



**OFFICIAL REPORT**  
AITHISG OIFIGEIL

# Local Government, Housing and Planning Committee

**Tuesday 23 April 2024**

**Session 6**



The Scottish Parliament  
Pàrlamaid na h-Alba

© Parliamentary copyright. Scottish Parliamentary Corporate Body

Information on the Scottish Parliament's copyright policy can be found on the website - [www.parliament.scot](http://www.parliament.scot) or by contacting Public Information on 0131 348 5000

---

**Tuesday 23 April 2024**

**CONTENTS**

	<b>Col.</b>
<b>DECISION ON TAKING BUSINESS IN PRIVATE</b> .....	1
<b>“LOCAL GOVERNMENT IN SCOTLAND: FINANCIAL BULLETIN 2022/23”</b> .....	2
<b>HOUSING (CLADDING REMEDIATION) (SCOTLAND) BILL: STAGE 2</b> .....	28

---

**LOCAL GOVERNMENT, HOUSING AND PLANNING COMMITTEE**  
**12<sup>th</sup> Meeting 2024, Session 6**

**CONVENER**

\*Ariane Burgess (Highlands and Islands) (Green)

**DEPUTY CONVENER**

\*Willie Coffey (Kilmarnock and Irvine Valley) (SNP)

**COMMITTEE MEMBERS**

\*Miles Briggs (Lothian) (Con)

\*Stephanie Callaghan (Uddingston and Bellshill) (SNP)

\*Pam Gosal (West Scotland) (Con)

\*Mark Griffin (Central Scotland) (Lab)

Gordon MacDonald (Edinburgh Pentlands) (SNP)

\*attended

**THE FOLLOWING ALSO PARTICIPATED:**

Jo Armstrong (Accounts Commission)

Colin Beattie (Midlothian North and Musselburgh) (SNP) (Committee Substitute)

Andrew Burns (Accounts Commission)

Carol Calder (Audit Scotland)

Blyth Deans (Audit Scotland)

Pam Duncan-Glancy (Glasgow) (Lab)

Lucy Jones (Audit Scotland)

Paul McLennan (Minister for Housing)

Graham Simpson (Central Scotland) (Con)

**CLERK TO THE COMMITTEE**

Euan Donald

**LOCATION**

The David Livingstone Room (CR6)



## Scottish Parliament

### Local Government, Housing and Planning Committee

*Tuesday 23 April 2024*

*[The Convener opened the meeting at 09:01]*

#### Decision on Taking Business in Private

**The Convener (Ariane Burgess):** Good morning, and welcome to the 12th meeting in 2024 of the Local Government, Housing and Planning Committee. I remind all members and witnesses to ensure that their devices are set to silent.

We have apologies from Gordon MacDonald. I welcome to the meeting Colin Beattie, who is attending as a Scottish National Party substitute member. Mark Griffin is unable to join us for the start of the meeting; he will join us as soon as he can.

Agenda item 1 is a decision on whether to take item 4 in private. Do members agree to do so?

**Members indicated agreement.**

### “Local government in Scotland: Financial bulletin 2022/23”

09:01

**The Convener:** Agenda item 2 is an evidence-taking session on the Accounts Commission report, “Local government in Scotland: Financial bulletin 2022/23”. We are joined by Jo Armstrong, who is the chair of the Accounts Commission, and Andrew Burns, who is the deputy chair; and, from Audit Scotland, by Carol Calder, audit director; Blyth Deans, senior manager; and Lucy Jones, audit manager. I welcome our witnesses to the meeting, and I particularly welcome Jo Armstrong to her first committee meeting as chair of the commission.

**Jo Armstrong (Accounts Commission):** Thank you very much, convener.

I have a short opening statement to make. First, I am pleased to be here as the new chair of the Accounts Commission, and I am pleased to be joined by my new deputy chair, Andrew Burns, and by colleagues from Audit Scotland, who are, in effect, the powerhouse behind the commission, as they develop the analysis and the evidence that we use in our reports.

The Accounts Commission’s principal role is to provide independent reporting on the performance and finances of Scotland’s public bodies. As the new chair, I am seeking to reinforce and develop the commission’s approach by focusing on using the sector’s own data to monitor and report on performance and best value. In other words, I am not looking to add to the burden of local authorities in collecting data; instead, I want to make different use of what is already out there.

