



The Scottish Parliament
Pàrlamaid na h-Alba

Official Report

WELFARE REFORM COMMITTEE

Tuesday 28 January 2014

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WELFARE REFORM COMMITTEE

2nd Meeting 2014, Session 4

CONVENER

*Michael McMahon (Uddingston and Bellshill) (Lab)

DEPUTY CONVENER

*Jamie Hepburn (Cumbernauld and Kilsyth) (SNP)

COMMITTEE MEMBERS

*Annabelle Ewing (Mid Scotland and Fife) (SNP)

*Linda Fabiani (East Kilbride) (SNP)

*Alex Johnstone (North East Scotland) (Con)

*Ken Macintosh (Eastwood) (Lab)

*Kevin Stewart (Aberdeen Central) (SNP)

*attended

THE FOLLOWING ALSO PARTICIPATED:

David Bookbinder (Chartered Institute of Housing)

Jack Ferguson (Unite the Union)

Jim Hayton (Association of Local Authority Chief Housing Officers)

David Ogilvie (Scottish Federation of Housing Associations)

Alan Wyllie (No2BedroomTax Campaign)

CLERK TO THE COMMITTEE

Simon Watkins

LOCATION

Committee Room 2

Scottish Parliament

Welfare Reform Committee

Tuesday 28 January 2014

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

Decision on Taking Business in Private

The Convener (Michael McMahon): Welcome to the second meeting of the Welfare Reform Committee in 2014. I ask everyone to ensure that their mobile phones and other electronic devices are switched off.

Agenda item 1 is to decide whether to take items 3 and 5 in private—we have already agreed to take item 4 in private—so do members agree to do that?

Members *indicated agreement.*

The Convener: Our second item should be consideration of petition PE1496. Unfortunately, the petitioner has had travel problems this morning, but he is on his way. We have items on our agenda with which we can continue in the meantime. However, to do that we will have immediately to go into private session. We will open up the meeting to the public again when the petitioner arrives. Do members agree to do that?

Members *indicated agreement.*

10:01

Meeting continued in private.

10:30

Meeting continued in public.

Petition

Bedroom Tax Mitigation (PE1496)

The Convener: We come back to agenda item 2, which is to take evidence on PE1496, on bedroom tax mitigation. I welcome Alan Wyllie, the petitioner. He has brought with him Jack Ferguson, who is a Unite Scotland community co-ordinator. I invite Alan Wyllie to make a brief opening statement, and we will then open up to discussion with members of the committee.

Alan Wyllie (No2BedroomTax Campaign): First, I thank you all, and the Scottish Parliament, for allowing me to propose this possible solution to mitigate the effects of the bedroom tax in Scotland. I have found the whole process to be quite refreshing.

I am the spokesperson for the No2BedroomTax campaign. We are a tenant-led campaign that tries to deal with the bedroom tax in a non-party-political manner. I present to you Jack Ferguson, who is Unite the Union's communities regional organiser for Scotland; he will be helping me to answer your questions. I appreciate that we are here to speak to the petition, but as we are speaking about the bedroom tax, it makes sense briefly to explore why we are here in the first place.

The housing system in the United Kingdom is in crisis. It is not me who is saying that—Shelter and the Confederation of British Industry have stated that the crisis is due to a chronic shortage of homes. That is not new—it did not happen overnight. In the 1970s, there was a change in the mindset of the political class. Rather than the state concentrating on subsidising the supply side, through subsidising the building of affordable homes, there was a move to subsidise the demand side. That directly resulted in fewer affordable homes being built. As well as that change in mindset, there have been other housing policies that have taken housing stock out of the social sector. That was a recipe for disaster, and is the cause of our present housing crisis.

To return to the petition, people who are against the policy call it the bedroom tax, whereas its supporters call it the removal of the spare room subsidy. It is not a tax in the true sense of the word, and it is certainly not a removal of a spare room subsidy because that is not credible: there was never a spare room subsidy in the first place.

It is best if we refer to the legislation. When we do so, we find that the policy already has a name. It is called the underoccupancy penalty. The policy

penalises tenants who are on benefits. To me, that is the nub of the situation. The issue is not political. It is ethical and it is about morals—it is about what is right and what is wrong. The policy is wrong. I do not want to live in a society where the poorest people are forced to pay—literally—for politicians' mistakes. That is unfair because, to be honest, we do not have a lot of money.

Where are we now? The Government in Westminster claims that the policy is needed and is beneficial to the wider housing system and wider society. It claims that the policy is fair and saves money. I hope that I have already explained why the policy is not fair, but if you do not mind, I will briefly explain why it does not save money. Very simply, all the policy does is move costs that fell to Westminster to a lower level. The money that Westminster argues would be saved is still to be paid. The difference is that it is not to be paid via housing benefit; it is to be paid via discretionary housing payments and increased rents, while registered social landlords face increased costs. That is not savings; it is mere sleight of hand. Evidence from the Convention of Scottish Local Authorities says that the bedroom tax will cost £58 million to £60 million in Scotland this year.

What can we do? We cannot repeal the policy—not here, anyway—so we need to mitigate the effects of the policy. Our petition presents the argument that the Scottish Government should fund the bedroom tax shortfall through a temporary funding measure that would ultimately protect tenants from eviction and debt. It would also protect the income streams of registered social landlords.

We do not specify a mechanism to distribute the funds, although we accept that DHP funding is at its maximum level. There could be a mechanism whereby the temporary funding measure could be distributed as a supplement to registered social landlords' revenue. That would instantly negate the massive problems that are being experienced in getting people to apply for DHP.

Although, according to Scottish Government figures, 105,000 Scottish households are being affected by the bedroom tax, only just over 45,000 households had received a DHP payment by November, which means that 60,000 households have received no support. To me, that shows that something is wrong, that the system is not working and that it is failing to make tenants aware of the help and support that are available. By making this temporary funding measure a supplement to registered social landlords' incomes, we would put the onus on local authorities and housing associations to administer and distribute the funds instead of the responsibility being put on scared and confused tenants.

What I am trying to say is that there are, now that DHP payments have reached their highest level, other mechanisms available. In any case, DHP at its maximum does not fully cover the bedroom tax shortfall and there have also been inconsistencies in the way local authorities have been dealing with DHP applications. The fact is that if there are two households in exactly the same situation but in different local authorities one will receive help, but the other will not.

Having spoken to various local authorities, I am getting the message that councils need to make hard choices. I am sad to say that disabled people have been the hardest hit by those hard choices. In respect of discretionary housing payments, DWP advice states:

“a local authority would not generally say that a person is able to use disregarded income such as disability living allowance to pay their rent”

but that is exactly what some councils are doing and it is resulting in people being refused help.

That local authority policy is being challenged in the English courts and, indeed, the lawyers in the West Midlands case have said that the policy breaches the Equalities Act 2010 and the Human Rights Act 1998. The proposal in our petition will stop that by negating and nullifying all the effects of the bedroom tax on our communities. The measure would protect not only tenants but housing associations—by guaranteeing that they can continue their excellent work in the community—and local authorities and the essential services that they provide.

This petition also has political and symbolic value. One of the beauties of living in a digital age is the ability to contact, and to stay in contact with, tenants who have been directly affected by the bedroom tax. Since last April, we have been in constant communication with tenants from all over the United Kingdom, as well as in Scotland. When, in the summer, we asked them what they wanted us to do, they told us in no uncertain terms that we were to support all measures to mitigate the bedroom tax and all efforts to repeal the policy, and to push the petition as far as possible.

The petition might be in my name, but it does not belong to me; it belongs to the tenants in Scotland who have asked for help and been told, “No.” I am here on behalf of them, asking the Scottish Parliament for help. If this Parliament does not have the powers to do what I have suggested, I genuinely apologise for wasting members' time. However, if it does, I believe that we as a society, and Parliament as its figurehead, should stand up and protect tenants from unworkable and outright nasty politics.

The bedroom tax has been rejected by the Scottish National Party, Labour and Liberal

Democrats at both Scottish and federal levels. It has also been rejected by the trades union movement and civic Scotland. By agreeing to the petition, you would be saying unequivocally that Parliament rejects the notion that the poor should have to pay for others' mistakes. I believe that by accepting the petition pro-independence members would show what an independent Scotland should look like, and pro-union members would show that devolution works. Everyone would be a winner: tenants, communities, housing associations and political parties would all win. Everyone would win—except the Tories, and they deserve to lose.

The Convener: Thank you, Alan. I now open up the session to committee members' questions.

Jamie Hepburn (Cumbernauld and Kilsyth) (SNP): Mr Wyllie, thank you for your evidence. You are clearly a passionate advocate of your position.

As you and the rest of us will be aware, the UK Government introduced the bedroom tax, but you are asking the Scottish Government to provide the solution. Has your campaign engaged with the Westminster Parliament and Government as you are engaging with us today?

