



The Scottish Parliament
Pàrlamaid na h-Alba

Official Report

INFRASTRUCTURE AND CAPITAL INVESTMENT COMMITTEE

Wednesday 14 January 2015

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INFRASTRUCTURE AND CAPITAL INVESTMENT COMMITTEE

1st Meeting 2015, Session 4

CONVENER

*Jim Eadie (Edinburgh Southern) (SNP)

DEPUTY CONVENER

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

COMMITTEE MEMBERS

*James Dornan (Glasgow Cathcart) (SNP)

*Mary Fee (West Scotland) (Lab)

*Alex Johnstone (North East Scotland) (Con)

*Mike MacKenzie (Highlands and Islands) (SNP)

*David Stewart (Highlands and Islands) (Lab)

*attended

THE FOLLOWING ALSO PARTICIPATED:

Michael Cameron (Scottish Housing Regulator)

Anne Jarvie (Scottish Housing Regulator)

Joan McAlpine (South Scotland) (SNP)

Lisa Peebles (Scottish Housing Regulator)

CLERK TO THE COMMITTEE

Steve Farrell

LOCATION

The Adam Smith Room (CR5)

Scottish Parliament
Infrastructure and Capital
Investment Committee

Wednesday 14 January 2015

[The Convener opened the meeting at 10:00]

Interests

The Convener (Jim Eadie): Good morning, everyone, and welcome to the first meeting in 2015 of the Infrastructure and Capital Investment Committee. Everyone present is reminded to switch off mobile phones, as they affect the broadcasting system. However, as meeting papers are provided in digital format, members may use tablets during the meeting.

I welcome Joan McAlpine, who is joining us this morning.

Agenda item 1 is a declaration of interests. I welcome David Stewart as a new member of the committee and invite him to declare any relevant interests.

David Stewart (Highlands and Islands) (Lab): Thank you, convener. I have no relevant interests to declare.

The Convener: Thank you. I also thank the outgoing member of the committee, Mark Griffin, for his very worthwhile contribution to our work, and I wish him well in his new committee.

Decision on Taking Business in
Private

10:00

The Convener: Agenda item 2 is to seek the committee's agreement to take item 4 in private. Do members agree to take that in private?

Members indicated agreement.

Scottish Housing Regulator Annual Report 2013-14

10:01

The Convener: Agenda item 3 is the Scottish Housing Regulator's annual report for 2013-14. The purpose of the session is to hear evidence from representatives of the Scottish Housing Regulator, focusing on its performance, annual report and accounts for 2013-14 and its approach to regulation.

Unfortunately, the chair of the SHR is unable to join us today as she is unwell. On behalf of the committee, I wish her a speedy recovery. We are able to welcome from the SHR Anne Jarvie and Lisa Peebles, who are board members, and Michael Cameron, who is the chief executive.

I invite Ms Jarvie to make an opening statement.

Anne Jarvie (Scottish Housing Regulator): Thank you and good morning. I am making this statement on behalf of the chair, Kay Blair, and I will convey the committee's best wishes to her when I see her later today.

I start by expressing my thanks to the committee's previous convener, Maureen Watt, for hosting the regulator's important stakeholder reception in the Scottish Parliament building in May last year. Most of us attended the reception, and the feedback that we have had has been very positive, so I thank you very much for that.

In my introductory statement, I will touch on some of the highlights of the past year or so, the value that we add, our engagement with stakeholders and the success of our work on the charter.

Since we last appeared at the committee, we have had a busy, challenging and—we think—successful year. I will go through the highlights. First, there was our planned, risk-based and proportionate engagement with 61 registered social landlords and 15 councils, with the single objective of protecting the interests of tenants and other service users. Secondly, we launched the charter landlord reports and the easy-use comparison tool, which have been well received. Thirdly, we have implemented the new information technology system that allows landlords to submit information quickly and easily to us online.

Other highlights include the publication of our report, "Housing Options in Scotland: A thematic inquiry"; the continued provision of support to RSL board members through our "Governance Matters" events; and the first use of our statutory intervention powers with two landlords, again to protect the interests of tenants. It is through that

type of work and our effective regulation that we add value to social housing.

Giving confidence to lenders and investors in social housing is hugely important. More than £4 billion is invested in social housing by private lenders and investors, and one of the major lenders to the sector recently told us that our effective regulation has a value of around 115 basis points, or 1.15 per cent, on lending to landlords. At current levels of RSL debt, that equates to a saving of approximately £40 million every year on the interest charges that RSLs pay. That is a ten-fold return on the cost of regulation, and it is a significant benefit to RSLs.

We also add value in other less quantifiable, although no less important, ways. We empower tenants by giving them timely, accessible and comparable information on landlords' performance. We help to protect the hard-earned good reputation of those social landlords who provide good service and are well managed. We provide guidance and learning opportunities through our engagement case studies, and we help landlords to improve by providing benchmarking information.

We will build on the success of last year partly by initiating a programme of service-focused thematic inquiries. That will include an inquiry on Gypsy Travellers, in which I know the committee has an interest. We will use our analysis of the data that we collected for the first time through the 2013-14 annual return on the charter from the 20 social landlords that manage Gypsy Traveller sites. Our inquiry will look at the reasons behind significant variances in pitch rents and customer satisfaction levels, and we will highlight good practice that we find and make recommendations on improvement. We expect to publish on that early this year.

We place great importance on communication and engagement with our broad range of stakeholders. We are aware that effective regulation will mean that we are not always popular with all of them, but we value effective, respectful and professional relationships with all our stakeholders. This year, we published independent research into how we communicate, which involved 270 of our stakeholder organisations. It found strengths in our approach, and areas that we can enhance further.

It is important that we work with our principal stakeholders—tenants and service users—to ensure that we understand their priorities. Last year, we published the second report on the views of our national panel of more than 300 tenants and service users, and we conducted separate research into the service priorities of registered tenant organisations in Scotland. We have established formal liaison arrangements with the

regional network of RTOs, and we now meet them regularly. Lay tenant assessors also contributed significantly to our work last year. Those engagements help to shape what we do, and we have worked with tenants to co-produce the landlord reports that we published in August.

We know that the committee will have heard a range of views about the regulator, including both praise and criticism. It is very difficult for us to respond to general criticisms, and I am sure that you will agree that effective regulators are seldom popular with those whom they regulate. Indeed, an overly popular regulator may be not be fulfilling its responsibilities and role. Having said that, we are always keen to hear feedback, whether it is positive or negative. We have positive relationships with many of our stakeholders, including lenders, auditors to the sector and many regulated bodies. That is not to say that we cannot improve, and we are always keen to listen in order to help to shape even more effective regulation.

We want effective dialogue to help us to understand stakeholders' views, and so that stakeholders understand how we work. To that end, we are working constructively with the Scottish Federation of Housing Associations and the Glasgow and West of Scotland Forum of Housing Associations on an information note about how we apply in practice the policies in our regulatory framework on inquiries and interventions. In addition, we are keen to work with landlord representatives to drive good practice and to encourage them to develop mechanisms to enable landlords to better support each other, especially where a landlord is experiencing difficulties. Leadership from within the sector is important, and we would like it to develop even further.

Finally, I will say a little more on the important and empowering landlord reports and online comparison tool that we made available in August. I hope that you have had a chance to look at those and to watch the demonstration video that we provided to the committee. We have received excellent feedback from stakeholders—tenants, in particular—on how they help users to compare and contrast landlords' performance. We will publish soon an insightful national report on our analysis of the charter, and I will make sure that you receive copies of it.

We are happy to take questions on anything that I have mentioned or on any other matter that you may wish to raise with us.

The Convener: Thank you for setting the scene with that opening statement. Will you kick off proceedings by highlighting what you think the main outcomes and key achievements of the Scottish Housing Regulator's work have been over 2013-14?

Anne Jarvie: The major thing this year has been the work on the charter and, in particular, the platform that has been developed to enable the information to be returned to us with as much ease as possible. I think that the success of that was displayed by the number of RSLs that responded within the required timeframe. They fed back to us that, as well as finding the platform helpful, they found the helpline that we provided to guide them through the process particularly significant.

In addition, we have worked hard with our stakeholders and have built increasingly robust arrangements to ensure that we involve tenants to as great an extent as possible in all that we do. That is very much appreciated, and I think that it is opening up an avenue for us to link with people whom we were not meeting, seeing or hearing from in the past. That can only be positive for the work that we do; after all, we were established to make sure that tenants get a good deal in respect of their relationship with their landlord.

Those are probably the two most significant achievements, but Michael Cameron might have something to add.

Michael Cameron (Scottish Housing Regulator): Perhaps the only thing that I would add would be the publication earlier last year of "Housing Options in Scotland: A thematic inquiry", which was a major publication for us. It was the first such report, and it was well received, even though some of the recommendations that we set out in it were challenging for local authorities and the Scottish Government. That set a pattern for work that we will develop through the course of this year. As Anne Jarvie indicated, one of the first pieces of work that we will carry out will be a thematic inquiry on Gypsy Travellers and the quality of the sites that are provided to them by social landlords.

The Convener: What do you think the biggest challenge will be for the regulator in the coming year?

Anne Jarvie: Quite a bit of what we do this year will be more of the same. As the charter beds down, it will be important for us to keep the momentum going and to encourage tenants to use the information that is made available to them so that they understand where their landlord sits in relation to other landlords in the country. Equally, the charter will assist them with questions that they could and should be asking that they might not have been asking up until now.

Increasingly, our work is about building relationships. We have a job to do and we will do it—we will regulate with the touch that is required in any given circumstance. The important thing is that we communicate with people continually so that they understand what we are here to do, how

we will do it and what contribution they can make to help us to do it as well as we can.

Key in that respect is ensuring that we deal with regulation in the most appropriate way. We talk about proportionality quite a lot, and that will be increasingly important. We must ensure that we have a high level of involvement only with those landlords who need that amount of intervention, support and help. We will continue to do that without resorting to statute whenever possible—although we have had to use statutory means over the past few months—because we know from experience that it is much better to work alongside landlords than to take a top-down approach.

Our work in the coming year will be about continuing to build relationships and increasing understanding of what we are here to do, why we are here to do it and what can be expected of us.

The Convener: Thank you very much. My colleague Alex Johnstone has questions on the interaction with registered social landlords.

10:15

Alex Johnstone (North East Scotland) (Con): Ms Jarvie, in your opening statement and in your previous answer you raised the issue of proportionality. We have taken the opportunity to speak to a number of people who have had cause to work with the regulator, including representatives of RSLs, and we have been given the impression that some of them believe that you could be more proportionate in the way in which you approach regulation. How would you react to such a suggestion?