A key priority is to ensure that the commission delivers effective scrutiny of Scotland’s local bodies and, in doing so, to identify and share best practice where we find it, because I think that it is important to flag up where things are going well, as well as where things might not be working quite so well. The financial bulletin that we will discuss this morning clearly signals the increased strain on councils’ finances, which reinforces the need for more—and, we would argue, faster—transformational change to ensure that services are maintained.

We would like to think that the commitments that were made public in the Verity house agreement and in relation to the fiscal framework give us in the commission an opportunity to build on our reputation for independent and objective scrutiny, which is something that we think is needed now more than ever. We will wait to see what happens with what comes out of the Verity house

agreement and the fiscal framework; I have no doubt that the committee will have questions on that.

I look forward to answering your questions on not just the financial bulletin but our wider work programme. Thank you very much, convener.

**The Convener:** Thank you very much. It was helpful to get that brief overview of priorities. I think that it is a great approach to use the sector's existing data and to share best practice across local authorities.

How does the commission intend to measure and maximise its impact in achieving its aims?

**Jo Armstrong:** That is a good question. We consider a variety of reports and approaches in order to ensure that our view of what is happening in the sector is made available and accessible across the public sector and across communities in Scotland. We use formal reporting, blogs, videos and internet approaches as ways of reaching as broad a spectrum as possible to show what we are doing, and we seek consultations on what we are doing to ensure that people feel that we are doing the right thing. We constantly monitor what we are doing to ensure that we are not doing things that are inappropriate.

For example, there is a plethora of data out there, and we want to try to ensure that the data that we use is the right data and that we do not ask for more data to be delivered or gathered by local authorities. It is a case of engaging with our stakeholders as best we can and listening to what our stakeholders are asking us to do to ensure that we deliver what they think it is best to report on in respect of the performance of the sector.

**The Convener:** It sounds as though there is quite a lot of interaction, consultation, dialogue and back and forth.

**Jo Armstrong:** Yes. We try to have that, convener.

**The Convener:** As you will be aware, the Local Government Information Unit found that

"Confidence in the sustainability of council finances in Scotland is critically low".

I am interested in understanding what the commission's views are on the sustainability of local government finances. Are those views any different from the concerns that the commission has expressed over the past few years?

**Jo Armstrong:** As the new chair of the commission, I know from reading back that we are seeing themes coming through now that are similar to those that we saw before. It is a testament to the sector that it has managed to maintain sustainability through year-on-year efficiency savings and year-on-year adaptations.

Given the financial challenges that face not only the country but local government, we argue that those challenges are making it harder and harder to deliver current levels of service, and we know that demand is growing. The likelihood of being able to continue to deliver efficiency savings and maintain services is reducing and that position is getting harder and harder to justify, so we are now arguing for transformational change. We have said in the past that we need to increase the pace of change, but we are now saying that there needs to be transformational change.

**Andrew Burns (Accounts Commission):** To amplify what the chair of the commission has said, the 2022-23 financial bulletin, which we are discussing this morning, shows that there is a slight difference between the picture here compared with the picture down south in England—I know that that is potentially behind your question.

The financial bulletin found that no council in Scotland was at immediate financial risk in 2022-23, but it is really important to underline that there is no certainty that that will continue. There are extremely challenging financial decisions ahead of local authorities in Scotland. They are not in the same position as local authorities in England are in, but there is a risk that they could be in the medium to long term, and they will have to make very difficult decisions about changes to local services. There is currently a distinct difference between the position down south and the position in Scotland, but the risks are still significant and present.

**The Convener:** Thank you for highlighting that.

I will bring in Pam Gosal, who has questions about the financial bulletin.

**Pam Gosal (West Scotland) (Con):** Good morning, panel, and thank you very much for the opening statement.

I want to probe into the financial bulletin a little more. Obviously, the bulletin outlines the significant financial challenges that confront local authorities and categorises them as "unprecedented". It underscores the fact that there was a council budget deficit of £725 million for the 2023-24 fiscal year. Can the commission provide a little more detail on the overall budget shortfall for the current fiscal year and elaborate on the strategies that local councils are devising to address the gaps?