Alan Wyllie: There are quite a few different aspects to the campaign. As far as Westminster is concerned, we have been trying to get together and to exert some pressure through online campaigns, petitions and so on. For example, I was down there as part of a No2BedroomTax campaign delegation when the bedroom tax was being debated in the House of Commons. We have been lobbying MPs from all political parties to try to put pressure on them.

At a lower level, we have been lobbying Lib Dem councillors and representatives to try to get them to exert pressure upwards, because we believe that the Lib Dems are the weakest link and that we can get to them, but that takes time. Sooner or later, the people of this country will end the bedroom tax. It will happen: no ifs, buts or maybes. However, we are here to ask Parliament for help. We have been protective of our petition; we do not want to be party political. The petition is not an attack on the SNP or on Parliament. We have secured the SNP, the Scottish Government and Scottish Labour as our friends and allies, and are just asking for a wee bit more help.

Jamie Hepburn: Okay—I get that. You are clear about the measure that you are asking the Scottish Government to take. I, as most members of the committee would, presume that your bottom line is that you want the UK Government to abolish the bedroom tax. Failing that, what would you ask the UK Government to do? You have made a clear request of this Parliament

Alan Wyllie: We would ask the UK Government to repeal the bedroom tax.

Jamie Hepburn: I mean what would you ask for in terms of mitigation.

Jack Ferguson (Unite the Union): We are asking Parliament to do what it has the power to do. We need the bedroom tax to be abolished. The focus of any campaigning at Westminster would be pressure for abolition, because there is not much point in mitigating something that is a complete and utter failure, which has led to a massive increase in rent arrears and has caused misery across the whole UK. There is no question but that it must be abolished.

However, in the meantime, tenants who are losing money day by day face urgent financial problems, and have done so over the past year. The point of our being here at Parliament today is to ask you to protect people, short of abolition of the bedroom tax, which is what we are campaigning for full-on at Westminster.

Jamie Hepburn: Would not you make any other request of the UK Government—for example, to lever in more money by way of discretionary housing payments?

Jack Ferguson: Rather than mitigate the bedroom tax, we want the UK Government to abolish it.

Jamie Hepburn: Indeed; we are all agreed on that. The only request that you would make of the UK Government is that it abolish the bedroom tax, but the request for the Scottish Government is to find funds for mitigation, which you have just said has its limitations.

Jack Ferguson: Yes—but the point is that the policy is a disaster. If the Scottish Parliament had the power to abolish the bedroom tax, we would be asking you to abolish it. At the level at which it can be abolished, abolition is the only sensible demand. Some steps along the way are too small and are not what is required. Abolition is what is required at UK level. There is no point in asking the UK Government to improve on something that has failed. We are here asking for emergency help short of the longer-term objective, which is to get the UK Government to move on the issue.

Jamie Hepburn: Where would the Scottish Government find the money, Mr Wyllie?

Alan Wyllie: That is what Governments do every day of the week, but I cannot go through the accounts because I do not have an army of accountants to look over the details. Governments decide a policy, fund it and go for it. I accept that there is an argument that financial mitigation would mean that we would be robbing Peter to pay Paul, but I trust that the Scottish Government would broach the subject in a commonsense

manner and that if it found the money, it would ensure that it did not come out of any other budgets or that if it did, there would be few or no ramifications.

Jack Ferguson: The key point that Alan Wyllie makes is that the money needs to be found somewhere. It is money that we have acknowledged—on a UK state level—that people who are in poverty cannot afford to pay. The UK Government has reneged on, and has walked away from, its responsibility to protect the most vulnerable people in society.

That does not negate the fact that the rent arrears cannot be wished away. Landlords need that funding. The current position, if we leave things as they are, is that we are expecting tenants to make up the shortfall in funding. The bedroom tax amounts to the Government withdrawing from providing the funding that it requires to provide for housing and putting the costs on to some of the poorest people in society.

The point for us is that that will have massive long-term costs. If we accept the fact of life that some people are too poor to meet the full cost of their rent, and we go back to the situation as it was before the bedroom tax and help people to meet the shortfall in their rent, that will save money in the long term. The short-term cost would be mitigated by savings in the long-term on costs of rent arrears, administration, people moving home and everything else that comes with the disruption that has happened because of the bedroom tax.

10:45

Jamie Hepburn: Obviously, the Scottish Government would have to find that money in the first place. Do you have a suggestion on where it could come from?

Jack Ferguson: I do not have a suggestion on where you should take the funding from. My point is that we need housing to be fully funded, that we need tenants to be protected and that Parliament needs to decide to make the matter a political priority. It would probably be one of the most important decisions that Parliament has had to take in its history, in that this is exactly why people wanted a Scottish Parliament. They knew that, down the line, we would have Conservative Governments that would take extreme measures from which people would want protection. That is what we are now facing. We are facing social chaos being caused by the policy.

We appreciate that the policy puts the Government in a difficult position, but our point is that the level of emergency is such that you need to make it a priority to assist tenants with paying their rent.

Kevin Stewart (Aberdeen Central) (SNP): Mr Ferguson talked about “extreme measures” being put in place by the Tories; I note that this is not the first time that that has happened. He also talked about the Scottish Parliament being formed to protect people from the worst excesses of Tory Governments at Westminster. Do the witnesses believe that powers over welfare as a whole should lie fully here or with Westminster? Mr Ferguson, will you answer first, please?

Jack Ferguson: I would not want to take an official position on behalf of Unite the Union. As you are probably aware, the trade unions and the Scottish Trades Union Congress are neutral with regard to the referendum and the debate that is going on.

Kevin Stewart: I am not asking about the referendum.

Jack Ferguson: On welfare powers, I am hopeful that we are going to have some success with the committee today. I think that the Parliament represents the views of people in Scotland on such issues better than the Westminster Government.

Alan Wyllie: I agree. It would make sense if housing benefit were under the control of the housing department here, because that would allow a fuller understanding of the expenditure and the workings.

There seems to be genuine confusion about the powers that the Scottish Parliament has in respect of making money available. I have spoken to people on all sides of the political divide; they say either that the Parliament can or cannot do it, depending on which side of the political divide they are on. However, I believe that Danny Alexander has stated that the Scottish Parliament has the power to do it, and the Parliamentary Undersecretary of State for the Scotland Office, David Mundell, said on 13 January:

“the Scottish Government has the power to completely deal with it now for remarkably little if it is such a priority.”

I believe that it has the power to do so.

Kevin Stewart: We have seen mitigation in other areas, where the Scottish Government has stepped in to stop excesses. Council tax reduction is an example. However, here in the Parliament, at what was formerly the Subordinate Legislation Committee, whose new name escapes me—

Annabelle Ewing (Mid Scotland and Fife) (SNP): It is the Delegated Powers and Law Reform Committee.

Kevin Stewart: At that committee, we have seen some members vote against such action because they thought that it was ultra vires. There are still folks out there who say that we do not

have that power. The Housing Act 1996 states that the maximum DHP that can be given is two and half times the amount of money that Westminster gave for DHP. What do you have to say to that?

Alan Wyllie: We accept that DHP is at its highest level, but we believe that there are other mechanisms that can be used to get round that and to administer money.

Kevin Stewart: Can you give us an example?

Alan Wyllie: The money could come as a supplement to the income streams of social registered landlords. That would mean that it would go straight to landlords, who would be in charge of administering it. There would be no onus on tenants, which would negate the poor take-up of DHP. Another alternative that has been proposed in a private member's bill is the creation of a prevention of homelessness fund.

We need to think outside the box. We accept that DHP is at its highest and that a lot of other mitigation has gone on, but the situation is such a serious emergency that we have come back to say that we really need a final bit of help.

Jack Ferguson: As Alan Wyllie said, the problem with DHP is that there is a lot of confusion among tenants about what they are entitled to. There are also people who may have applied for DHP much earlier, before the additional funding was put in place, and who were refused, but who think that that refusal remains. Too much onus has been put on the tenants through the whole process; they must sort it out, engage with the bureaucracy and fill out the forms.

I do not know whether people are aware of the exemption that was discovered by tenants and then spread virally by the internet. It was found out that people who had been in their homes since before 1996 are exempt from the bedroom tax. That was in the regulations, but the Government had still been deducting money from those people. It took tenants themselves to find that in the regulations and to spread it online among themselves to get all those people the money that they were entitled to under the bedroom tax regulations.

My point is that tenants have already contributed a lot to the process of trying to work things out. There are clearly still problems with people having massive rent arrears. Alan Wyllie said that we are going to need to think outside the box, but the other point is that we want to try to take some of the onus off tenants so that they do not have to apply and ask for extra money all the time, which is clearly causing problems. People have all kinds of different levels of engagement and ability to engage with such processes. It would be much easier if we could find a way to circumvent that.