Anne Jarvie: I would be very surprised if some of them did not think that—I think that that will always be the case. I have done quite a bit of ferreting around as I have been out and about, just to hear where people are really coming from. Interestingly, I have found that, when those who have required assistance reflect back on it, they think that we are probably just about spot on with proportionality. That is the important thing, because it is always much more difficult to be as objective when you are going through a process as it is when you are at the end and think, “Thank goodness we’ve got to the end of this process and we’re now in a far better place than we were.”

I would be surprised if some people were not saying that we could be more proportionate. I hope that the people who have been alongside us when we were trying to assist them to overcome their problems would be a bit more understanding of what our proportionate approach is. However, it is important that we continue to focus on that and engage only where absolutely necessary, so that we do not unnecessarily use resources and create a problem for ourselves as well as for those we

engage with, and that we are therefore proportionate.

Would you like Michael Cameron to say a bit more about that or are you content?

Alex Johnstone: It is entirely up to you to answer the question.

Michael Cameron: It is worth saying that our regulation engagements follow a well-established and transparent risk-assessment process. That is the cornerstone of how we comply with our statutory duty to be a proportionate regulator. Following the risk assessment, we publish a regulation plan for an RSL or local authority, which is called an assurance and improvement plan, and we will have engagement on that. We are very transparent about how we arrive at the need for engagement and the form that it will take.

It is absolutely the case that we always look to be as proportionate as we can. We are always driven by the need to do what we do with as little intervention as possible. Critically, it is about ensuring that we do what is necessary to protect the interests of tenants and other service users. That is our sole objective when we engage with landlords.

Alex Johnstone: On the subject of transparency, some RSLs have suggested that they would benefit from greater transparency on your decision-making process and the way in which you sometimes engage with RSLs on an informal basis.

Anne Jarvie: We believe that the majority of RSLs have a well-developed understanding of our role, so we start with that premise. We sometimes discover that people are less knowledgeable, but we think that on the whole they are very well established in that respect.

We have been working constructively with the Scottish Federation of Housing Associations and the Glasgow and West of Scotland Forum of Housing Associations to produce an information note about how we apply in practice—that is the important point—the policies that are set out in our regulatory framework for inquiries and investigations. We will continue our discussions on the information note for the next few months, and then it will go out for consultation. We hope that that will help to open up the debate and encourage people to ask us questions if there are parts that they do not understand.

We have listened carefully to the allegations that we are not transparent. We think that we are transparent, but there are times when it is difficult to be as transparent as we want, because we might be working in a way that means that we must maintain some confidentiality until we get further through the programme. However, we hope

that the information note that we are developing with others will help to take us a stage further in convincing people of our transparency.

Alex Johnstone: Do you believe that you have the balance right between formal and informal engagement?

Michael Cameron: We regulate in accordance with the powers and duties that are placed upon us by the Housing (Scotland) Act 2010. Everything that we do is based on those statutory duties and powers, and we set out how we apply those powers and duties in our regulatory framework. The vast majority of our regulatory engagement follows a well-understood risk assessment process, and it is communicated through publication of the regulation plans.

It is very important that we are transparent in how we regulate, and that all stakeholders—tenants, service users, landlords and others—understand how we work and, importantly, what they can expect. It is also important that we are able, within the statutory framework that Parliament has set for us, to use our judgment, to make decisions and to operate in the most effective way to ensure that we can protect the interests of tenants and service users. Sometimes, as Anne Jarvie has suggested, that means that we must conduct engagements in confidence—at least until the regulatory concern has been addressed or we have had an appropriate level of assurance.

It is also a matter of protecting the reputation of social landlords. It is appropriate for us to have a full understanding of the situation before we necessarily go public on what our engagement has been.

As Anne has said, despite all that, the majority of landlords that we engage with have a clear and full understanding of how we go about our business.

Alex Johnstone: Some—

The Convener: I think that Mary Fee and James Dornan are wanting to come in on that point, if that is okay.

Mary Fee (West Scotland) (Lab): It was actually in relation to the question before that, but I can wait until the end.

The Convener: I will let Alex Johnstone continue, and Mary Fee can come in at the end.

Alex Johnstone: Some RSLs have suggested that there is room for a more consistent and more collaborative approach. How would you react to that?

Michael Cameron: We think that our approach is consistent. That is not to say that we have the same type of engagement with every landlord,

however. The type of engagement that we have is very much dependent on the risks that are evident to us, following our risk assessment. It is proportionate to the scale of the risks and issues that we find. It is not the case that we apply a one-size-fits-all approach to regulation; it is very much determined by the risks and the nature of the organisation and the issue that we are addressing.

Could you repeat the second part of your question?

Alex Johnstone: It was about a collaborative approach.

Michael Cameron: It is important that we work with those whom that we regulate to ensure that there is mutual understanding of roles and responsibilities, with a good understanding of what our regulation is for, how it operates and what it is seeking to achieve. It is also important to have regard first and foremost to our statutory objective, which is to protect the interests of tenants and other service users. That is what determines the nature of our engagement with landlords.

That said, we have very good working relationships with the majority of our stakeholders, and we have been working very constructively over the past period with the Scottish Federation of Housing Associations and the Glasgow and West of Scotland Forum of Housing Associations to consider ways to improve transparency and to help people better understand what our role and responsibilities are.

Alex Johnstone: We heard from some RSLs that they believe that there might be a certain lack of trust in the relationship between the regulator and themselves, which may, in some cases, cause them to be less keen—reluctant, perhaps—to seek advice from the regulator. Do you believe that that situation exists? Do you have any course of action that is designed to improve the level of trust where it may be below what we would expect?

Anne Jarvie: Part of the difficulty is that, although people make statements, they do not always back them up with evidence. That makes it difficult for us to analyse them, and to understand where people are coming from and what we could do to make a difference.

Trust is a really interesting thing—it goes two ways. We can sit and have a discussion or conversation with a group or an individual and think that things are moving in the right direction and going well, but hear at a later stage that that was not the case. Both parties need to work hard at the trust relationship if we are ever going to move things forward.

Over the past year and a half in particular, we have certainly put a lot of effort into engaging with more people so that we can demonstrate that we

are open and are a listening organisation and that we want to move forward in learning mode, but we have a job to do. We have to regulate the sector, which can always potentially put tension into our relationship. Even when we can put half a tick in a box, we will still have to go back and think about when we can get to the complete tick, because the issue will not be repaired—if “repaired” is the word that is necessary—in a day. If we just stop thinking about it, we may slip back again.

However, we are determined that we will try to dispel that view. The board has discussed the matter frequently. Whether that view is right, wrong or indifferent, we will work hard to try to dispel it. We are on the case. That is probably the best way to describe our current position.

Mary Fee: I want to go back to proportionality and the perception of proportionality in your dealings with registered social landlords. I suppose that this relates directly to Anne Jarvie’s comment about people tending to say with hindsight that the degree of regulation was proportionate. Do you have an on-going review process? After you have been through a process with an RSL, do you have a method of reviewing how successful or unsuccessful the approach has been, or whether there was something different that you could have done? If you have that, how do you build it into your on-going regulation?

Anne Jarvie: I will just make an opening statement on that, as Michael Cameron is much nearer to the detail of the matter.

In response to the previous question, I mentioned our trying to be a learning organisation. As a board, we ask for feedback and we ask for analyses of cases. One of the regulator managers attended our previous meeting and gave us a case study of her involvement in regulating a particular RSL, which really brought everything to life; it made things vivid for me, anyway. I much prefer to hear about things and to see pictures rather than read about them.

In any relationship when things are not 100 per cent right and somebody is trying to help to make things a bit better, tension exists on both sides. I came away and reflected on what that manager had been through with the organisation. Things must have been quite traumatic at times, and huge discipline must have been needed to be able to hold back from saying things that the manager ought not to say, for example. The situation at the beginning is tense, but once relationships have been formed and it is crystal clear that things are beginning to move in the right direction, people can relax a little bit.

I will let Michael Cameron talk a bit more, because he knows the detail.

Michael Cameron: It is worth saying that, following every major regulatory engagement, we have a formal lessons-learning exercise, which is built back into how we approach subsequent similar engagements. That is standard practice that we employ throughout our organisation.

Our annual risk assessment process is constantly evolving and developing to reflect the changing risks that exist in the operating environment of landlords, and to build on developments in regulatory approaches.

Through the “Governance Matters” series of reports, we also publish case studies of significant engagements that we have had with landlords, principally as a way for other landlords to have access to information that might enable them to consider their own situation and whether there are lessons to be learned for them. I am aware that there has been some comment on the tone of “Governance Matters” publications, but I have had positive direct feedback from a large number of landlords who say that they make use of “Governance Matters” as a review tool for how they are operating.

10:30

Mary Fee: When you go through the feedback process and there is a review, if you recognise that there are things that you could or should have done differently, is that communicated back to the organisation or person involved? Are they made aware that you have taken on board what has been said and that you are going to make changes? It is important that they realise that any comments that they make or any feedback that they give will be taken on board, and that changes should be made if you believe that they should be made.

Michael Cameron: There is probably not a formal process for that kind of feedback, because that type of regulatory engagement is not necessarily the right vehicle for such dialogue. The kind of lessons that we would look to learn are around whether, in particular circumstances, the right tools were used and the right approach was taken, and whether there were other ways of doing things to achieve the same outcome, perhaps in a less intensive way. There are not necessarily obviously straightforward processes for giving feedback to the organisations involved.

Mary Fee has raised an interesting point, so we will give some thought to whether there are ways in which we can make more widely known the types of changes that we might bring into how we operate as a consequence of such learning. We do a wee bit of that through the “Governance Matters” publications, but we shall give further thought to that.

Mary Fee: At a basic level, it is about building trust. If the people with whom you are involved can physically see that you have made changes, that would help to build trust and remove some of their uncertainty and concerns.

Anne Jarvie: Yes. Thank you for that.

James Dornan (Glasgow Cathcart) (SNP): I will return to proportionality. A number of RSLs talked about the fact that the regulator sometimes focuses on micromanagement rather than considers the big picture. Do you understand why they would think that? Do you accept that there may be an issue? If so, how could you change it or change RSLs' perception, if you consider that it is not an issue?

Anne Jarvie: I shall ask Michael Cameron to answer, because he is nearer that process.

Michael Cameron: It is certainly not the case that we are here to micromanage; I would be extremely concerned if I thought that we were using the limited resources that we have to do that. It is not for us to run RSLs' businesses—it is for the RSLs. In particular, it is for the governing bodies of the RSLs to ensure that they operate in a way that means that they are financially healthy and that they are delivering for tenants and other service users.