**Jo Armstrong:** First, I will pick up on the financial gaps. It is important to note that, as Andrew Burns said, the financial gaps are being funded principally by reducing reserves and using surpluses, so there are no imminent challenges that local authorities face in not being able to

deliver what they have set out to deliver in their budgets.

The challenge facing the sector relates to the difference of opinion over whether more or less money is needed for the delivery of services based on an expected council tax revenue-raising opportunity. It is important that we think through how we understand what services need to be delivered and then get clarity on the funding that is required to deliver those services. We do not have clarity on either at the moment, but we have budgets that are based on historical positions. Last year drives a lot of what happens next year, and last year's service delivery drives a lot of what service delivery will be next year.

Through our best value reports, we seek to ensure that local authorities are mindful of their long-term financial sustainability and that they indicate how, through transformational change, they will be able to change how they deliver their services so that they do not have to rely on reserves. Once reserves are used up, they will not be there for future purposes.

My colleague to my left, Blyth Deans, has more detail on some of those numbers, if you would like to understand a bit more about them.

**Pam Gosal:** Thank you, but you have probably prompted some of my supplementary questions. You said in your opening statement that we need faster transformational change because of the state of the finances. I was lucky enough to speak to the chief executive officers of 31 of the 32 councils, and they talked about looking at reserves and their spending.

However, I want to discuss an issue that you have just touched on—the fact that we have outdated council tax and non-domestic rates models, pending a wholesale reassessment of local government funding. Has there been any exploration of alternative revenue strategies that councils could use? Are you aware of anything that they are moving towards? You have also said that we need to look at which services need to be delivered.

**Jo Armstrong:** I have no view on the appropriateness or otherwise of the NDR approach in the funding of local government. That is clearly for politicians to decide on. The challenge is to do with the level of service that is needed and the funding that is required to achieve that.

If we are talking about financial challenges in the economy as a whole, it is clear that there are financial challenges for service delivery. It is not just the gross domestic product deflator or general inflation that is the issue; it is the specific inflation that affects the delivery of services. For example, wage increases in the care sector have risen

faster than inflation, which means that the budget that is available to fund care will have to go further, because it will have to pay out more on wages.

I will hand over to Blyth Deans to pick up on the specific numbers.

**Blyth Deans (Audit Scotland):** I can provide a wee bit more colour on some of the bridging actions or the actions that councils have taken to set a balanced budget and what they have done in response to those budget gaps.

As you might expect, savings are a key part of that, but, as part of our report, we have tried to analyse the relationship between recurring and non-recurring savings. As more recurring savings are made, it is less easy for councils to find more, which means that they rely increasingly on non-recurring actions, and it is clear that there are sustainability issues with doing that year after year. As the chair of the commission said, that is why our reports have increasingly focused on recommending transformational change as almost the only way that councils will be able to maintain financial sustainability.

There are other methods that councils can use, one of which is the use of reserves. I can talk about reserves at length—I am sure that that will come up as a separate question—but the savings part of that is critical. As you can see in exhibit 15 of the report, councils agreed £239 million of recurring savings, and their track record in delivering those is pretty good. We can take confidence from that, but, as I said, that challenge is going to get more intense as the years go on.

**Carol Calder (Audit Scotland):** I want to talk about the fiscal framework. You mentioned the council tax and NDR models. We are hoping to see what the fiscal framework in the Verity house agreement sets out, but we and local government have been calling for more certainty about the money that councils will get. In addition, the Verity house agreement agrees to the charter for local self-government, and localism is an underlying principle, with local by default and national by agreement.

For that to happen, there must be more flexibility about how councils can use the money—with less in-year money coming in, more certainty, multiyear budgets and less directed funding—and in relation to how they can pursue routes for revenue raising, including council tax and the visitor levy. We wait to see what the fiscal framework will look like, but we hope that it provides more flexibility so that councils can plan for the future on the longer-term horizon, which is where transformation is important, look at a prevention agenda and focus resources on those who are most in need.