Kevin Stewart: I say hats off to the folks who have made efforts to try to get rid of this iniquitous policy.

Today, the Scottish Government's Minister for Housing and Welfare is in Westminster. Would you ask Westminster to listen to her on these issues? Would you back her calls for abolition of the bedroom tax? Do you think that the possibility of changing the Westminster DHP policy would make dealing with the tax and mitigating it a little easier?

Alan Wyllie: We have found that the contact that we have had with people in this Parliament has been two-way and quite open and that it has had quite a democratic feel. The contact that I have had with Westminster has been pretty much one-way—that is, I contact them and they ignore me.

Linda Fabiani (East Kilbride) (SNP): Welcome to the club.

Alan Wyllie: At least I am not alone.

Kevin Stewart: The committee is used to that. In fact, Westminster ministers have refused to come and speak to us in a public setting.

Alan Wyllie: Something needs to be done on the bedroom tax. There needs to be some sort of action that protects tenants. There are stories out there about the situation and about people who really need help but have been told no. We are reiterating that although they have been told that, they still need help.

Jack Ferguson: Definitely. With regard to Kevin Stewart's question, it deserves to be acknowledged that the Scottish Government has lobbied the United Kingdom Government because it is against the policy.

We applaud everyone who has made efforts against the bedroom tax. It is worth re-emphasising that our experience of dealing with the Scottish Parliament has been very positive. We feel that many people here understand the issues that are at stake. Our problem is that the Westminster Government is determined to pursue the bedroom tax in the face of the evidence, of common sense and of everything that has been presented, which shows the immense social harm that is resulting from that tax.

Kevin Stewart: Thank you.

The Convener: Linda?

Linda Fabiani: Oh, right. I did not expect to come in so quickly. I thought that I would be joining the queue.

There was nothing that I did not agree with in Alan Wyllie's introductory statement with regard to the historical aspect of social housing and where it

has gone. However, something that he said made me think. He said that if the petition was carried through, everyone would win. However, a fixed grant comes to Scotland via the Scottish Government. If we look at what has already been done to mitigate some of the welfare reforms, not just the bedroom tax fund, through extra funding—if we look at the Scottish welfare fund generally and social funding—we see that the Scottish Government has had to use more and more of that fixed grant to mitigate the excesses of Westminster. We also need to recognise that budget cuts are coming over the next couple of years. That cannot be denied—the evidence is there.

If your proposal requires £50 million every year, for example, that is £50 million that genuinely has to come from somewhere else. Therefore, not everybody wins. There will be people who will not get funding for something else because we have to mitigate something that comes from London—those people will not be winners.

Alan Wyllie: I recognise and acknowledge that mitigation is happening—a hell of a lot of money has already been allocated. We are here because it is time for desperate measures. We know what we are asking for and we are asking again, but we are asking only because the situation is so desperate.

I can probably explain the impact of the bedroom tax in this one wee story. I have a friend—I will not tell you her name. She used to be in the army; she is a veteran who fought for this country, but because of some of the stuff that she saw, she found it really hard to readjust to civilian life. That is nothing to be embarrassed about—it happens to the best of us. It happened to me when I left the army.

Although my friend found it hard to readjust, her quality of life was good: the system that the state provided to maintain her welfare worked. It provided her with a safety net and with a launch pad to a secure and happy life. Everything was fine for her until a few years ago. She was one of the thousands who were found fit for work by Atos Healthcare. She appealed against that decision but the appeal took nine months. In those nine months, the strain was too much. However, she got over that—her family got together and they all got over it. Then came the bedroom tax. My friend has stayed in the family house for more than 20 years. Her children have moved out. In April, she initially started paying that rent. She applied for DHP but was refused. That went on until September.

My friend reached a stage at which she had a choice between paying her rent or feeding herself and her family. She decided not to pay her rent. Because of the stress from that and the other

stresses involved and because she was not in the best of situations, she had to be hospitalised. The strain split up her family.

In December, my friend found out that she was exempt from the bedroom tax, so all that stress was for nothing. The splitting up of her family was for nothing. The bedroom tax is about rent and about houses but it is also about families—it is about real people who are in a horrible, sad situation, which is not their fault. It is the fault of a centralist, mindless, short-sighted policy that has cost more trouble and money than it is worth and which is hurting people really badly.

I appreciate and acknowledge the money that has been mitigated for other aspects of welfare reform. However, the bedroom tax is affecting some of the most vulnerable people; it is affecting the people who really need help, and they are not getting any help.

11:00

Jack Ferguson: Can I come in there?

Linda Fabiani: No, not yet. Thank you, Jack.

I agree with what you are saying, Alan, but I am trying to look at the practicalities. In your opening statement, you spoke about how the onus in housing changed. I think that you were referring obliquely to the right to buy and the rise of the private sector, whether that is the owner-occupied sector or the private rented sector.

The area that I represent was hugely affected by the right to buy social rented housing. As a result, there is a big private rented sector, on which more and more people are relying these days. Not long before this Government came in, policies were changed, which meant that people in the private rented sector would not get housing benefit to cover all their rent if the house was deemed to be bigger than they needed. It was not the bedroom tax per se, but a very similar policy was imposed on people in the private rented sector. I have heard people in my constituency say, “Everybody’s trying to help council tenants who are affected by the bedroom tax, but nobody bothered their shirt about us. Who’s fighting for us?”

I know that there is a fundamental difference in ethics between social rented housing, which I wish we had more of, and the private rented sector in terms of ownership and so on. However, there is an issue for people in private rented housing who are finding things very difficult. What would you say to those people about the intention to help them?

Alan Wyllie: The intention must be to have some sort of campaign for housing benefit to be paid according to the needs of the tenant, rather

than it coming down to some arbitrary central decision.

I do not like the local housing allowance policy. However, there are significant differences between how it was implemented and how the bedroom tax is being implemented. The LHA was trialled over eight periods for a couple of years, then another eight periods for another couple of years. It was researched independently by the University of Sheffield—I think—and when it was implemented it was not applied retrospectively; it applied to new claims only. With the bedroom tax, there has been no real impact statement and it applies retrospectively, so it affects everybody.

I do not like the LHA—I have been hammered with it myself—but it was implemented differently. The implementation of the bedroom tax is harsh; it is removing somebody's safety net so there is nothing there. I disagree with the LHA and I am not defending it, but at least it was incremental.

Jack Ferguson: The answer for private tenants is that we must cap rents. We must stop private landlords being able to fleece the taxpayer through housing benefit. That is the answer that I would give to private tenants. The problem is not with tenants but with landlords.

Linda Fabiani said that more and more people are reliant on the private sector. That is through necessity, given the long-term changes that have taken place in housing.

We recognise that what we are calling for is an emergency measure; we recognise the limits to its long-term sustainability. When I say that it is an emergency measure, I mean that it must go alongside a change at Government level, by whatever means and involving whatever party, so that we get a Government that is willing to abolish the bedroom tax in the next few years. If it looks as though the bedroom tax will be the policy in perpetuity and it is not going away, we recognise that the Parliament will have to look at the sustainability of the funding.

We realise that the Government has a fixed amount of funding and that it has to make difficult choices, but I would flip it the other way and say that we should look at it from the other perspective. As Alan Wyllie said, that money is still needed. If it is not provided by the Parliament, the funding that is required in terms of the level of rents is still needed by the housing providers. If we cannot provide it here and at Westminster, all that that means is that tenants have to provide it, but tenants clearly cannot afford it. Every way you look at it, there is an immediate massive ballooning of rent arrears as a result of the bedroom tax. That is just a fact. People do not have the money, but it has to come from somewhere.

That is why we are here appealing for an emergency measure to get the funding to save social housing. We do not pretend that that could be done for 10 or 20 years. Alongside that, we will put every effort into challenging the bedroom tax at the governmental level and campaigning for its abolition. We are pretty confident that that campaign will be winnable in the next few years, with whatever change of Government happens. However, in the meantime, we have an emergency. It is a fact that the funding is not available and will not come from tenants. If the additional funding that we propose is not provided, there will be a shortfall. That is all there is to it.

Linda Fabiani: When the petition was lodged, the call was for £50 million. Since then, I think—Alan Wyllie can correct me if I am wrong—that the Scottish Government has provided extra funding for mitigation. Have you calculated the emergency funding that would be needed this year and next year?

Alan Wyllie: I must be honest—I am not an expert on the housing system in detail and I am wary about talking about stuff that I am not an expert on. We need to be wary, because the £20 million was not ring fenced for dealing with the bedroom tax. The intention of the petition is to protect tenants. I know that our friends at the Scottish Federation of Housing Associations have research that shows that the cost might be more. I represent tenants and my intention is to protect them and their rents. That is why the figure is £53 million.

Linda Fabiani: That is fine. I understand your position; do not worry about the detail.