We will always look to engage in the most proportionate way possible, and in a way that will ensure that the RSL organisation itself is given the opportunity to address any issues that we find. We have limited resources and we focus them on the key issues and major risks, which is done through a well-understood annual risk-assessment process. I would not recognise as reality any suggestion that we are involved in micromanagement.

James Dornan: The suggestion came from more than one RSL, which is why it is clearly an issue of perception, if not reality. How can the regulator try to ease the concerns of those RSLs? I suspect that such concerns are based on personal experience.

Michael Cameron: Tackling perceptions is always difficult, and it is difficult to comment when there are no specifics. I do not know the nature of the concern that has been expressed, so it is quite challenging to discuss it.

As Anne Jarvie mentioned, where organisations have been through a regulatory engagement with us and have resolved the situation and moved on, you will often get a different set of messages back from them.

Whether some of the concerns are based on direct experience or whether it is part of the noise that one hears within the sector, without specifics, it is very difficult to comment more on that.

James Dornan: Okay, that is a fair point.

Adam Ingram (Carrick, Cumnock and Doon Valley) (SNP): I take your point on the question of the popularity of a regulator. If you were very popular, maybe I would question what you were doing. On the other hand, we have heard concerns about the regulator's activities, approach, tone and attitude.

I want to ask about the composition of the board and about your officers, in terms of their experience of the sector and how many have been actively engaged in RSLs. The organisations would recognise that people with such experience have had a long-running stake and engagement in the sector, so that they feel they can trust them without any second thoughts.

Anne Jarvie: That is an interesting comment; I expect that we will all have different views on that. We will give you the composition of the board, but there is also an issue about a regulator being too close to a sector and therefore not seeing the wood for the trees or not being as open minded in their judgment as they would be otherwise. It is fair to say that the board is comprised of both sides of the coin. Lisa Peebles will say something on that, as she is also a tenant.

Lisa Peebles (Scottish Housing Regulator): As well as being a board member I am a long-term tenant of social housing. In fact, I have only ever lived in social housing. As a recipient of services from several social landlords, I have probably got as much experience as anybody. Having been a community activist, I also understand the wider role that social landlords often provide.

We have a pretty good balance of skills on our board. It is not always necessary for people to have been recipients of services; if people have worked within comparable organisations or sectors they can bring skills to our organisation, which can be just as good as their having worked directly in the sector or having received the services.

Anne Jarvie: We had another tenant board member, but unfortunately she left us in December because of her personal circumstances. We will consider what should be done as far as that is concerned—when Kay Blair is in a position to do so.

Michael Cameron can comment on the officers.

Michael Cameron: It is worth saying that Parliament set up the regulator as an independent body—independent of both the Government and the sector that it regulates. That recognises the importance of the board being able to bring an objective perspective to regulation. That said, there is some experience of social housing on the board, but there is also experience of other relevant disciplines, which enables us to have a

broad perspective on the organisations that we regulate.

Our staff are drawn from a number of disciplines, but many of our staff members have worked in social landlord organisations or in social housing in various different roles. A number of our staff have come from other regulated fields and bring skill sets—financial analysis skills and work in other regulatory bodies, for example—that are critical to the job that we do, but are not necessarily directly related to social housing. We want to ensure that we have a broad range of skills that enable us to do the job that Parliament has set us.

Anne Jarvie: We have a lawyer, but he works very closely with social housing and social housing issues, so he brings a different take on the housing position and how we can best regulate it. My background is in healthcare and as a civil servant. In that context, I have played tig around the housing sector all my life, although I have not worked in it directly before. Quite a number of us have had that kind of exposure.

Adam Ingram: Notwithstanding what you have said about the independence of regulators, the whole question of trust needs to be addressed, because quite a number of the people with whom we have been in contact wish to remain anonymous. I do not think that such a situation is particularly healthy, and perhaps moves in the direction that I have suggested ought to be considered to address the matter.

Anne Jarvie: I have already touched on the fact that we are very seldom given evidence to back up the things that we are told about perception or whatever. That makes things really difficult for us. Information also comes to us anonymously, but that means that we cannot speak face to face to the individual or individuals and get a clear indication of where exactly they are coming from and what their concerns are. However, I can guarantee that the board is committed to working alongside all our stakeholders, whoever they might be, to try to get them to understand us better, to ensure that we understand them better and to try to build the mutual trust that I was talking about. It is a two-way thing.

The Convener: Mr Cameron, you said earlier that it was not for the regulator to run and micromanage the RSLs' business, but it is clearly desirable that landlords achieve the outcomes and standards that are set out in the social housing charter. Given your specific role of monitoring and reporting on landlords' performance in achieving those standards and outcomes, can you tell us how that process is working? We are into the first year of the annual charter returns, and I would be grateful if you could update the committee on how the process is progressing. Moreover, going back

to Ms Jarvie's earlier comment about the importance of feedback, can you tell us about the feedback that you have received from landlords, tenants or service users about the usefulness of the annual charter returns?

Anne Jarvie: I will ask Michael Cameron to kick off, and then I will bring in Lisa Peebles, who has been very close to the information and has some examples of how things are being handled with the RSLs out in the real world.

Michael Cameron: Last year was an important and significant year for the Scottish social housing charter, because during it landlords provided us with the first set of information and data returns, and we analysed that information and pushed it back out to allow tenants, other service users, landlords themselves and anyone with an interest in social housing to look at and compare landlord performance. The tools that we have put out and the information that we have published have been almost universally well received, and they have been particularly well received by tenants. Moreover, earlier last year, we surveyed social landlords on how they found the new tools for providing us with information that we put in place, and again we found the satisfaction level to be very high.

Lisa Peebles: As Michael Cameron said, last year was really important. We launched the landlord portal, which is an online facility that allows landlords to deliver their data directly to us. As well as enabling us to extract information easily, the system had to be easy for landlords to negotiate their way around, and in the feedback that we have had as a result of our surveys, around 90 per cent—92 per cent—of respondents said that using the system was a very positive experience.

The other significant thing that we have done with regard to the charter is produce the landlord reports, which are seen as a way of providing tenants with a snapshot of how well their landlord is performing. Alongside that is the comparison tool, which I hope that members have had a chance to look at. The tool allows people to benchmark their organisation against any other organisation in the country. What is really interesting about that is that it is not just there as an opportunity for tenants to ask, "Why is my rent so high when someone else's is so cheap?" or "Why do my repairs take longer?" It provides a wee bit of clarity, because people can often see that the services that they receive are really good in comparison with those provided by other landlords. The development of those charter tools was very important.

10:45

The Convener: Did tenants say that their individual experience was not as good as or better than the returns that are available in the reports?

Lisa Peebles: The data has produced averages. A tenant whose repair took two weeks to get done might find that repairs are done much more quickly than that on average. They can take that up with their landlord and ask, "Did something go wrong there? What was peculiar to my situation?" It empowers tenants to target their questions in the most appropriate way.

Overall, we have had very positive feedback from tenants. Our systems are online, but we require landlords to provide landlord reports to their tenants, which is usually done through newsletters. In a Glasgow-based association's winter newsletter that I was looking at yesterday, the association published not just its own information but comparative information for all the surrounding landlords. That is incredibly useful and takes into consideration the fact that not everyone is online. People do not always have broadband or the facilities or technology to access information online. We have a kind of belt-and-braces approach. We have the online services but those are backed up by the requirement for landlords to provide information.

Over the next few years, we will put more emphasis on things such as service quality, value for money and rent affordability. The tools, which we have invested a lot of time in, make it an awful lot easier for us, as an organisation, to do that. As we have mentioned, the information and data inform how we go forward, and will also inform the thematic inquiries that we will do. The first of those will look at the information that we have on Gypsy Travellers. There has been huge variation in the data that we get back about the services that people get on sites and the rents that are charged. We now have an opportunity to dig down into that and find out exactly what is going on.

The Convener: You mentioned the need to raise awareness among tenants and gave the example of using newsletters for that. You also highlighted digital exclusion among tenants who do not have access to the internet. How should we address that?

Lisa Peebles: We have raised our profile as an organisation with tenants in a number of ways. The previous incarnation of the regulator was incredibly innovative at using tenant assessors and we have continued to use tenant assessors, although they are working in a slightly different system.

We have established a national panel of tenants and service users, whose membership sits at around 300—it is quite a significant number of

people. We use the panel to sense check our regulatory objectives and see the impact on tenants of what we are doing. We continue to engage through the RTOs and the defined networks.

It can be something as simple as our branding on newsletters and in landlords' reports informing tenants that we exist. Tenants often receive services passively, and if things are okay, why would they know that there is a regulator? Being able to get a bit more access to tenants is a good opportunity to raise our profile and let them know that we are there to protect their rights.

I am sorry—I have forgotten the second part of your question.

The Convener: It was on digital exclusion.

Lisa Peebles: Digital exclusion is a huge issue for every organisation, which is why it is important not just to provide information through one mechanism but to back that up in other ways.

We know that landlords often go above and beyond in supporting their tenants to access information. I expect that, if a tenant came and said that they wanted more information than they had been provided but that they did not have access to the internet, most good landlords would facilitate that. That is not necessarily a requirement, but landlords understand their tenants' needs.

The Convener: Mr Cameron, how are you using the information from the charter returns to develop both your approach to empowering tenants—as Ms Peebles mentioned—and your approach to risk assessment? For example, will it lead to more targeted intervention?

Michael Cameron: We are using the information from the annual charter returns in a number of ways. As we have said, the information provides an important way for us to understand where the key issues may rest in social housing and to target our programme of thematic studies to consider those issues. The information drives that programme.

We wish to make the information as widely available as possible, and in as many useable forms as possible, to encourage tenants to hold their landlords to account for their performance.

We will also use the information that we have in our annual risk assessment processes for both local authorities and RSLs, so that—Lisa Peebles has already touched on this—service quality, rent affordability and value for money become much more central to the work that we will be doing over the next three years.

Mary Fee: The regulator is responsible for monitoring social landlords' progress towards

meeting the Scottish housing quality standard. Compliance has gone up: it was 82 per cent in April 2013. However, 10 landlords have reported that their houses may be at risk of not complying in 2015. I have two questions. First, why are those landlords at risk of not complying with the SHQS? Secondly, what work is the regulator doing to help them comply?

Anne Jarvie: Michael Cameron will take that question, as he has the details.

Michael Cameron: Our analysis found that 20 landlords—19 RSLs and one local authority landlord—reported through their annual charter returns that, in total, just under 3,000 houses in Scotland would not meet the SHQS at the target date of 31 March 2015. That equates to around 0.5 per cent of all the social housing in Scotland that falls within the scope of the SHQS.

At this stage, we have had assurances from 11 of those 20 landlords regarding the reasons why they are not able to meet the standard by that deadline and the plans that they have in place to address that shortfall.

