MacDonald, Gordon (Edinburgh Pentlands) (SNP)
Watt, Maureen (Aberdeen South and North Kincardine) (SNP)

The Convener: The result of the division is: For 0, Against 7, Abstentions 0.

Amendment 34F disagreed to.

Amendment 34G moved—[Patrick Harvie].

The Convener: The question is, that amendment 34G be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

Against

Eadie, Jim (Edinburgh Southern) (SNP)
Fee, Mary (West Scotland) (Lab)
Griffin, Mark (Central Scotland) (Lab)
Ingram, Adam (Carrick, Cumnock and Doon Valley) (SNP)
Johnstone, Alex (North East Scotland) (Con)
MacDonald, Gordon (Edinburgh Pentlands) (SNP)
Watt, Maureen (Aberdeen South and North Kincardine) (SNP)

The Convener: The result of the division is: For 0, Against 7, Abstentions 0.

Amendment 34G disagreed to.

Amendment 34 moved—[James Kelly].

The Convener: The question is, that amendment 34 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Fee, Mary (West Scotland) (Lab)
Griffin, Mark (Central Scotland) (Lab)

Against

Eadie, Jim (Edinburgh Southern) (SNP)
Ingram, Adam (Carrick, Cumnock and Doon Valley) (SNP)
Johnstone, Alex (North East Scotland) (Con)
MacDonald, Gordon (Edinburgh Pentlands) (SNP)
Watt, Maureen (Aberdeen South and North Kincardine) (SNP)

The Convener: The result of the division is: For 2, Against 5, Abstentions 0.

Amendment 34 disagreed to.

The Convener: The final group today is on houses let for holiday purposes. Amendment 55, in the name of Drew Smith, is grouped with amendment 58.

Drew Smith (Glasgow) (Lab): Patience is my virtue this afternoon, convener. I am grateful to the committee for giving me the opportunity to move amendment 55, which seeks to strengthen the regulation of housing let for holiday purposes.

My concern about the issue has been prompted primarily by complaints made to me by my constituents. The issue of very short-term lets for holiday purposes—such properties are often known as party flats—is not a new one, but it is one for which I believe that a comprehensive solution does not yet exist. The private letting of property to provide an income for the owner and housing for a tenant is clearly an important part of the housing mix. However, I am sure that no one would disagree that party flats do not fill a housing need. They are commercial enterprises that impact on people in neighbouring properties that are used for housing and, in my view, they require to be better regulated.

The intention of amendment 55 is not to ban party flats or even, necessarily, to reduce their

number, as I recognise that in the tourism sector, as in the housing sector, a mix of accommodation options can be a good thing.

The effect of amendment 55 would be to build on the minimal regulation that currently exists by extending closure powers over party flats in circumstances in which no other resolution has been arrived at and it is recognised that noise nuisance, antisocial behaviour or other inappropriate activity is taking place regularly and is, quite simply, making the lives of the neighbours around the property a living hell.

The power of closure currently resides with the police. I propose not to remove the power from the police but to extend it to local authorities—my experience in Glasgow is that the local authority is aware of the problems—and to adopt a multi-agency approach to seeking to provide respite and a correction to inappropriate use that gives those who live around party flats their lives back and returns to them the basic right to live in and enjoy their home.

I believe that the current arrangements put too much of the burden on the police. The practical reality is that the police are less likely to be willing to intervene, except in cases of serious criminality. The police, by nature, tend to deal with situations as they occur and are less focused on the longer-term impact of problems than they are on ensuring that particular instances of antisocial behaviour are resolved. When they attend an incident at a party flat, it is likely that they will seek to quieten down the disturbance and, in the absence of more serious criminality, advise neighbours that the nuisance will, in all likelihood, resolve itself in a couple of days' time. However, neighbours know that the flat is likely to be let again and that the same issues will possibly arise the following weekend.