Alex Johnstone (North East Scotland) (Con): Mr Wyllie said something interesting in his opening remarks that it would help the committee in the longer term to understand. You suggested that there is wide variation between local authorities in how they are coping with mitigation measures and particularly in how they are dealing with the money that is available under the discretionary housing payment system.

We have done a bit of work on that and we have discovered that some of the variation perhaps results from a misunderstanding, as we are comparing local authorities' performance at different times. We might be comparing more recent information from a local authority that includes the additional money with the performance of another local authority before that money was available. It is easy for us to misunderstand the situation.

Is your information contemporary? Can you give us examples of best and worst practice in local authorities in dealing with DHP money?

Alan Wyllie: I would be happy to provide the information in writing, but I do not have it with me. I would not like to say something that I am not 100 per cent sure about.

The big thing that I have noticed is that disability living allowance is being counted as income, and people are being means tested. That is another struggle for tenants and particularly tenants who have had a refusal the first time.

I will get back to the committee about the differences between local authorities. What I said is mostly about the fact that 79 per cent of those who are affected by the bedroom tax have a disabled person in the household. That means that 79 per cent receive DLA and that 79 per cent have an obstacle to overcome in getting the DHP.

Alex Johnstone: Any information would be useful. We know that there are differences in practice and in performance. One of our priorities is to ensure that best practice is adopted universally. Getting the information would more or less cover my point.

Ken Macintosh (Eastwood) (Lab): I thank the petitioners for their presentation. They have provided hugely powerful and persuasive evidence and have laid out the case for tenants not just emotively but clearly. They want the Westminster Government to abolish the tax, because it has the power to do so but, in the absence of that, they want the Scottish Government to use every power that it has to mitigate all the effects of the tax, if possible. That is a clear ask. They recognise that the Scottish Government has gone halfway—it has found money from its budget—but they want it to go the whole way.

Linda Fabiani asked the question that I wanted to ask. The Government has found some money, and the DHP fund has more money to mitigate the effects of the bedroom tax. Mr Ferguson said that the petitioners would like money not just to be found but to be found in such a way that tenants are not faced with the burden and complexity of having to chase money individually. That is the desired route. In the absence of such an approach, and given that we are in the middle of budget negotiations, should the Government find an additional £30 million or an additional £17 million? What sum should it find? I am sorry to pin you down like this, but what sum would help at least to send a strong message about the Scottish Government's intention?

Alan Wyllie: It is hard to say. I do not want to say something that will come back and bite me on the bum in a few weeks' time—[*Laughter.*]

Alex Johnstone: You should be in politics.

Alan Wyllie: The issue is that the £20 million is not ring fenced. I am wary of putting a number on

what is required. I think that the committee will be speaking to the experts later in the meeting, and those guys will have a better understanding of the mechanisms that might or might not be used—sorry for laying that on them. I am a tenant, and I represent tenants. I like to think that I know a lot about the housing system, but I am not an expert. I do not want to risk suggesting a specific amount, especially as the money is not ring fenced.

It is about symbolic value, too. If the Scottish Government provided more money it would send a message to Westminster and to the people who are affected by the bedroom tax in the rest of the UK—in England and Wales—that Scotland says no and is taking a stand. That would give strength to the UK-wide campaign.

Jack Ferguson: The key issue is to assess how much has been achieved by the additional funding that has already been provided. We are not in a position to give the committee all the facts and figures, but Alan Wyllie referred to the number of people who have not been reached by discretionary housing payments. I think that that provides a basis on which to calculate the shortfall.

The overall figure that we presented is based on the level of rent that is required. If we are to assess the impact of the £20 million, which was not ring fenced, as Alan Wyllie said, we need to find out how much of it has succeeded in mitigating the effects of the bedroom tax, which might require a wee bit of research.

Ken Macintosh: Given that you want to take the burden away from individual claimants, would you trust housing associations and local authorities, as housing providers, to be the best vehicle through which money could be distributed?

Alan Wyllie: Yes, definitely. That is those organisations' job. Housing associations and local authorities can do those things far better than people like me. I trust them; they have good people.

Ken Macintosh: We will hear from a panel of experts later and I will ask them about this. Their written evidence is semi-supportive. Some of them seem to be saying that they are not quite willing to come out in support of your petition because you have not identified enough money and a few questions remain. What do you make of their comments?

Alan Wyllie: We welcome them. They are valued stakeholders in the debate and we are not really going to dispute their expert views—well, we might dispute them a wee bit. The first part of the criticism is that financial mitigation on such a level is not sustainable. I have come across that argument, but my counterargument is that doing nothing is even more unsustainable and puts

pressure on tenants. It was suggested that there are problems with the mechanism that is being used. As I said, the detailed mechanism should be decided by experts in the sector, not by me—I am just a tenant.

The Scottish Federation of Housing Associations has produced research that says that the bedroom tax costs more. We welcome that information, as it is good for us to campaign on. However, I represent tenants, and I am here to protect them.

I note that the SFHA would welcome a fund or some sort of income, but my intention is to protect tenants. Housing associations and local authorities can stand up for themselves.

11:15

Jack Ferguson: The figure that Alan Wyllie mentioned is calculated on the basis of rents. We would both favour a lot more funding for housing providers, and for social housing in general. We have already discussed today the priorities and the amount of money that is available to Parliament.

We are calling for—as Ken Macintosh said—a return to the status quo pre-bedroom tax, which would involve our saying, “Here’s the amount of rent that is required from tenants as funding for social housing, but we recognise that people who cannot afford it require to have their needs met by the social safety net.” That is the way that we have introduced the campaign. If we simply say, “Just reverse the impact of this particular negative policy,” that is quite clear, and the Government can assess whether it is possible.

Ken Macintosh: I had a question on sustainability, but I think that Mr Ferguson has answered it already. You are calling for an emergency measure, so if we find no way of repealing the bedroom tax, we will perhaps have to revisit the issue.

I ask for your views with regard to two dates. First, it is clear that the SNP wishes to win the referendum, and if that were to result in independence and the party was successful in an election, it would abolish the bedroom tax. Secondly, if a Labour Government was elected, we would abolish the bedroom tax. I put it to you that the bedroom tax could not go beyond those two dates, which would be 2015 and 2016.

Alan Wyllie: Yes.

Jack Ferguson: That is what we are working towards. Our hope is that, one way or another, we will get a Government that will abolish the bedroom tax. If the Government does not do that, we will have a long-term emergency continuing

into the future, which will have to be addressed. The petition is predicated on that basis.

Annabelle Ewing: Good morning, gentlemen. I address my first remarks to Alan Wyllie. I thank you for coming along and I commend the action that you have taken to promote the issue, which shows remarkable dedication to the interests of tenants. We should all start from the concept of tenant hardship and consider the issue from that perspective. Everything that we conclude should be based on what we believe to be the best way forward to deal with tenant hardship.

Picking up on the last couple of points, I was interested to hear mitigation discussed in terms of the emergency measure that has been asked for versus the possible reality of the situation for tenants in Scotland if a series of scenarios do not happen.

We have discussed at some length this morning the sustainability of such measures. In a fixed budget the money has to come from somewhere else—in whichever part of the economic picture—so somebody loses out.

On sustainability, are you both advocating—as I think Mr Ferguson just mentioned—that the measure would be in place only until 2016, even if a whole series of scenarios do not pan out? Are you in effect calling for two years’ funding at £50 million a year? I want to be clear about what you are asking for.

Alan Wyllie: We are very confident that the bedroom tax will not be here by 2016, as the result of a campaign against the Westminster Government, a change of Westminster Government or the action of a Scottish Government. I just do not foresee a situation in which it will remain. I know that I am not giving you any hard evidence for that, but the bedroom tax will not be here for long. It is a bad law and it will be repealed.

Jack Ferguson: It is difficult to predict what the position will be. Basically, Annabelle Ewing describes the nightmare scenario in which the bedroom tax becomes a long-term feature of life in the UK. I am sure that, as the Welfare Reform Committee, you guys hear evidence on all aspects of withdrawing the welfare state from our society and how disastrous that is. In that situation, we would need to campaign for something to help tenants. We are not asking the Parliament, with its existing funding and powers, to replace completely and in perpetuity what was taken away by Westminster, because we recognise that there would be a sustainability issue with that and that it would not be possible in the long term. However, in the meantime, we have an emergency situation that is building up day by day. If, two years down the line, we have not been successful in abolishing

the bedroom tax, the Parliament will have to look again at what is possible with its funding. I am sure that, at that time, we will be campaigning at every level for support for tenants. However, we are not here to make grand claims that the Parliament, with its existing funding, can just replace what has been taken away. We are being realistic about it.