We are also following up the situation with the remaining nine landlords that have indicated that they will not be able to meet the standard. Six of them have fewer than 80 houses that will not meet the standard. We will engage with them in a proportionate way, reflecting the scale of the issue.

We anticipate that two of the three remaining landlords will be able to provide the assurances that we need, and we are continuing to work with them to get those assurances. We are having intensive engagement with one landlord. Our concern is that it is only at this point undertaking a stock condition survey to properly identify the level of compliance—or non-compliance—with the standard. We are engaging with that landlord on a number of other regulatory issues and concerns.

Where a landlord does not meet the standard, or continues not to meet it after the 2015 deadline, we will consider the use of our statutory powers. In particular, we are considering the role of enforcement notices as a way of addressing some of the concerns that might come through about non-compliance.

Mary Fee: To be clear, how many landlords are at risk of failing to meet the standard?

Michael Cameron: Twenty have indicated that they might do so, but we have assurances from 11 of those that they have appropriate and deliverable plans in place to enable them to meet the SHQS fairly soon after 31 March 2015.

Mary Fee: Will you monitor that?

Michael Cameron: Yes, absolutely.

Mary Fee: Is there a problem in a particular area in Scotland?

Michael Cameron: No—it is fairly evenly geographically spread.

The other factor in play is the role of exemptions and abeyances. The Scottish Government has put in place a framework in which landlords could claim exemptions and abeyances against a set number of criteria. Abeyances, in particular, do not imply a continuous or unending ability not to meet the target; they are a recognition of the fact that there are circumstances in which the achievement of the target by 31 March 2015 might not be possible for justifiable reasons. We will continue to monitor those situations as well.

Mary Fee: How many properties have exemptions? Do you have an exact figure?

Michael Cameron: I do not have an exact figure here. We have figures that are based on the returns that came to us on 31 March 2014, but the figures for exemptions are likely to change before we get to 31 March 2015. We can provide the committee with that information.

Mary Fee: That would be useful.

The regulator also monitors the energy efficiency standard for social housing. Could you explain a bit more about how you monitor and report on the new efficiency standards?

Michael Cameron: From the next financial year, 2015-16, we will monitor and report on social landlords' compliance with the energy efficiency standard for social housing. We have already published technical guidance that sets out information on the approach to monitoring compliance, the arrangements for landlords to report data to us on an annual basis and the indicators on which we will gather information and which will make up that annual return.

Social landlords will be working to achieve that standard by 2020, and landlords should give us their first return by 31 May 2016. We will use that data in the same way as we use the data from the annual charter return. We will assess the risks of non-compliance with that standard and determine what regulatory engagement is appropriate on the back of that assessment.

Mike MacKenzie (Highlands and Islands) (SNP): Before I ask my question, I should say that I have a pretty good understanding of part 6 of the building standards regulations, which deals with energy efficiency.

Concerns have been raised with me by a number of social landlords that significant proportions of the work that they have done in order to comply with the energy efficiency part of the 2015 standard might have to be ripped out and

redone in order to meet the next standard, which will be higher. Insulation is really just about thickness and, in these times of slender resources, it would be difficult to justify expenditure that goes beyond the 2015 standard before the new standard comes in.

You mentioned technical guidance. Do you have any thoughts on the concern that has been expressed to me?

Michael Cameron: My understanding of the energy efficiency standard is that it builds on the requirements that are set out in the Scottish housing quality standard specifically with the aim of avoiding the potential situation of people having to undo work that has been done to achieve the existing standard.

That said, with regard to some of the situations around exemptions or abeyances and the position of some of the landlords that will not meet the SHQS by March 31 2015, we are aware that some people have recognised that it would be more advantageous to their tenants and would make economic sense for them not to do the work to achieve the SHQS but instead to shift their focus to the energy efficiency standard and put in place plans that will deliver that sometime after 31 March 2015. That would mean that, technically, they would not be meeting the standard that they are obliged to meet at that point, but, with an eye on the energy efficiency standard, for a very good reason.

We are trying to be pragmatic and proportionate in how we respond to those situations. As I understand it, when it was developing the energy efficiency standard, the Scottish Government had in mind that it should not result in situations in which work that had been done under the Scottish housing quality standard was, in effect, redundant.

11:00

Mary Fee: I want to ask you about the national panel of tenants and service users, which gives you a mechanism for engaging with people through surveys, focus groups and telephone interviews. Will you explain to the committee in detail how that works and how you reach out to encourage people to engage?

Anne Jarvie: I ask Lisa Peebles to answer that, because she was involved in setting up that arrangement and she meets the people concerned.

Lisa Peebles: The national panel is an extremely important part of the suite of tools that we can use to engage with people who are not already active in tenant movements. It was important for us not just to continue to engage with tenant activists through the defined RTOs, but to

try to get out into the wider tenant sector and speak to tenants about their experiences as people who had not been activists.

We recently got the findings of our second survey on what they feel the priorities should be. The committee will probably not be surprised about some of the things that came up in that research. Among the priorities for those people are issues such as how quickly they can get their repairs done, maintenance and whether their landlord can meet them and respond to them individually. Those are the kind of issues that we have used the panel to find out about and clarify.

Having an ability to find out what tenants' priorities are informs how we go forward and where we should focus our regulation. There is no point in us spending a lot of time and resource looking into issues that do not matter to tenants because, at the end of the day, we are here to protect the rights of tenants and service users. The panel is very young—we are still figuring out how we can use it. Thus far, we have found out what people's priorities are, and that will inform how we proceed.

Mary Fee: Are the people on the tenant panel a fixed group of people?

Lisa Peebles: They are a fixed group of people in the sense that they will continue to be on the panel for as long as they are willing to be involved. When we started off, we got around 350 people to sign up to it. I think that there was a drop-off, but the number of people involved never fell below 300. Some people might not have been clear about what the expectations would be. The panel is fluid in the sense that people can choose whether to participate in it, but for us it is a fixed and significant resource that we can use in different ways. We can use it to do broad surveys, but we can also use it to drill down into specific groups. If we wanted to find out what older people felt, we could extract information on who the older members of the panel were and target them in a more significant way. The panel is there to be used in a flexible way. We think that it provides extremely interesting information.

Mary Fee: How do you engage with people who are not members of your panel? A concern that has been raised at our informal meetings is that you speak to the usual suspects but you do not speak to anyone else. How do you engage with people who are not on the panel? Many tenants are unaware of the existence of the panel and of the work that it does. How do you reach those people?

Lisa Peebles: I hope that the first thing that I would do is provide you with some assurance that the national panel is not the usual suspects. We aimed specifically to identify people who are

receiving services as either tenants or other service users and to go beyond the usual suspects. We understand that it can be the same people who are involved from one organisation or tenant group to another and that, although those people are incredibly knowledgeable, we need to have as diverse a pool as possible.

We are just learning how to get our message out beyond the tenant panel. Things such as the landlords report that has been published and the newsletters that landlords are providing let people know that we exist and that they can engage with our organisation should they wish to do so. There is sometimes some confusion, as people often get in touch with us when they have a specific issue with their landlord and that is not for us to deal with—there is a different process for that. Nevertheless, we are always looking to get out into the sector. Board members, especially, have an opportunity to go out among the public and tell people about what our organisation does.

Mary Fee: How does the tenant panel engage with the harder-to-reach tenants? There is a concern that the tenant panel is—to use the phrase that I used before—the usual suspects, who will use their own usual suspects to get the information. How can you widen out the engagement?

Lisa Peebles: When we set up the tenant panel, we were aware of the potential for it to be very quickly filled by people who had already been engaged with, so there was an application process. People were asked whether they were already engaged in the tenant movement. That was done not in order to exclude people—to get a tenant panel whose members were not already involved—but to provide some balance, and that approach was taken from the very beginning, in the application process.

We can always do more, and there will always be hard-to-reach groups. Whether it is the Scottish Housing Regulator or whatever other public body, there are always underrepresented groups, and we seek to raise awareness. For example, we used Positive Action on Housing to try to raise our profile within the black and minority ethnic community because we wanted people to understand that we provide a service and that we are working to protect their rights. As much as any organisation can, we have identified where there are gaps in our tenant panel and we try hard to fill those gaps in the most appropriate way.

Anne Jarvie: I think that it is work in progress. We have started by going much wider than the usual suspects. As somebody who had not been with the regulator for terribly long, I was very aware of the people whom I would have placed in the category of the usual suspects and the people for whom it was exciting because it was the first

time that they had come along and it was really important to them.

The list is not closed—let me put it that way. It is work in progress and we are learning from the experience. If we can find other ways of attracting people to volunteer—it is important that they are volunteers, not conscripts—we will look at the size of the panel. We can use the panel in different ways; we do not need a room that would allow 500 people to gather together at the one time. We need flexibility and we should not close the door. If somebody comes forward and says that they want to be a member of the panel, they should be assessed and offered the opportunity.

Mary Fee: You have more or less answered my next question. Do you have a review process to judge how well the panel is working?

Anne Jarvie: Yes. My experience of previous panels is that it takes time for such things to bed down and it is excruciatingly difficult to reach some people. For example, in most other panels that I have been involved in, it can be really difficult to get young people in, unless you press the right button that suddenly makes it exciting for more than just one of them.

We are all bringing our experience of different panels to bear on what we are trying to do with the regulator to see whether we can get it better. I am happy to hear any tips. *[Laughter.]*

Mary Fee: Okay.

The Convener: On the role of tenant engagement and engagement with the wider community, the statutory objective of the regulator is

“to safeguard and promote the interests of current and future tenants, homeless people and others who use the services provided by social landlords.”

So far no one has mentioned homeless people; I recognise, as I am sure that the committee does, that they are a hard-to-reach group. Are you engaging or seeking to engage with homeless people, such as those who are in temporary accommodation? How do you meet your statutory requirement to promote the interests of homeless people more generally?

Anne Jarvie: We were very conscious that we may not have put as much of our attention on homeless people as we had on other parts of our regulatory business, so we did the thematic study, which has now been published and has gone down very well. It is helping to inform our thinking about how we take forward our activity associated with homelessness. Michael Cameron may have something specific to add.

Michael Cameron: It is true that it is very difficult to engage with that group. We work with

representative bodies such as Shelter. We have liaison with them both strategically and at a level where we look to obtain information and intelligence from them about the issues that are playing out locally.

We have the charter return information, which includes a range of performance information and data on landlords' delivery of services to homeless people. We undertook the thematic inquiry, which is likely to be a vehicle that we look at using again to explore further the quality of services that are delivered to that particular client group.

When we engage directly with a social landlord, which tends to be a local authority in those instances, we look to access wherever possible any existing ways to engage directly with homeless people, including those who are resident in temporary accommodation, as you touched on. That tends to be around a particular regulatory engagement with a particular landlord.