Amendment 55 makes it clear that it is for ministers to consider whether to grant the power to local authorities through regulations. The amendment also provides for proper scrutiny of such regulations by the Parliament. I reiterate that amendment 55 is about extending a power that already exists to a more appropriate enforcement body rather than creating a new power.

If instances of regular nuisance such as my constituents have experienced were taking place as a result of any other housing use, action would rightly be demanded and, indeed, mechanisms would exist for them to be dealt with. However, when it comes to party flats, those problems are being allowed to persist and get worse.

The problem exists across Scotland, but it is particularly acute in city centres. My constituents who choose to make their home in Sauchiehall Street or the Merchant City are well aware that compromises have to be made as a result of that choice, but it is not reasonable that enjoyment of their own home is violated by the letting of a neighbouring flat—or, as in one case, several flats in the same building—for a party, based on a notice displayed in a pub inviting revellers to head upstairs into a residential building to carry on drinking and, for want of a better word, partying.

I hope that members will consider those issues when they decide whether to support amendment 55. If the minister is not willing to support it, I hope that she will lay out a suggested way forward that represents a suitably strong and speedy alternative to amending the bill. I know that the constituents who have contacted me would certainly very much welcome the opportunity to make parliamentarians further aware of the issues that they face.

I move amendment 55.

Margaret Burgess: I certainly understand the problems that can be caused by antisocial behaviour in properties that are let on a short-term basis, but I do not believe that the provisions proposed by amendment 55 are necessary.

Legislation is already in place to enable local authorities to tackle the issue of antisocial behaviour in properties let for holiday purposes. For example, under part 7 of the Antisocial Behaviour etc (Scotland) Act 2004, local authorities have powers to serve antisocial behaviour notices on a private landlord when an occupant or visitor engages in antisocial behaviour at or in the locality of the house. In addition, in March 2011, the Scottish Government introduced an order that deals specifically with the problem of antisocial behaviour in properties let for holiday use or so-called party flats.

In a landmark case last year, the City of Edinburgh Council successfully used the existing legislation to apply for a management control order for two party flats in Grove Street. Since then, the council has assumed all landlord responsibilities, thereby helping to improve the quality of life for residents who were previously affected by antisocial behaviour.

I do not believe that amendment 55 would provide any additional benefits in tackling antisocial behaviour in holiday lets. I invite Mr Smith to withdraw amendment 55 and not to move his consequential amendment 58.

Drew Smith: I will not take up more of the committee's time, other than to say that I am disappointed that the minister did not take the opportunity that I offered to consider the issues further. I am sure that my constituents will be disappointed, too, because the fact is that the current provisions are not providing the resolution that she talked about. Although resolution has

been possible in cases in which the landlord is willing to engage with the system of regulation as it exists, when the landlord is not willing to engage in that process, resolution has not been possible, certainly for a number of people in my city. I would have hoped that the minister could at the very least have offered to consider an alternative route for resolving the issue.

I intend to press amendment 55.

The Convener: The question is, that amendment 55 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Fee, Mary (West Scotland) (Lab)
Griffin, Mark (Central Scotland) (Lab)
Johnstone, Alex (North East Scotland) (Con)

Against

Eadie, Jim (Edinburgh Southern) (SNP)
Ingram, Adam (Carrick, Cumnock and Doon Valley) (SNP)
MacDonald, Gordon (Edinburgh Pentlands) (SNP)
Watt, Maureen (Aberdeen South and North Kincardine) (SNP)

The Convener: The result of the division is: For 3, Against 4, Abstentions 0.

Amendment 55 disagreed to.

The Convener: That concludes day 1 of the committee's consideration of the bill at stage 2. I thank everyone for their co-operation and patience.

The committee's consideration will continue next week. I propose that we go no further than the end of part 5 on day 2. The deadline for lodging any amendments to the bill from where we have ended up today to the end of part 5 is 12 noon on Friday 16 May.

12:59

Meeting continued in private until 13:02.

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