Annabelle Ewing: Of course, we have a Westminster Government that we in Scotland did not vote for, and there is a fairly substantial chance that that will happen again, because it has happened many times over the decades. We know that other welfare reforms are coming down the line. In a report that the committee commissioned, researchers made the point that the impact of further changes to the welfare system will be far greater than that of the current changes, which is hard to imagine. At what point would you accept that the Scottish Parliament, with what is in essence a fixed budget, cannot mitigate the excesses of a Government that we did not vote for? Surely that is the unsustainable position.

The solution is straightforward—it is to vote yes on 18 September to ensure that Scotland always gets a Government that it votes for. Then we would not have the bedroom tax and the stuff that is coming down the line that will take away the safety net from our welfare system, which is what the Westminster Government appears intent on doing. It has to be said that other parties in Westminster have not completely distanced themselves from the direction of travel of the Tory-Liberal coalition. Of course, Labour members of Parliament did not turn up in the House of Commons to vote down the bedroom tax when they could have done so, remembering that the pairing arrangements are not supposed to be in place for important matters.

The Convener: Is this a question for the petitioners?

Annabelle Ewing: It relates to the issue of sustainability, which I think is at the heart of our discussions. At what point does the Scottish Parliament have to say that the whole situation is not sustainable?

Alan Wyllie: I am sorry, but that is a political choice for you guys. If there is political will for something to be done, it will be done. You should have a wee bit more confidence in your party. The worst-case scenario is that there might be a Tory-United Kingdom Independence Party coalition in 2015, but the Labour folk should be confident that they are going to win, as should the SNP folk. One way or another, by 2016, there will not be a bedroom tax.

Annabelle Ewing: Mr Ferguson, would you care to comment?

Jack Ferguson: If, after the next UK election, we have another Conservative Government or a Conservative-UKIP Government, I would not envy you your position here in the Parliament. It will be very difficult. If we continue the direction of travel towards the destruction of the welfare state, that will result in disastrous social chaos and harm, which will have massive costs for every aspect of Government and affect everything that the Parliament does.

There is no easy answer. We are engaged in a movement that is trying to defend the welfare state and prevent some of the UK Government's worst excesses. It is an on-going process. If we end up facing another hard-right Government that is determined to destroy the welfare state, the Parliament will be in a difficult position. I recognise that. However, the flip side is that by taking action today and effectively getting rid of the bedroom tax in Scotland, the Parliament would send a powerful message about its intention and how it reacts to the democratic aspirations that people put to it. I think that that would put a serious nail in the coffin of the bedroom tax as a policy and generally strike a blow throughout the UK in favour of provision through the social safety net.

Annabelle Ewing: I think that we have already established that we do not have the power to get rid of the bedroom tax. You are asking us to consider finding money from somewhere to plug the hole for a period—two years, according to you. That is not getting rid of the tax; that is finding money from somewhere else to pay for a policy that we do not like, did not vote for and do not accept. However, to avoid the nightmare scenario that we are all talking about, there is a very easy thing that we can do, which is to vote yes in September this year.

Jack Ferguson: We are not here to take a position on the referendum.

Annabelle Ewing: I appreciate that, but you are talking about a nightmare scenario. I am saying that a very easy way to deal with that nightmare scenario is for people in Scotland to take the opportunity that they have to vote yes.

Jack Ferguson: All I would say is that we are very much in favour of any form of government that abolishes the bedroom tax. We are here today to talk about the bedroom tax. What urgently needs to happen is that, at whatever level of government, people need to recognise that the bedroom tax is not sustainable and needs to change. Whatever party is in government and whatever political change comes through, that is what needs to happen.

The Convener: We are up against the clock now. I want to get clarity on a couple of issues. It has been argued that part of the problem, and the

reason why we have not had a resolution so far, is that the Scottish Government is bound by the formula for discretionary housing payments, which sets a limit of 2.5 times the UK Government's contribution. We can argue about whether the Scottish Government could do more outside that but let us just focus on that limit.

It has been argued that Westminster could change that by increasing the amount that local authorities could spend on discretionary housing payments. If, by some miracle, Iain Duncan Smith announced this afternoon that he was doubling the DHP payment limit to five times the Department for Work and Pensions contribution, that money would have to come from somewhere, would it not? Local authorities, which currently have to top up DHP, would have to find that additional resource from within their budgets.

Alternatively, the Scottish Government, which has given £20 million to maximise DHP payments as things currently stand, would have to find money from somewhere to increase the amount that is available for DHP. We have been given various scenarios this morning that look at when—or if—the bedroom tax could be abolished either by Westminster after a Labour Government is elected in 2015 or by the Scottish Parliament after an independent Government is elected in 2016. Whatever the scenario, the additional money would need to be found from somewhere to make up what is currently being lost through the bedroom tax. Is that not the case?

Jack Ferguson: I am sorry—

The Convener: If Labour abolished the bedroom tax in 2015, the Government would have to find money to make up the difference.

Jack Ferguson: Yes.

The Convener: If an independent Government in Scotland in 2016 abolished the bedroom tax, additional money would have to be found to make up the difference. The money would no longer be taken off people's benefits, but that money has to be kept there, which means that the public purse has to find it.

Jack Ferguson: Let me see if I understand you correctly. I agree that the bedroom tax basically amounts to a housing funding cut. In fact, the UK Government has cleverly diverted the debate so that it is about tenants and the rights and wrongs of whether a person is deserving or disabled enough to deserve a spare room. That is a massive distraction.

11:30

The money goes to the tenant, which is paid as housing benefit. Therefore, what you are looking at is central Government funding social housing by

paying peoples' rent. Central Government has taken away that money but social housing still needs to be funded. That money must come from somewhere. The position that we are in is that social housing funding has been cut and tenants are expected to make up the shortfall. That is the policy as it stands. Basically, we are arguing that the cut needs to be reversed.

The Convener: In every scenario that we have discussed, more money has to be found to get the funding of benefits back to the level they were at before the bedroom tax was introduced.

Jack Ferguson: Yes. The cut needs to be reversed.

The Convener: On discretionary housing payments and the limit, the Scottish Government has said that the money cannot be found from anywhere else and that it is restricted to the formula. We have heard about postcode lotteries and how people may qualify in one area but not in another. We have also seen that some local authorities have not topped up to the maximum level allowed, or did not do so until the additional money was found, although other local authorities have created hardship funds over and above DHP. For example, North Lanarkshire Council maximised the amount that it could distribute through DHP and then created a hardship fund for which it found £1.1 million for each of the next two years. That money had to come out of its resources, which means that it had to be found from and a cut made somewhere else. If a local authority can do that, do you think that the Scottish Government can do it, too?

Jack Ferguson: Evidently we do, because we are asking the Scottish Government to do that.

The Convener: Danny Alexander MP told the Finance Committee that it was entirely up to the Scottish Government whether it found that money from the block grant. Do you agree?

Jack Ferguson: All the discussion that we have had is about the abolition of bedroom tax and how central Government needs to meet those costs. We do not agree that the matter should just be left to the Scottish Parliament to sort out and that you should be left to pick up the pieces following the chaos caused by Westminster policies. Nevertheless, we are in the position that we are in. As Alan Wyllie said, we struggled to get a response from Westminster politicians. We are talking to the Scottish Parliament because tenants face an emergency. We are trying to resolve that situation by speaking to people who will have a dialogue with us. The policy needs to be reversed and central Government must acknowledge that it needs to fund social housing.

The Convener: We have come up against the clock. I thank you both for bringing your petition to

us, which we will consider as part of our bedroom tax inquiry. It has been useful to hear the arguments that you have brought to us.

I suspend the meeting to allow a changeover of witnesses.

11:33

Meeting suspended.

11:40

On resuming—

The Convener: I welcome our second panel of witnesses: David Bookbinder, head of policy and public affairs at the Chartered Institute of Housing; David Ogilvie, policy manager, Scottish Federation of Housing Associations; and Jim Hayton, policy manager for the Association of Local Authority Chief Housing Officers.

Thank you very much for coming back in front of us as the much-heralded panel of experts. I will open the meeting to you to make any introductory comments or comments on the previous discussion with the petitioners, which you watched from the public gallery. You can go in whichever order you want—and might already have agreed.

David Bookbinder (Chartered Institute of Housing): The first thing is to reiterate—as I think all our organisations will do—our absolute opposition to the bedroom tax. CIH is a UK-wide body, and we are very clear across the whole UK in our opposition to the imposition of the bedroom tax on tenants.

In the sense that the petition seeks to highlight the impact of the bedroom tax in particular on tenants and indirectly on social landlords, it is clearly very well intended. It is hard to fault the intent behind the petition. As the previous evidence session showed, there seem to be two questions: the first is whether there are resources available; and the second is whether there are powers to meet the petitioners' demands. I guess that that is what we can try to explore in the next few minutes.

Jim Hayton (Association of Local Authority Chief Housing Officers): I want to make it clear at the start that it is the other two who are the experts. *[Laughter.]*

As David Bookbinder did for his members, I will sum up the position of local authority chief housing officers on the issue. We note that the petition calls for £50 million to mitigate all effects of the bedroom tax in Scotland. ALACHO looked more widely than at just the discretionary housing payment element.