The Convener: It is six months since the report was published. What has changed since then?

Michael Cameron: It is positive that the Scottish Government, the Association of Local Authority Chief Housing Officers and the Convention of Scottish Local Authorities undertook to develop guidance on the delivery of housing options, which we saw as a major and necessary development. That is progressing. We are not directly involved in housing options; we will look at a further review of how that is being delivered at an appropriate time in the future to enable us to understand whether any guidance that has come forward has been effective in addressing the issues that we raised through the thematic study.

The Convener: Ms Jarvie, you will know from your previous life how slowly the wheels of government can turn.

Anne Jarvie: Thank you for reminding me.

The Convener: Can you shed any light on the progress that has been made in publishing the guidance?

Anne Jarvie: This is where stakeholder involvement is even more important since, because we do not deliver the services ourselves, we need to speak to those who deliver services for those people. We have been doing that. It will take a while. I interacted with Shelter just the other week—

The Convener: I was afraid that you would say it would take a while.

Anne Jarvie: It is a difficult area. By and large, local authorities have the responsibility, so we link with them and assess them in the same way that we assess the RSLs. In that context we pick up issues, and if there are any, we interact with

landlords. Last year there were a couple of hiccups with the provision of housing, in particular as we moved towards winter and the festive period. The dialogue with landlords was effective and fruitful, and those particular situations were resolved.

It is important to say that we are on the case. The thematic study gave us the momentum that we needed to think through how we take that work forward.

11:15

James Dornan: In your annual report you state:

"Most RSLs are well governed and financially healthy."

Can you expand on how well the RSLs are governed and on the state of their financial health?

Anne Jarvie: Michael Cameron might be able to say more on that. The answer is yes—the number of RSLs with which we interact is small in the context of the overall number of RSLs. On the whole, governance is good, healthy and robust.

We would like the work of those who are doing a really good job to be recognised more by other RSLs, so that if an RSL begins to falter in any way they can seek some kind of relationship or link with another RSL that is doing business efficiently and effectively. That will enable them to get the support that they need before any issue becomes a regulatory matter.

James Dornan: Is there a role for the SHR in sharing best practice?

Anne Jarvie: Yes—we distribute best practice.

We are seeking to develop further the aspects that you have mentioned as we get better at communicating.

Michael Cameron: Our view is that social housing is generally a stable sector, with many strengths, including in governance. We find that, where we find governance issues and have to engage with a landlord, most landlords work with us co-operatively to address those issues.

With regard to disseminating learning from those experiences, our "Governance Matters" series of publications is an important way for us to help RSLs to understand where some of the pitfalls may lie and to enable them to look at themselves and understand whether they are well placed to deal with the types of issues and risks that might emerge.

We are encouraging other bodies to be more prominent in providing good practice in this area, and to look at the mechanisms that they can put in place to offer peer support to organisations that may be experiencing difficulties so that such cases do not necessarily become a regulatory matter.

James Dornan: Picking up on your comment about the challenges that RSLs are facing, you are, according to the report, engaging with an increasing number of RSLs. What specific challenges are RSLs facing that they did not face a couple of years ago?

Michael Cameron: The environment in which landlords operate is undoubtedly becoming more challenging, as I am sure the committee well understands. For example, the developments in welfare reforms present many challenges for social landlords. Pension liabilities are another increasingly significant issue that landlords are having to deal with, and they present a regulatory concern. Some of the requirements for achieving the Scottish housing quality standards in the charter place additional pressures on landlords.

Looking at all those things together, it is clear that landlords will undoubtedly have to keep a constant eye on their costs and their efficiency and effectiveness. As my colleague mentioned earlier, we will focus increasingly on value for money in the next few years.

James Dornan: You raised the issue of welfare reform. What impact is that having on rent arrears for RSLs?

Michael Cameron: We undertook some research on welfare reform last year, and we saw that there had been an early impact. The Scottish Government's action on discretionary housing payments has definitely mitigated the impact on social landlords.

That information relates only to those elements of welfare reform that have been introduced. We are also looking further ahead and asking landlords to look at their business plans with an eye to the types of pressures that will arise when the full range of welfare reforms starts to have an impact on them. I am thinking in particular of universal credit, and especially the direct payment element.

James Dornan: What role would you play in assisting RSLs to deal with the impact? I know that you cannot assist them financially, but how can you help them to prepare for the impact of universal credit? I believe that a letter from housing organisations and tenants organisations went to the Secretary of State for Work and Pensions opposing the change. Is that a universal position among the RSLs?

Michael Cameron: In general, RSLs and local authority landlords see welfare reform as a development that is not necessarily helping them to deliver services to their tenants. They recognise the challenges that they will face in collecting rent and in ensuring that they have a well-established income stream that enables them to deliver for their tenants. Certainly in my experience, the

feedback that we get from landlords in that regard is fairly consistent.

David Stewart: I note from your annual report that financial health is a key priority for you, but why are you saying to RSLs that above-inflation rent increases are not sustainable?

Michael Cameron: First, we have not said that above-inflation rent increases are not sustainable. What we have done is call for a national debate on rent affordability, recognising that landlords operated until very recently in a world in which incomes rose and the benefits and taxation system provided a certain safety net for tenants' incomes.

That world is changing, and it is imperative on landlords that they reflect on that and on the new pressures and risks that it brings. There is a new context. In addition, the findings from our analysis of financial projections provided by landlords show that rent affordability is—and is likely to become ever more—a key issue for tenants.

We called for a national debate on the sustainability of the current rent increase assumption in landlords' business plans, the majority of which, as our assessment showed, have a rent assumption based on the retail prices index plus 1 per cent for the foreseeable future. We have challenged landlords to consider whether they are content to allow costs on tenants to continue to increase above inflation year on year.

Does that risk locking increasing numbers of tenants into relying on benefits? Are landlords content that they have done everything that they possibly can to minimise any increase that they ask of tenants? Do they give tenants genuine options and choices during rent consultations? Have they had a mature dialogue with their tenants about costs versus service levels, and are they clear on what they would consider affordable rents to be in their set of circumstances?

We expect landlords, when they are considering decisions on rent increases, to consider tenants' ability to pay rent and to keep paying rent over longer term. The call for a debate has generally been well received, and the Chartered Institute of Housing has progressed that discussion.

David Stewart: Surely social landlords are in the best position to make those decisions. You said earlier in evidence that it is not for you to run RSLs' businesses, but surely that is what you are doing if you effectively dictate what the rent levels above inflation are to be.

Michael Cameron: For the avoidance of doubt, I restate that we are not dictating rent levels or suggesting what those levels should be. We are asking landlords to consider tenants' on-going

ability to pay rent when they are determining what rent levels to set in their business plans.

David Stewart: But surely that is obvious, and any social landlord worth its salt will do that. After all, they are closer to their tenants than you are.

Michael Cameron: Our analysis showed that, for two thirds of them, the assumption is that they will deliver rent increases of RPI plus 1 per cent for the foreseeable future. We are asking them to reconsider that and to determine whether that is sustainable.

David Stewart: I do not want to get into a technical discussion, but the fact is that many organisations do not use RPI. For example, the consumer prices index is the index that is normally used for pension increases. Have you had that technical discussion with social landlords?

Michael Cameron: We have discussed the divergence with regard to RPI and CPI and whether landlords need to adjust their thinking on the index that they use as their starting point, not least because benefit increases have shifted to CPI. Of course, they are coming under even more pressure as a result of the increases that are happening in that area.

We are asking landlords to look at the sustainability of their assumptions with regard to rent increases, but we have not gone beyond that, because, as you have said, it is for landlords to determine in dialogue with their tenants the appropriate rent levels. That opens up a broader debate that needs to be had about value for money and the level of service that tenants expect for an appropriate amount of rent.

David Stewart: For the avoidance of doubt, I am not doubting your statutory obligation as a regulator. I am simply making the point that, before any social landlord considered a rent increase, it would obviously want to discuss the matter with tenants.

Michael Cameron: Most social landlords do, but what we have found is that two thirds of them have a locked-down RPI plus 1 per cent rent increase assumption in their business plans. We are saying that they need to think about that and discuss with their tenants whether that is sustainable. The simple arithmetic is that, if tenants' incomes are not increasing significantly—or at least are not increasing above RPI—and if the assumption with regard to rent increases is RPI plus, rents will become less affordable.

David Stewart: As you will know, we have taken evidence on your “Governance Matters” publications, of which there have been three recently. One view is that they

“present a perception of the sector that”

the sector itself

“would seek to avoid”

and are

“consistently negative”.—[*Official Report, Infrastructure and Capital Investment Committee*, 26 November 2014; c 20.]

How do you respond to that?

Anne Jarvie: We hear and understand what has been said. This comes back to our earlier discussion about tone, getting closer to people and understanding them better, and that is something that we are looking at with regard to our publications. Interestingly, the feedback on the “Governance Matters” events that were put on for board and management team members was very positive. Some of our board members attended some of those events, and the experience was quite interesting and, I think, enlightening.

The issue is not about what we are trying to do with “Governance Matters”. I think that there is a disparity between what social landlords think we do with the written word and what we do with the spoken word, and we are paying particular attention to that in relation to not just “Governance Matters” but all our publications. That is why we are in a consultation exercise on the things that will be going out in the first part of the year and asking whether we have the tone right and whether the message is being conveyed correctly. We are on the case.

David Stewart: That is good to hear. Earlier, you rightly made the point that you needed evidence, and I suppose that what I am saying is that I have given you some evidence that we have received. There is certainly a view that the tone is unduly negative, so if you could look at that, it would be very helpful.

Anne Jarvie: As I have said, we are already on the case.

David Stewart: Finally, why is there a requirement for an options appraisal when a senior officer leaves or retires from a registered social landlord?

Anne Jarvie: We have been doing quite a bit of work this year, much of which has been listening activity. We are very clear that there are things that we would like to phrase differently or areas where we would like to give the message a different twist. We are consulting on that and, in particular, we are working with the Scottish Federation of Housing Associations and the Glasgow and West of Scotland Forum of Housing Associations to ensure that our documentation on this matter is—shall we say—more appropriate.

David Stewart: Reading through your civil service speak, I take it that you are reviewing the

arrangements with a view to the possibility of changing things.

Anne Jarvie: I think that what will come out of it is that we will look at the business plan, and if the business plan is robust and well thought through, we expect that everything in that plan will be enacted when somebody moves on.

11:30

David Stewart: That seems to be a sensible approach. Irrespective of whether a director of a registered social landlord leaves, if the business plan is intact and good, it does not matter, on one level, who takes over.