We see and hear about the pressures that are put on local authorities because of welfare reform. The bedroom tax is the first big element, but it is not just a matter trying to ensure that we protect our most vulnerable people from its effects. We saw from the study that the Scottish Housing Regulator carried out a couple of months ago—I know that the committee had the SHR here to speak about it—that the effects on local authorities are wider. When they were identifying key challenges, local authorities said that they were having to rewrite their business plans, redefine priorities, take on extra staff and do a load of different things to try to mitigate the impact of the bedroom tax.

The committee will probably not be surprised to hear that we are broadly very much in favour of providing additional money for local authorities. It is not a great surprise that local government would welcome or ask for more money from central Government. We think that, if any extra money was available, we could use it very wisely for good preventative purposes that would go a long way towards mitigating the effects of the bedroom tax in all its guises.

David Ogilvie (Scottish Federation of Housing Associations): Again, it will be no surprise that the Scottish Federation of Housing Associations welcomes any additional funding that will help what is a terrible situation for tenants who have been affected by this iniquitous policy.

Since we submitted our written response to the committee, we have concluded our research, which was published under the guise of the report "The Real Cost of the Bedroom Tax". It highlights that we project an £80 million cost to the sector over the coming three years, which in the first year will be £36.1 million. Members need to bear in mind that we make up only a proportion of the country's housing supply and that those figures do not cover local authorities. COSLA has already intimated publicly that the cost implications of this policy are greater than the savings that stand to be made.

11:45

We want a long-term and sustainable funding solution. Towards the tail end of the previous evidence session, members talked about covering the next two years until there was the prospect of what one would hope would be a more amenable Government coming in north or south of the border that, either way, would abolish the bedroom tax.

Again, we would support anything that helped to alleviate the situation but, as I have said, other costs need to be borne in mind. After all, this is not just about housing associations but about housing association tenants. The longer the costs mount

up, the greater the pressure from increasing rents and the more likely it is that people will be caught in this trap.

The Convener: Thank you. I will kick off the questions.

Anecdotally, I have picked up that local authorities are taking a financial hit because of the additional administration involved in the bedroom tax and in mitigating the impacts of the changes. Indeed, the committee heard as much in the evidence that it took on the Scottish welfare fund.

One argument for universal benefits is that they reduce administration, because authorities can simply count the number of people who are applicable and then provide the benefit. Would it aid housing associations, local authorities and others if in Scotland—after all, we can only deal with the situation in Scotland—the people who are identified as having been impacted by the bedroom tax automatically received an upgrade or had the equivalent amount of money reintroduced? Would that reduce the administrative cost of seeking out people and working with them to get DHP or additional support? Would there be any advantage in simply identifying those people and making up the difference automatically?

Jim Hayton: My immediate answer to that question would have to be yes. Local authorities are saying that they are spending an awful lot of time identifying and trying to engage with people to ensure that they get what they are entitled to. At a meeting I attended only on Friday, the authority that is spending the most on DHPs—which like North Lanarkshire Council has introduced its own hardship fund—said that it was still finding it difficult to reach what might be called a hard core of people that it believes comprises 15 per cent of the total. I cannot help but think that, if there were some way that the money could automatically be credited to someone's rent account, that would reduce the costs for and burdens on the landlords involved.

The Convener: Would it make a difference to you, David?

David Ogilvie: It is the first time that I have heard the idea expressed in those terms, but I broadly agree with the principle behind what you have outlined, simply because of its simplicity. I see no reason why we would have a problem with that.

The Convener: Another issue with providing the money in that way is that as we know historically and anecdotally—there might well be some academic evidence on this matter—people who are entitled to housing and other benefits do not like to apply for them because they are reluctant to be seen to be going through the means-testing

process or do not want to be seen asking for what one might call handouts. Would such an approach not remove that burden? After all, they would not have to seek their local authority's support to get the support that is available to them. Is that not right?

Jim Hayton: Yes. In broad terms, we know that means testing can put people off, while others might simply lack the wherewithal or the capacity to avail themselves of what is available.

I think that it is fair to say—again, this is anecdotal—that different authorities have adopted different approaches. Fundamentally, however, DWP rules say that a formal application must be made and there must be a bureaucratic process to be gone through. Obviously, anything that we could do to streamline the administration involved would reduce the costs.

Local government housing professionals would welcome such an approach, too. DHPs are likely to be a function of the benefits and revenues part of local government finance departments, but obviously housing managers and professionals have a big locus, too, so I think that they would find that beneficial.

Linda Fabiani: I want to pick up on that issue before I go on, because I am a wee bit confused by the questions and answers. The universal credit means that someone gets one payment and then pays; it is supposed to be all very simple. Would you not still have to seek out the people who may be hit by the bedroom tax?

Jim Hayton: I am not sure that that was the question.

The Convener: My understanding is that the local authorities know who is already affected by the bedroom tax. They know how many people they have spoken to and have had conversations with, and they can identify a number who have yet to respond to letters or whom they have made contact with.

My question was whether it would make things easier if the local authority immediately identified who was impacted by the bedroom tax. The administrative cost of having to engage with those people in order to determine whether they are entitled to DHP or something else would then reduce.

Linda Fabiani: I am saying that that is probably right in the very short term, but as time moves on, when we are talking about the universal credit—

The Convener: I was not talking about the universal credit; I am talking specifically about the universalisation of benefits: the provision of benefits on a universal basis. One argument is that that reduces administrative costs.

Linda Fabiani: I get all that, but it is the idea of landlords not having to seek out people who may well be impacted by the bedroom tax that—

The Convener: They already know them. They have been identified.

Linda Fabiani: But the situation is fluid, and it will change further down the line. It is not a major issue, but I was getting confused about the answers and about how, all of a sudden, everything would be much easier.

That takes me to the themes that I wanted to talk about. The short-term costs may well be mitigated—I think that either Jack Ferguson or Alan Wyllie talked about that earlier—but let us consider what has been said about just handing over additional money to council and housing association social landlords to entirely mitigate the bedroom tax, whether there is an emergency or an on-going problem.

How would landlords deal with that approach? What are the technical mechanisms? Would there be a discussion about whether the money should be ring fenced? We have heard talk this morning about the £20 million that was given to local authorities not being ring fenced, although some folk here perhaps take the view that it should have been. How would a social landlord administer money that central Government gives it to mitigate the effects of the bedroom tax?

David Ogilvie: You have adeptly highlighted just how complex the situation is. To be honest, I might need to revisit what I said in response to the convener's original question.

On the broad principle, we and members of the SFHA clearly want to see a long-term resolution of the situation. That is a given.

We have not yet progressed to the point at which a mechanism for administering money has been designed or at which anybody has come to us with a mechanism that is absolutely foolproof. There are suggestions that there are ways round the issue by transferring resources to landlords, but I have yet to see evidence that would allow us to make a definitive statement in favour of or against that, so I will not go there—I simply cannot. However, the broad principle is that we need to do whatever we can to identify a mechanism.

I have previously said in evidence on the SFHA's behalf and we have said in writing that arrears as a result of the bedroom tax have so far been identified through a proxy measurement. The question has been asked whether the tenants who are in arrears today were not in arrears before the bedroom tax was introduced. That is broadly how the calculation has been done.

The universal credit project is getting pushed further and further back, but Linda Fabiani is right that, once we get into the realms of universal credit, it will be far from simple to know the position. We have Scottish Government proxy data that shows the number of people who are impacted by the bedroom tax now but, as we know, family dynamics mean that those figures change all the time. Another dimension is that we would have to find a cost-effective way of identifying those people in our housing stock. We should not underestimate the challenge in that.

Jim Hayton: The situation would be a wee bit different for local authorities. The main impact of welfare reform on local housing authorities is in revenue reductions, either because rent arrears mean that less income is coming in or because more costs are being incurred through providing specialist teams to deal with the reform. For example, I know that one council is ensuring that every tenant who is interviewed about underoccupancy gets an interview with another member of staff about employability as one route to help them out of their situation.

The key issue for local authorities is the bottom line—what all the changes are doing to revenues. It would not be a huge difficulty for local authorities to grapple with the problem if they were asked what they would do with money to spend on mitigating the impacts. They would quickly identify ways to make good use of that money directly in relation to welfare reform or to offset expenditure reductions that they might have had to make elsewhere.

I will not rehearse the priorities, but we know that local authorities have a quality standard to meet by 2015 and that we have energy efficiency commitments, homelessness priorities and temporary accommodation problems in some areas. We also want to contribute to the health and social care agenda and to build new houses. All that is being affected by reduced revenues—which is an indirect impact of welfare reform and the bedroom tax. It would not be difficult for local authorities to make good use of any additional resources in a preventative way to maintain services.