Anne Jarvie: That is right.

David Stewart: That is certainly positive.

I was surprised to hear your suggestion that certain consultants be used to carry out the options appraisal. That seems to be quite a top-down, centralising approach. Can you explain why that has been suggested? Is it a possibility that, in the review, that requirement could be reviewed, leaving it to RSLs themselves to decide which consultants they use? It is a free market, after all.

Michael Cameron: Special managers provide an invaluable service to organisations that are experiencing some difficulty. They can stabilise the organisation and keep business going as usual for tenants and other service users, and they can also lead the rescue of the organisation from within the RSL.

It is worth looking at the numbers that we are talking about. Since April 2012, 11 RSLs have commissioned or appointed a special manager, so we are looking at fewer than five RSLs a year where that happens. We work co-operatively with those organisations, and where they have recognised the need to appoint a special manager we can assist them by providing the names of individuals we are aware of who have a track record in delivering that type of service. Where time allows, we can provide more than one name. It is not the case that we would require those organisations to take a particular consultant, but where we are engaging with them because of a regulatory concern, we will want an assurance that the individual who is being employed has the necessary skills, track record and experience to be able to deliver.

David Stewart: If RSL decides to appoint its own consultant, do you have a veto over that?

Michael Cameron: If we are not engaging with them on a regulatory concern, then no. Landlords will appoint consultants regularly and we will have no involvement in that process whatsoever.

David Stewart: What would happen if there was a regulatory concern?

Michael Cameron: If there is a regulatory concern and an RSL looks to appoint somebody and we are content that that person has the necessary skills and track record to deal with the issue in hand, we do not have any concerns about that.

David Stewart: If there is a regulatory concern and a registered social landlord appoints a consultant without reference to you, and you do not think that that person has the necessary skills, is it the case that you have a veto on the appointment of that consultant?

Michael Cameron: I would not describe it as a veto. We would engage with the landlord and we would discuss our requirements as a regulator, with the focus very much on protecting the interests of tenants and other service users. That is the sole basis on which we would engage with the landlord. We would happily go along with any consultant that a landlord appointed if we were clear that they had the necessary skills and experience. If we were not content with that, we would have a further dialogue with the landlord.

David Stewart: If that dialogue came to an impasse, who would have the final word?

Michael Cameron: At the end of the day, it is for landlords themselves to appoint those individuals. If we continued to have serious, significant concerns, maybe we would have to consider using our statutory intervention powers.

Anne Jarvie: This is not about business as usual; it is about what happens when there are problems. The track record is not about whether an individual can run a business but whether they can run a business in trouble and turn it round. That is the important thing that we need mutual agreement on.

David Stewart: Thank you.

The Convener: James Dornan has a supplementary question.

James Dornan: I completely accept what you are saying, Ms Jarvie, but the information that we got last week is the exact opposite of what you have just told us. We were told that there is a set number of consultants to pick from and that those named consultants must be picked from. Since then, I have been informed by a number of RSLs that none of them is based in this country. That seems to be madness because we are looking for people who know the sector as much as anything else.

If what was said to David Stewart is correct—that the RSLs can pick a consultant and certain criteria have to be fulfilled—that is fine, but the

criteria must be wide enough so that not only three companies are involved and people in this country who have the skills and experience are able to do the work.

Michael Cameron: It is undoubtedly the reality that there is not a very well-developed market in Scotland for people with such skills. We are aware of two or three Scotland-based individuals who have been used quite extensively. We would look at the sole criterion of whether they have the appropriate skills and track record of having worked in an organisation that has been in crisis and whether they have been able to take it out of crisis. That is the sole criterion that we would look for to be content that the individual was the right one to take the organisation forward.

James Dornan: We now have that on the record. The RSLs can refer to it in the future.

Mary Fee: You talk about an organisation in crisis. Last week, one of the concerns that was raised with us was about a senior officer leaving being a notifiable event. We were certainly told that, when a senior officer left a well-run organisation, it would, as a matter of course, review its business. It would carry out all the reviews that it would need to carry out, and that would mean that it would not need to be a notifiable event. There would be a standard review of where the business is and what changes needed to be made.

The concern is about a senior manager leaving an RSL that is not in danger, at risk or at threat. That is currently a notifiable event and, as James Dornan rightly said, the RSL is given a list of consultants that it must pick from even though it is not in crisis. There is not a crisis every time a senior manager leaves.

Michael Cameron: Our guidance as it stands says that a senior officer leaving an organisation is a notifiable event. That means nothing other than that the organisation needs to notify us that its senior officer is leaving. We then need to consider whether there is a basis on which we have to engage with that landlord. If we are content or satisfied that the landlord has good succession planning in place and an appropriate and up-to-date business plan, that will be the end of the matter. We would have further engagement where that was not transparent or clear.

It is probably worth considering the evidence. Over three years, 25 organisations have notified us of a chief executive's resignation. Following those organisations' consideration of their options, 18 of them went on to appoint a new chief executive. There is a fairly straightforward process in that regard. Seven decided, following their own delivered options appraisal, that they would join a group structure of another RSL, and four of those

did so because they identified that they did not have a viable future with their financial projections.

That gives some sense of the scale of the matter and the outcomes that flow from those processes.

Anne Jarvie: I reiterate that we are working on that with the Scottish Federation of Housing Associations and the Glasgow and West of Scotland Forum of Housing Associations, and guidance will go out. Information will be distributed after we have deliberated.

Mary Fee: Okay. That is very helpful. Thank you.

Mike MacKenzie: Before I get to my questions, I want to go back briefly to the discussion about sustainable rent increases. It was mentioned that two thirds of organisations use RPI plus 1 per cent. You seemed to suggest that that is a good thing, but that raises some concerns for me.

Given the great variation in local housing markets and the fact that some areas are characterised by very low wages, including some in the region that I represent, surely local flexibility is critical. What is your view on that? Do your ideas incorporate a degree of flexibility?

Michael Cameron: Absolutely—that is the very point that we are making. It is critically important that landlords do not use a formulaic approach to increasing rent but consider what tenants can afford, the local market and their current rent level. We do not have a single rent level in Scotland. Some landlords will have significantly lower rent levels at the moment and will therefore have more capacity than other landlords to increase their rent. We are asking landlords to look at their assumptions and at what their tenants will be able to afford over the longer term, and then to make appropriate rent decisions.

Mike MacKenzie: I am sorry to say that you worry me even more now. There might be very good reasons for historical rent levels to be low, and they do not necessarily imply huge latent capacity for increasing rents.

Michael Cameron: That is correct. What I am saying is that landlords need to look at rent levels in the round. They need to consider all the information that they have and in particular—this is related to our statutory objective to protect the interests of tenants—they must consider tenants' on-going ability to pay the rent and use that as a clear factor in determining what rent increase they should apply.

Mike MacKenzie: Thank you for that clarification. Can you give an overview of investors' confidence in investing in social housing?

Anne Jarvie: There has been quite a bit of interaction over the past 18 months with lenders and others who provide funds that our landlords can access. Michael Cameron has been involved in meetings with groups of such people, so he has the detail.

Michael Cameron: Giving confidence to lenders to and investors in social housing is one of our five key strategic objectives. There is more than £4 billion of investment in social housing by private lenders and investors, who tell us that our effective and robust regulation is a critical factor in their decisions to lend and invest and that their current confidence in the sector is in part a result of our approach to regulation.

Last year, we had the first-ever private placement by a Scottish RSL—to the value of £45 million—and the first-ever own-name bond issued by a Scottish RSL. That is evidence of the confidence that lenders and investors have in the social housing sector in Scotland.

As Anne Jarvie said in her opening statement, a major lender to the sector recently told us that our effective regulation is worth about 115 basis points to the lending. If we extrapolate that to the total lending for RSLs, it amounts to an annual saving of about £40 million to social landlords because of lenders' confidence in the sector, part of which is from their confidence in our approach to regulation.

Mike MacKenzie: Great—that is obviously good news, but there is another side to the coin, which I became increasingly aware of following the credit crunch and which I would describe as sharp practice on the part of banks when lending to the sector. I will not name the banks concerned today, but I might consider doing so in the future. Do you have a view on that issue?

Michael Cameron: Landlords' relationships with their lenders are becoming ever-more important, given some of the pressures that lenders, too, undoubtedly have because of what their credit committees might expect and the fact that there is some pressure around repricing in the sector. However, the key lenders to the sector are still prepared to lend and are keen to work with the associations to reach a sustainable position. That is our general experience.

It is probably worth saying that in the two statutory intervention cases that we delivered over the past month or so, we worked hard with the lenders involved. I am pleased to say that, generally, they have worked effectively with us and have been part of the solution to such situations.

There is some pressure, but sometimes it is overstated. Most landlords continue to have good working relationships with their lenders.

11:45

Mike MacKenzie: You anticipated my last question on the issue when you talked about bonds, which are an interesting development. Are you trying to stimulate other potential sources of investment in social housing? We see things such as crowd funding in other sectors.

I am often reminded that where we are now is reminiscent of the very early days of the building society movement. However, some of the social landlords that we talked to last week complained that the effect of the regulator was to prevent innovation, in as much as you are not as open as you might be to the innovative ideas that they seek to develop, perhaps because you are risk averse. Is that a fair comment? If not, are you trying to develop and promote innovative financial models?

Michael Cameron: To take the last point first, you will see in our annual report quotes from one landlord on the role that we played in the first private placement that has happened with a social landlord in Scotland. If you refer to the published report by the ratings agency Standard & Poor's on the first named bond issuance by a Scottish RSL, you will see its view of the regulator's involvement in that.

We would all agree that RSLs have been among the most innovative of organisations over the past three decades, and they have been regulated throughout that time. Many organisations are innovating at the moment. We have a significant role in seeing what they do in considering business plans and granting consent for work that they want to do.

You will not be surprised to hear that I do not buy into the assertion that the regulator stifles innovation. We should not apologise for undertaking the role that the Parliament gave us, which is to provide a series of checks and balances to ensure that the interests of tenants and other service users are protected at all times.

We will always consider the business case provided by a registered social landlord when it is considering a new adventure—[*Laughter.*] That was a Freudian slip.

Mike MacKenzie: Adventures are good.

Michael Cameron: I mean a new venture or funding model. It is important to remember that as a regulator we ask for nothing more than an organisation's board or management committee should be asking for.

Mike MacKenzie: Thank you very much—you have reassured me.

Adam Ingram: Will you outline the main findings from the communications research that you commissioned, which Anne Jarvie mentioned

in her opening remarks? Perhaps more to the point, what changes have you made as a result of that report's recommendations?

Anne Jarvie: Lisa Peebles is on the case, so she will share her thoughts with you.

Lisa Peebles: I will start with the piece of research that we did that involved 270 of our stakeholder organisations. We wanted to find out how they felt about how we communicate.

We found primarily that stakeholders have a strong awareness of us, of what we do and of why we do it. They were largely positive about the website, our corporate publications and our regular electronic newsletter "SHR update". They felt that our main regulatory publications were generally good and that we were covering the right topics. However, some had mixed views about some of those publications.

We used the results to understand where we had strengths and where we could perhaps further enhance our approach. We have done various things as a consequence of the research. We have increased the frequency of issue of our "SHR update". When significant or relevant publications are about to come out, we now trail them a lot better.

That was one piece of communications research that we did. I touched on research that we did with our national panel. The key findings, on repairs and value for money, were not surprising. Most tenants felt that they were well informed about how their landlords were performing. They also had a strong interest in continuing to receive that information.

We had a similar but separate piece of research with the RTOs. The results were not dissimilar to those of the national panel. People were interested in getting more information about service quality, repairs and maintenance.

We used all those pieces of communications research to help us to shape the upcoming consultation on revisions to some of our regulatory guidance. As a regulator, we want to communicate efficiently and effectively. If we find out that people require some clarity when we are communicating, we take that on board, day to day, and try to improve on that.

The communications research has been incredibly useful to assure us that most of the things that we are doing are correct. We are a learning organisation and we would never assume that everything that we do is perfect or that we communicate perfectly. We always look to improve where we can.

Adam Ingram: Thank you for that comprehensive response.

I will change the subject to the challenges that the regulator faces from a declining budget. Will you articulate some of those challenges for the committee?

Michael Cameron: I am happy to answer that. Like most public sector bodies, we recognise the challenges presented by the funding position. We are fortunate that, for this financial year and the next one, we have had a very modest increase in funding.

Our funding position is still significantly below what it was three or four years ago. In the past four years, we have in effect taken out about 40 per cent of the cost from our organisation. We recognise that there will continue to be pressure on our funding over the next three or four years.

One way in which we will respond to that is by continuously looking at ways in which we can work smarter, more efficiently and more effectively. However, we recognise that we can squeeze only so much out of that approach, so we will also have a close eye on prioritisation and ensuring that our resources are going where they are most needed. On occasion, that might mean that we cannot do everything that everyone would want us to do.

On that basis, we will have to be clear about our prioritisation. We will have to be clear, through the types of engagement that we have touched on, about what our stakeholders' priorities are and try to marry the two positions. However, we are clear that the next three or four years will be very challenging.

Anne Jarvie: I reassure the committee that the board is very aware of the situation and is on the case. At every meeting, when proposals for activity are considered, we debate them and decide whether they are affordable. That will continue to be the case throughout the year. In addition, we have already started to think through what list of priorities we would have if we got to that point, and that dialogue is on-going.

Adam Ingram: Taking out 40 per cent of the costs obviously involved a reduction in the staffing resources that are available to you. Are you confident that you will still be able to achieve your mission, as it were, with the level of staff that you are likely to have over the coming period?

Michael Cameron: We are reasonably confident that the level of resource that we have will enable us to address the priorities that we have set out in our corporate plan. We will renew our corporate plan in April, and we will have a clear eye on the resource position when we consider the priorities that we set out then.

At this point, as is the case with every other part of the public sector, we are not aware of what the funding settlement is likely to be beyond the next

financial year. Given that, it is quite challenging to take a more robust approach to financial planning but, as things stand, we are confident that we can do the job that the Parliament has given us to do.

Anne Jarvie: We underwent restructuring about 18 months to two years ago to help us to focus on our business and do it more efficiently. That allows Michael Cameron to make the statement that he just made as far as the present is concerned, but I imagine that, when we hear what the next settlement is to be, we will have another debate.

Mike MacKenzie: I will return to a theme of the earlier discussion, which was trust. There is no doubt that, in an informal session last week, all of us formed the distinct impression that there is work to be done to improve trust. One issue that was discussed was whether lessons can be learned from the justice system. I am referring to concepts such as the presumption of innocence and the right to know what the complaint or charge is and what one is accused of. One or two people pointed out that that might save a lot of time and resource. If RSLs that were being investigated knew what was concerning you, they might be able to supply perfectly reasonable answers quickly, with the result that the exercise would consume less of both parties' resources.

The idea that there ought to be some kind of appeals mechanism seemed to have most traction, and I can see merits in that. I am not talking about allowing vexatious appeals or appeals that would be against the regulator's interests, but introducing that hazard for your people might help to drive up your standards. How do you feel about the idea of an ability to appeal?

Anne Jarvie: We have a complaints procedure, which can be used if, for example, people feel that some aspect of how we went about our business was not within our statutory framework. I think that we would all applaud the establishment of an appeals system, provided that we had time to consider it seriously. That is the position that the board is in, because we know that the code of practice for all Scottish regulators includes a requirement to have an independent appeals process. However, that requirement is set out in quite a broad-brush way, and it does not give us a clear sense of exactly what the expectation is.

I link this to the resource issue because, unfortunately, nothing is without a cost, and time, above all, is a cost. We would like to look at the proposal and see what it would mean for the SHR and what we could do that would be proportionate and meaningful.

We can say amen to the need for some kind of appeals system; the issue is ensuring that that system does not just cause further bureaucracy. If the appeals procedure was so cumbersome that

people could not understand it or we made too much of it, we could end up with as many people being disaffected with it as there are people who currently say that they want it.

12:00

Mike MacKenzie: I absolutely accept that such things have to be carefully considered and that there is pressure on your resources but, given that you seem to agree with the concept, will you put a timescale on the consideration of the issue and report back to the committee when you have concluded your considerations?

Michael Cameron: We could absolutely commit to doing that. We are in dialogue with the Scottish Government about the timeframe for implementing the strategic code of practice for all regulators and about what the implications are of putting in place the requirements that are set out in the code. We already meet the vast majority of those requirements, but we accept that an independent appeals process is required. First and foremost, we need to understand what that means. Would it be entirely independent of us? If so, it would not be for us to deliver that appeals mechanism. We need to work through some things, but we can absolutely commit to coming back to the committee once we have a plan for achieving an appropriate appeals process.

Anne Jarvie: The board has committed to having a debate about this when Michael Cameron has finished his discussion with the Scottish Government and we know exactly what the process will be, rather than sitting there worrying about what it might be. It is important that we get clarity and understand what the expectations are.

Lisa Peebles: As a regulator, our statutory objective is to protect the rights of tenants and other service users. Our concerns are about our ability to do that. I am talking not about the day-to-day regulatory work that we do but about the significant crisis points. We would not wish any appeals process to prevent us from protecting tenants by, for example, intervening quickly to save organisations from becoming insolvent.

There is a balance to strike. We completely understand the desire for organisations to have an appeals process, but we must balance that with our ability to do the work that Parliament has asked us to do.

Mike MacKenzie: I absolutely understand that, and thank you for explaining the position so nicely.

You might be relieved to hear that my next question is my final one. It involves an issue that concerns people in the Highlands and Islands and

their representatives, such as me and David Stewart.

There is a feeling that the policy of not allowing RSL staff and board members to use the same contractors as the RSL employs is overly restrictive, particularly in rural areas. I have noticed in my casework that that has an impact on procurement and so on as well. In rural areas, everybody can be somebody else's brother, cousin, friend or relative of some sort, which can make such issues particularly difficult. Do you recognise that problem? Do you feel that policies that might be perfectly appropriate and workable in urban and city areas might cause difficulties in rural areas?

Anne Jarvie: I absolutely empathise with what you are saying about rural areas. I used to go to meetings with organisations on various topics and find that I bumped into the same people, so I recognise the issue. Michael Cameron can speak about the history of the policy.

Michael Cameron: It is important to start by saying that the hard-earned good reputation of social landlords has been built on decades of their having regard to the highest ethical standards, which include the effective identification and management of conflicts of interest, so tenant, public and political perceptions are important, as is the reputational damage that a poor perception can cause.

Landlords should have clear and unambiguous codes of conduct and policies on payments and benefits for governing bodies and should have staff who set the highest standards; they can then use the comply or explain principle to deal with situations that might be individual to a locality or unique. That approach is well used in many sectors and avoids the potential for what might be viewed as overly relaxed provisions or for standards to be set at a much lower level, while still accommodating the unusual or individual circumstances that Mike MacKenzie touched on.

We must recognise that board members and staff in RSLs are in a position of influence, and we all agree that it is important for the sector's good reputation that they do not benefit personally or inappropriately from those positions. We do not consider it appropriate for board members and staff members to make personal use of the same contractors or suppliers as the RSL uses, but we recognise that there are particular circumstances for some rural and island RSLs. In such exceptional circumstances, we can see that an RSL will need a procedure or process that accommodates the exceptions that might have to be made for staff, board members or connected persons who have a good reason for working with a supplier that also works with the RSL.

Our position is that it is improper for RSL staff and board members to benefit personally from their privileged position in the RSL but that, in particular circumstances when the pool of suppliers and contractors is very limited, the RSL should have a process for managing the situation transparently. That is where the comply or explain principle comes in. The highest possible standards should be set, and then comply or explain should be used to deal with individual circumstances.

Mike MacKenzie: I have not come across the comply or explain process before. Does it comprise off-the-shelf paragraphs of guidance that can be used in the circumstances that I have described, or can you provide template policy guidance to RSLs that find themselves in such situations? Having spoken to a number of them, I think that they seem to be at sea on the issue—and that is not just because they are island RSLs. Surely this is an issue on which you can provide more specific and concrete guidance that will give them some surety in dealing with what can be difficult situations.

Michael Cameron: We are in dialogue with the Scottish Federation of Housing Associations about its development of a model policy position. We suggest that, as I have set out, it should be about setting the highest standards for every landlord, with the comply or explain principle being used to ensure that, when a landlord finds exceptional circumstances in which that high standard cannot be complied with, the situation is explained clearly and managed transparently. That provides the best solution in the circumstances.

Anne Jarvie: That work with the federation has already started.

Mike MacKenzie: Will you write to the committee when that work comes to fruition?

Anne Jarvie: Yes.

The Convener: Excellent. Joan McAlpine has been waiting very patiently throughout our deliberations this morning, and I now invite her to ask some questions.

Joan McAlpine (South Scotland) (SNP): Thank you very much, convener.

Returning to the issue of intervention that Mr Johnstone and others raised earlier, I think it important to point out that, whether or not they initiate them, interventions are paid for by the housing associations and, as a result, it is the tenants who pick up the bill.