That said, the first priority is what the debate is all about—protecting the positions of people who might otherwise run the risk of being evicted from their houses because of a shortfall in their rent payments that arises from the bedroom tax. There is no real issue with identifying that group of people. Helpful Scottish Government figures came out last week, and we still have a way to go to spend the money that we have. Part of the issue is identifying the hard-to-reach people and telling them of the good news that we can put some

money their way to alleviate the shortfall in their rent.

David Bookbinder: Jim Hayton has admirably identified that, if money went to social landlords directly, assistance could take a number of forms. His example of people receiving employability support is good and shows the variety of forms of assistance.

None of our three bodies would claim to be experts on constitutional powers, but I guess that the challenge is to look forensically at the different sorts of support that can be made available and the different uses that may be made of moneys that are passed to social landlords and to check that such a use of money would be legitimate. Social landlords are already benefiting from Scottish Government support for things such as advice, support and employability projects. I have no doubt that there is scope for a lot more of that.

The CIH's sense is that the challenge for the lawyers is to look at how some of the money might be passed directly into tenants' rent accounts. The lawyers have to consider whether that is possible because, as Jim Hayton said, the obvious first priority of landlords in this situation will be to protect tenants who are in arrears.

12:00

Jamie Hepburn: The convener has given me a useful way in for my line of questioning, which picks up on points that he raised. I think that we all agree about the limitations on local government and, by extension, the Scottish Government and Parliament, in relation to funding discretionary housing payments. Therefore, it is interesting to hear the suggestion that has been posited that money could be credited against an individual who has been identified as suffering under the bedroom tax. In essence, such a payment would make up that individual's shortfall in housing benefit and would pay for their bedroom tax. I realise that, as David Ogilvie said, none of the three witnesses is an expert in constitutional law, so I am sorry for asking this question, but I need to ask it. How does that suggestion interact with the restriction in the Scotland Act 1998 on the Scottish Parliament replicating the social security system?

Jim Hayton: I confess that I do not know the answer to that, but it is a bit like the questions to the previous witnesses. The first-order questions are: Is this something that we want to do? Is it a priority? Would it have beneficial preventative outcomes? If the answer to those questions is yes, I would look to those who are more expert than I am on constitutional processes to say what the mechanism would be by which we could get the money across. I am sorry that that is a kind of a fudge.

Jamie Hepburn: I am aware that you might not have a definitive answer, but it is clear that there are limitations, and I think that that provision in the Scotland Act 1998 is one of them. If we start to credit individuals, we might fall foul of that particular restriction. That is one of the difficulties that Parliament has in trying to mitigate the effect of something that it did not introduce in the first place.

Jim Hayton: From what I hear from councils, another potential difficulty is that the DWP has pretty stringent rules on how DHPs should be applied for and granted. One or two councils are trying to be creative about that and to ensure that the money goes where it is intended, although I am not sure to what extent they have been successful so far. However, I understood the convener to be asking more of a hypothetical question about whether we could just let councils lay the money and say, "You don't need to worry about your rent account now, because that hole has been plugged." My reply, which was in the same spirit, was that it would be a good thing if we could find a way to do that.

Maybe the DWP could be persuaded on that, because councils have made the money available and the Scottish Government has put in an extra £20 million. In my opinion, it would be an absolute disaster if we got to the end of the year and we had money that we could have spent and there were people who need it, but we had been unable to spend it because of difficulties—in some cases significant difficulties—in making contact with people. Councils will move heaven and earth to ensure that that does not happen and that none of the DHP money is unspent. However, if we could find a way of making it automatic, that would be good.

Jamie Hepburn: Do you accept that the hypothetical could run into difficulties in terms of the reality?

Jim Hayton: Yes, of course.

Alex Johnstone: My question moves on to ground that we have already covered. I am trying to keep this simple, because we in politics often find ourselves in the position in which, if we say a thing often enough, it begins to be perceived as being the truth, even when it is not. I will make a simple statement, and ask for a reaction to it. The statement is that it is the firmly held opinion of ministers in the Westminster Government that the Scottish Government already possesses all the powers that it requires to fully mitigate the impact of the underoccupancy charge. Have you looked at the information that has been published on that and do you have any opinion on the issue?

David Ogilvie: We are currently exploring with solicitors whether there are any avenues that

could be pursued, but we started that process only yesterday, so I am not in a position to make any further announcements on it. That is only because it is—as you would expect—incumbent upon us to consider every avenue that could possibly assist our members.

I have not looked at the detail—to be honest with you, I was not aware that anything had been published—but we have had private conversations with some experts. Because the matter is in the development phase, I am not willing to put out an SFHA position on it. However, we are mindful that, if there are other avenues for mitigation, we need to consider them and to wake people up to other possibilities. That is one of the things that we would have to do, and we are currently examining it.

Jim Hayton: I would be reluctant to give an unqualified answer. We are talking about the art of the possible and what, within any set of constraints, the Scottish Government might be able to do, or has already done, to mitigate the impact. The question is a technical one and I would have to leave the answer to legal experts in the field, unless David Bookbinder is going to demonstrate some knowledge of the position of which I am unaware.

David Bookbinder: It is really difficult for us to square the two things that you have highlighted, Mr Johnstone. There are, on the one hand, the apparent statement from the UK Government that the Scottish Government has the powers to mitigate the impact and, on the other, the barriers that are presented by the limits that the Scotland Act 1998 appears to set on the Scottish Government's powers on assistance to individuals for housing purposes. For those of us who are not lawyers—never mind constitutional lawyers—those two things are impossible to reconcile.

Alex Johnstone: It was perhaps a bit sneaky to ask the question, because it is very much a live issue. I am aware that David Mundell will appear before the Scottish Affairs Committee one day this week—possibly even today—to answer questions on the matter, so we will probably have the option to consider it more closely.

I will ask about funding, keeping the questions fairly simple again. With the previous panel of witnesses, we talked about where additional funding should come from, if it were required. Is mitigating the underoccupancy charge your key priority or would you prefer the available funding to be targeted to other areas?

David Ogilvie: Will you clarify whether you are talking about the current budget discussions?

Alex Johnstone: To talk in simplistic terms again, another of the assumptions that we make as politicians is that the Scottish budget is a zero-

sum process—a fixed budget. That statement has been made repeatedly during the questioning today. The key thing that we must remember is that, when the Scottish Parliament was set up in 1999, it had, as a result of a vote that was taken in the referendum, the right to change the basic rate of income tax by up to 3p in the pound. Therefore, we have the opportunity to consider whether changing the rate of taxation in Scotland is appropriate. In fact, the current Westminster Government has now passed legislation that, post-2016, will allow us to vary income tax significantly over and above the power that was contained in the original Scotland Act 1998.

Should it wish to make significant spending proposals, the Scottish Government has the option to propose changes in taxation that could fund them. Therefore, we are not in a zero-sum situation, as has been suggested. We need to consider whether the use of funds on mitigating the charge would justify exploiting the tax powers that we already have.

Jim Hayton: That is definitely a matter for politicians. In the past year or so, we in the housing sector have been delighted that, as Barnett consequentials have become available, the Scottish Government has decided to apportion the lion's share of them, if not all of them, to affordable house building programmes. You will not be surprised to hear all of us say how much we welcome that.

I do not know what the prospect is of more money coming from that source. We heard in the news this morning that the economy is now growing by about 2 per cent. Again, one might look to the product of economic growth, if it eventually filters through. I guess that there will be a range of ways, but I am absolutely not going into the realm of advising anything; for example, ALACHO says "Put up tax to fund such-and-such"—not least because my wife might kill me. *[Laughter.]*

That is probably all that I should say on that one.

Ken Macintosh: Mr Hayton and Mr Ogilvie made it clear that they welcome the principle, certainly, of additional funds being channelled through housing associations or councils to mitigate the bedroom tax. The CIH seems to be slightly more reticent on that. In principle, does the CIH support the idea that the Scottish Government should find money that is additional to the £20 million that it has already found to mitigate the effects of the tax?

David Bookbinder: Putting aside the constitutional issues and looking at the rights or wrongs of getting more money, I think that, in principle, all the money that social landlords can

get to help to mitigate the effects of the bedroom tax is welcome. We are at a time of year when we are waiting to see to what extent and how quickly the existing DHP budget is spent. We will all have a broader view of the position at the end of the financial year, when we will see the support that has been provided by the £33 million—or whatever the total is—that local authorities have at their disposal to spend through DHPs. We have probably sounded a little more reticent because we do not feel that there is yet a full picture of what is happening with current assistance mechanisms.

Ken Macintosh: You are slightly more reticent, but would you welcome additional finance over and above the £20 million that has already been found?

David Bookbinder: I think that social landlords in Scotland would welcome getting to a position where none of their tenants is suffering as a result of the bedroom tax.