You will be aware of the stories in the press about your interventions with Loreburn Housing Association in Dumfries and Galloway. As a South Scotland MSP, I have done quite a lot of work on this in the past. I have been approached by former members of the board who were extremely

concerned about the interventions. Your interventions with Loreburn started in 2011. At that time, Loreburn had a satisfaction rating among its tenants of 97 per cent, which was one of the highest ratings in the country. Lisa Peebles talked about benchmarking earlier; within Loreburn, against the peer group average, 99 per cent of emergency repairs were met on time, for example, so it was a very well-performing housing association. It did not have any financial problems and there were no complaints from tenants.

Your interventions started as a result of the board taking legal advice to remove three of its members. Your interventions have gone on for the past four years and have cost Loreburn Housing Association more than £400 million in consultant and legal fees.

Anne Jarvie: Did you say £400 million?

Joan McAlpine: The estimate of the cost of the regulator's interventions is £400 million. That includes the cost of consultants who were—contrary to what Mr Cameron said earlier—imposed on the housing association. The first consultant, Anderson Business Development Ltd, was imposed on the housing association. The association did not have a choice; the contract was not put out to tender. The consultants charged £900 to £1,000 a day and the housing association had no control over them. One of the consultants was based part-time in Singapore; the other consultant was based in Exeter. Do you think that your actions in regard to Loreburn were proportionate and that tenants have been given value for money in your interventions in Loreburn?

Michael Cameron: Yes, I think that our actions in Loreburn were proportionate and appropriate and have resolved a very challenging governance situation in that organisation. I think that if you spoke to Loreburn today, it would confirm that outcome for you.

As regards the cost of interventions, where an organisation is in crisis, there will inevitably be a cost to tackle that. To put it starkly, failure costs. When we are involved with organisations, the cost of a special manager coming in, for example, is usually repaid quite significantly in terms of the savings that are generated for that organisation over the medium or longer term.

Joan McAlpine: How can a consultant who is based in Singapore manage a housing association in Dumfries and Galloway?

Michael Cameron: Obviously, it is difficult for me to talk about specific individual cases. I know that when that consultant was appointed by the association, she was based in Scotland. She subsequently moved and then tailed off her engagement with the association and a new special manager came in. If the committee is

concerned about the situation in Loreburn, I suggest that it talk to Loreburn.

Joan McAlpine: As you will be aware, a number of people were so unhappy about your actions at Loreburn that they left the board. Obviously, we cannot go into issues to do with individuals, but you will be aware that there have been staff changes as well. You talked about a “crisis” and serious failings. If it was a serious issue and there was a crisis, why did you not invoke your statutory powers?

Michael Cameron: We use our statutory powers when doing so is appropriate and necessary. The management committee of that association was prepared to co-operate with us and work with us to determine a way through the difficulties that it was experiencing. It was appropriate for us to ensure that we used the most proportionate response. Indeed, legislation that was passed by this Parliament requires us to do that. It is appropriate that we use the lowest possible level of intervention in order to ensure that we are discharging the duty to be wholly proportionate in our work.

In that particular set of circumstances at Loreburn, it was not necessary for us to use our statutory intervention powers. We use them where we consider that to be appropriate and necessary.

Joan McAlpine: Do you ever threaten RSLs with your statutory intervention powers in order to get them to co-operate with you?

12:15

Michael Cameron: We rightly set out as clearly as possible for organisations the implications for them if they cannot give us the level of assurance that we need that they are tackling problems. We might have to tell them that if we cannot get that level of assurance, we will have to use statutory interventions. Such discussions with landlords are as open as possible so that they understand the basis on which we are engaging with them and what we require them to do to ensure an appropriate level of assurance that the interests of tenants and other service users are being protected.

Joan McAlpine: Going back to the issue of crisis and the serious nature of a situation meriting a huge amount of tenants' money being spent, your regulation plans say that the engagement level with Loreburn Housing Association was categorised as only “medium”, not “high”. That does not suggest a crisis, does it?

Michael Cameron: The level of engagement reflects in part the level of co-operation that we receive from an organisation. In the circumstances to which you refer, Loreburn Housing

Association's management committee was keen to work with us. We were therefore able to engage with it at what we categorise as medium-level engagement.

Joan McAlpine: You said in the press that you acted decisively, and you have said that you have resolved the issue. Can it really be said that you acted decisively when it has taken four years and £400,000 to sort what you perceived to be the problem?

Michael Cameron: We engaged with the organisation—I point out that Loreburn Housing Association approached us about the difficult governance issues that it was experiencing. We engaged with it in a way that meant that we were working with the management committee to enable it to solve the problems that it was experiencing. As a proportionate regulator, we always try to take that approach; we look first to the organisation to resolve the situation rather than use our statutory intervention powers at a very early stage. However, sometimes a situation is so serious and the risk to tenants so significant that it merits our using our statutory powers quickly. In a situation such as the Loreburn Housing Association one, we should look at the outcome: the association has resolved—

Joan McAlpine: What has been the outcome for tenants?

Michael Cameron: The outcome for tenants is that they now have an association that is considerably better governed, stable, and which should be in a position to continue to deliver for its tenants.

Joan McAlpine: Colleagues mentioned consistency earlier. You will be aware of the article in the *Sunday Herald* on what I can only call your lack of intervention with the Dumfries and Galloway Housing Partnership, which is in the same area as the Loreburn Housing Association. As was outlined in the *Sunday Herald*, the Dumfries and Galloway Housing Partnership entered into a contract with a failing company, which subsequently collapsed, and awarded it £38 million to build houses. Many of the houses were left incomplete, many tenants were extremely dissatisfied with the quality of the work in their houses and a huge amount of public money was wasted.

Despite the fact that you got complaints from tenants, which you did not get in the case of the Loreburn Housing Association, it took you two years to start an investigation into DGHP. You did not engage with tenants and you allowed DGHP to conduct a self-examination. There seems to be inconsistency in respect of how you dealt with a smaller housing association that had unspecified governance issues that did not affect how the

tenants lived. If I compare how you dealt with that situation with the way you dealt with this situation, which involved a huge waste of public money and complaints from tenants that they were not getting a good service, you seem to have had a very hands-off approach to DGHP.

Witnesses have suggested to the committee that some housing associations are so big that they are perhaps protected from the levels of intervention that associations such as the Loreburn Housing Association have experienced from the regulator. Why has Loreburn had to pay £400,000 for consultants, when you took a hands-off approach to a big housing association that wasted huge amounts of public money?

Michael Cameron: First and foremost, we have received no complaints from the tenants of the houses involved in the situation with DGHP. We have engaged with the association in response to the media coverage that ensued, and we have received appropriate assurances about the handling of the situation. There is no regulatory issue for us to become involved in.

It is not the case that we draw distinctions between organisations on the basis of their size—we are entirely neutral on organisations' size, form and nature. Our sole objective in the work that we undertake and any interventions that we make is to protect the interests of tenants and other service users.

Joan McAlpine: Why did you allow DGHP to investigate itself?

Michael Cameron: That is common practice in many regulated sectors if an internal investigation can provide appropriate levels of assurance, and it is a proportionate response to issues that arise. The investigation was undertaken by DGHP's internal auditor. That auditor is an independent firm that has a range of professional standards and requirements placed on it. We take reassurance from that.

Joan McAlpine: We are talking about a landlord that hired a builder who had a poor credit rating, although anybody who had checked or done any scrutiny would have seen that the builder had serious financial problems. That was a major mistake, which resulted in huge amounts of public money being wasted, yet you do not think that DGHP merits a greater level of scrutiny than smaller housing associations.

Michael Cameron: I restate that our approach is not to make distinctions on the basis of size.

Joan McAlpine: What about the waste of public money? I would have said that that was a very serious failing.

Michael Cameron: The Scottish Government, which was one of the significant investing partners

in the project, has advised us that there has been no waste of public money in that regard. The houses have been built and we have assurances that tenant satisfaction with those new properties is very much at the level of the normal industry standards—

Joan McAlpine: Who has assured you of that?

The Convener: Can you allow the witness to answer the question, please?

Michael Cameron: Again, I stress that there has been no basis for our making a regulatory intervention in the situation. Had we done so in response to media noise we would have been open to legitimate criticism for being reactionary, heavy handed and disproportionate in our approach.

Joan McAlpine: I assure you that there is a great deal of tenant dissatisfaction with those houses, and the tenants have been approaching elected representatives of all parties to complain. I would be very surprised if that tenant dissatisfaction had not reached you.

In the course of the interventions in Loreburn Housing Association, a number of people came forward to offer support. One of them was a former board member of your organisation, Alex Condie. Mr Condie resigned from your board in 2012 because of the issue of proportionality. He felt that you had damaged Fife Housing Association with your interventions there and that you could have caused serious problems to a well-functioning organisation. The committee is now hearing from people who share Mr Condie's concern, which has become a big issue. Surely, Mr Condie's resignation, which was communicated to you with considerable detail at the time, should have rung alarm bells with you that your interventions were harming many well-performing social landlords.

Michael Cameron: I direct the committee to discuss the reality of the situation with Fife Housing Association and hear it from the horse's mouth rather than from us. I would be very careful about commenting on the resignation of a former board member, but my understanding of that resignation is not what you have set out.

Joan McAlpine: Well, Mr Condie wrote to the—

The Convener: Do you have a final question, Joan?

Joan McAlpine: Yes. You have referred us back to the housing associations, which you believe will validate what you have said here today, but the committee has taken quite a lot of evidence that suggests that there is a climate of fear among housing associations, which means that very few housing associations will speak out against the regulator. Does it concern you that you are presiding over a climate of fear? When the

SFHA conducted a survey of its members, many asked to remain anonymous. Does that concern you?

Michael Cameron: I am not aware that there is a climate of fear. My direct engagements with social landlords—of which I have many—do not demonstrate to me that there is a climate of fear. I have very open and frank discussions with a large number of associations at officer and board levels. Our direct engagement with board and committee members through things such as the "Governance Matters" events, which 70 to 80-odd per cent of associations attended, have not given us any indication that there is a climate of fear.

It is clearly a concern that there is such a perception out there, and we would want to work with the relevant stakeholder organisations and representative bodies to address those concerns and issues. First and foremost, however, we will look to the statutory objective that has been given to us by Parliament, which is to ensure that everything we do is about protecting the interests of tenants and other service users.

The Convener: Thank you very much. We have had a full meeting this morning. I am grateful to you for coming before the committee and for the constructive and transparent way in which you have engaged with all members. We may wish to follow up some issues with the chair of the Scottish Housing Regulator and—as you have suggested—with individual housing associations. The committee will reflect on that. You have been very helpful in informing our understanding of the issues. Next week, we will have the opportunity to raise some of those issues with the Minister for Housing and Welfare, who will appear before the committee as part of a general housing update.

12:27

Meeting continued in private until 12:49.

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