Ken Macintosh: Thank you.

Kevin Stewart: I want to go back to a point that Mr Hayton made earlier. I apologise if I picked you up wrong. We were talking about the DHP and I think you said that the DWP says that a form needs to be filled in. Is that right?

Jim Hayton: Yes—I probably said that. I was implying that there is a bureaucratic process to be gone through and that we cannot just take the money and put it into the tenant's rent account, for example, without the tenant having made some kind of application and some kind of assessment having been carried out.

Kevin Stewart: We have been talking about the restrictions under the Scotland Act 1998. In addition, section 70 of the Child Support, Pensions and Social Security Act 2000 covers DHP. As I have been sitting here I have been becoming even more perplexed than I normally am on this subject. If we found another way to mitigate the bedroom tax—we have already had questions from Linda Fabiani about possible mechanisms—folk would still have to apply using the form from the DWP. It would probably be only after that, if they were refused DHP, that we would look at using any other possible form of mitigation.

If I am right, we would be creating a two-tier system in which some folk would qualify through DHP and others through other mitigation measures. That would cause a huge number of differences and possibly even more stigmatisation than is currently the case. It is yet another form of divide and rule. You can forget what I said about the politics of it. Unless there was a change to section 70 of the 2000 act, if we found other forms of mitigation we would be talking about a two-tier system. Am I right in thinking that?

12:15

David Ogilvie: Finding a way out of the situation is certainly far from simple. There is always the risk that, whatever is done now, when we are deep in the bedroom tax hole, might make the problem far worse. Actually, I should not say “far worse”. The problem could be complicated if we create anomalies around who gets what.

The simplest way of dealing with the problem, of course, would be to abolish the bedroom tax. That is primarily what we want to see happen. That is why, outside of this committee, if there was to be a discussion on what mechanisms might be possible, we could enter into that but, right here and now, I am struggling to come up with much more than that.

The primary objective has to be to alleviate the suffering of tenants and, by association with that suffering, the added costs and worry that are being accrued by housing associations and their boards about their financial position. That is where we are.

Jim Hayton: The purpose of the DHP is to help tenants who are suffering financial hardship to meet their housing costs. I guess that the DWP might ask how, without some kind of formal assessment, we know that that financial hardship exists. However, that process gets us into the situation that the earlier witnesses talked about. If an assessment is being done, do we take into account disability benefits? If yes, do we say to someone, “You are poor, but you are not quite as poor as this other person”?

If we could find a way of streamlining all that within the confines of the current rules, or find a legal way through those rules, that would make life much easier. We might already have that two-tier system if disability benefits are a factor in the calculation. We are in favour of anything that removes that.

Kevin Stewart: We probably have a multitiered system if we take account of other benefits, but I want to concentrate on the bedroom tax issue, if I can. Mr Bookbinder, do you have a comment?

David Bookbinder: You are right to highlight the inconsistencies that always arise with a system that relies on someone proactively making a claim.

An added complexity that we have not talked about this morning is the fact that, as well as the stigma and the genuine difficulties that some people have with engaging with the claiming culture, most local authorities and housing associations would say that a minority of tenants have taken a more political stance. They oppose the bedroom tax and they will neither try to find the money, which is genuinely difficult for most

people, nor will they seek to claim the DHP. That adds a level of complexity to a system that relies on proactive claiming.

Kevin Stewart: That level of complexity is bad enough, but the situation will be even more complex if other ways are found to mitigate the effects of the bedroom tax. How much do all those tiers add to administration costs? I know that that question is very difficult to answer, but I imagine that they would mean even more administration costs.

David Ogilvie: Absolutely. I will put it in these terms: we would have to go back and remodel the work that we published last week. Beyond that, I cannot comment.

Jim Hayton: Yes; it would add significantly to costs. Local authorities are already saying that their administration costs are high, not just as a result of dealing directly with the bedroom tax but because they do other things by way of mitigation such as provide advice, information and support. Local authorities have set up teams of people to help and provide that advice. However, sadly, there always seems to be a significant minority of people with whom it is difficult to engage. That might be for the reasons that David Bookbinder described, but probably more often it is that people, because of their lifestyles, are blissfully unaware that help is available. We need to get to those groups and make them aware of the possibility that they can get help.

David Bookbinder: When social landlords focus on engaging with tenants, it is a resource-intensive process, even when tenants are willing. There is probably a law of diminishing returns: dealing with that minority of tenants who have chosen not to engage—I am sure that it is a minority—really tests landlords, as they are not even getting a quid pro quo from the tenants in doing what they can to mitigate the impact.

Kevin Stewart: So, the iniquitous policy that all of you and most of us are against—and which the folk who spoke earlier are against—was proposed by the Westminster Government to try and save money, but without thinking about the effects on tenants. With all the added bureaucracy and the gaps that we have to fill, do you think that the bedroom tax has saved the public purse any money, or is it actually costing the public purse more, while putting folks into real hardship?

David Ogilvie: We have produced evidence over the past year and a half, even in the run-up to the passage of the bill. We anticipated that there would be increased cost, because of the transfer of tenants from the social rented sector to the more expensive private rented sector. That seems to be happening. There is similar evidence across the piece, including the evidence that COSLA has

provided about exponential costs compared with the saving. Our evidence shows £80 million of additional costs, which not a single housing association would have included in its business plan. All that cost has to be picked up.

Kevin Stewart: There is also the cost of housing associations redoing their business plans as they go along.

David Ogilvie: Absolutely.

Jim Hayton: We will know in a few months' time—at the end of the first full year—what the costs have been. I do not think that there will be any doubt that, in policy terms, the measure will have failed a key test, in that it will be more expensive than the one that it replaced, for less benefit.

There is an unfortunate side to that. Most people in local government who are involved with benefits would agree that the benefits system was long overdue for reform. It is far too complicated, and most people would welcome the principle of a single benefit, albeit with the difficulties of engaging electronically. Most people would agree with the principle that we should encourage people who can work that that is the best place for them to be.

It is unfortunate that the bedroom tax has completely deflected attention from all that—and, goodness knows, universal credit has its own difficulties. Most housing professionals would have agreed with the overall principle, but the bedroom tax has completely blown us off course when it comes to putting in place a more rational, effective benefits system.

David Bookbinder: If you take a narrow view of what the bedroom tax has saved the Treasury, you may well find that it has saved pretty much what it was thought would be saved. The Treasury's estimates of the savings from the mechanism were based on the premise that at least 85 per cent of tenants would not move from their homes. That has been borne out. As the committee is well aware, there is not the stock to have enabled more than 10 or 15 per cent of tenants to move. Notwithstanding the fact that some people have moved into more expensive private rented accommodation—the scale of which has been relatively modest—the policy will have saved the Treasury money, but the indirect costs—

Kevin Stewart: But it will not have saved money for the public purse as a whole.

David Bookbinder: No, not the wider public purse at all, because of the costs that councils and housing associations have faced, which we have been hearing about.

Kevin Stewart: It is cost shunting, which is making the poor poorer.

12:27

Meeting continued in private until 12:38.

David Bookbinder: Yes.

Annabelle Ewing: We have covered quite a lot of the ground that needed to be covered.

I accept that the written submission from the Chartered Institute of Housing in Scotland was dated December, and we are in a fluid situation. However, I note that the CIHS felt that there was considerable uncertainty about what the petition was calling for and that because of the perceived uncertainty about, inter alia, the exact amount that was being called for, whether tenants who have managed to pay without requiring DHP assistance—presumably it has been a huge struggle to do so—would be reimbursed, the various mechanisms and so forth, it could not really go into great detail about its position.

Now that we have had this initial discussion, I wonder what Mr Bookbinder's view is. Does the CIHS's position remain that there is still considerable uncertainty about what exactly the petition is calling for and that you are therefore still unable to commit to a particular position on it?

David Bookbinder: Every month that goes by, we feel that we are a little bit clearer about the position and information such as the Scottish Government's own recent figures on the DHP spend that has been incurred so far helps to fill the picture.

However, as far as help to mitigate the various impacts is concerned, we can be clear that the issue that you have just identified—about those who have managed to pay, probably at some cost, when they could have spent the money on something else—is very significant. Finding a way of recompensing tenants who are in arrears while others might have gone without other things in order to stay out of arrears seems incredibly iniquitous.

The Convener: As the committee seems to have exhausted its questions, I again thank the witnesses for helping us to understand and consider the issues that have been brought to our attention by witnesses who are seeking to address the problems caused by welfare reform. We will no doubt call on your expertise again at some point in the future and I appreciate the time that you have taken to assist our work.

I now move the meeting back into private to allow the committee to deal with its interim bedroom tax report.

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e-format first available
ISBN 978-1-78392-616-9

Revised e-format available
ISBN 978-1-78392-633-6

Printed in Scotland by APS Group Scotland