09:15

**Pam Gosal:** I have one more supplementary question, which is on what Blyth Deans mentioned. Councils can make savings, but their doing so year after year will have an effect. I will ask a question about reserves later.

One of the concerns that councils have raised is that, although they might be okay this year and they might be okay next year, there will be serious problems in the coming years because they will not be able to use certain money, such as savings and reserves. It is understandable that you mentioned transformational change, but have you forecast where councils will end up in a number of years from now if they do not carry out that transformational change?

**Jo Armstrong:** We do not do forecasting. In our best value reports and in our analysis of local government, we get councils' forecast budgets. Councils do forecasting, but the challenge that they have is that they can only plug in a line based on what they think that their revenue will be—in other words, it is their best guess. We are not seeing anything that suggests that there is an imminent danger of a local authority not being able to maintain a balanced budget.

However, the corollary to that is that it gets harder and harder to access services—the bar that you have to pass to get services gets higher and higher. The issue is not about councils being unable to fund what they are doing; it is about whether what they are funding and doing is adequate for what the Scottish electorate believes is needed.

Part of what we are trying to think through is how we can help to create an environment in which there can be an honest conversation about what local government can deliver and where we need to find other means by which people can be supported in their communities.

**The Convener:** Willie Coffey has a supplementary.

**Willie Coffey (Kilmarnock and Irvine Valley) (SNP):** The figures in the report are for 2022-23, but looking slightly ahead, we could argue that the position might look a little bit better, given that an extra £574 million is being allocated to local councils next year. That is a cash-terms uplift of 4.3 per cent or a real-terms uplift of 2.5 per cent. Has the commission had any chance to do an analysis of the current figures and the potential impact that that might have in resolving some of the issues that have been discussed round the table so far?

**Jo Armstrong:** As I said, we do not do forecasting. We ask for and get information from local authorities about their budgets, which helps

us to understand where they are sitting in relation to their budget forecasts. We have a report coming out this week or next on our budget, so I do not want to pre-empt what that will say.

We are mindful of the need to ensure that we understand what is happening year on year and that our understanding is based not just on historical data but on what will happen in the future. As Carol Calder said, local government's challenge is the ability to plan effectively when it has limited flexibility around some budget lines. Increasing the flexibility is, in our view, a good thing, and the un-ring fencing of some of the budget lines is a good thing. However, that means that localism must be to the fore. The challenge is whether we have enough clarity on what local communities are looking for and what they want from local government services.

Part of our request of local government is that we see local authorities engaging locally and that we understand the engagement strategies that will help them to drive their priorities and decision making. That is part and parcel of what we do in our best value work.

**The Convener:** I will move on to questions from Miles Briggs.

**Miles Briggs (Lothian) (Con):** I thank the witnesses for joining us today. One of the commission's recommendations is about the prioritisation of recurring savings. Will you outline examples of good practice in that area as you see it? To what extent are recurring savings now becoming more difficult to identify and achieve?

**Jo Armstrong:** I will come back to my colleagues about specific examples, if that is all right with you, Miles. As Blyth Deans indicated, and as is inevitably a truism, if you keep making savings year on year, you either did not need that money or you are not managing to deliver the services that are necessary—because, in the main, the service costs will be rising at least by the level of inflation, if not higher, so that continuing to deliver savings that are just for efficiencies, rather than being transformational, becomes harder and harder.

We challenge councils when they come to our meetings, by saying, "How can we get comfort that you are in line? You can put a number in a line to show that the budget will balance, but what are you doing to give us comfort that the number in that line—that saving—is actually achievable and deliverable?" They keep doing it, but it gets harder and harder as the years go on.

Blyth, do you have any examples of good practice in savings? I apologise for putting you on the spot.

**Carol Calder:** I can come in on that. You are right. It gets more difficult to make recurring savings. For 2022-23, 37 per cent of the bridging actions for the budget gaps were recurring savings; 34 per cent was the use of reserves; increases in council tax were 17 per cent; and 12 per cent was via various other methods. Recurring savings is quite a chunk.

The difficulty comes in how debt has been reprofiled with the service concessions that have been allowed. That is kicked down the road a little by asking what the future sustainability of reprofiling debt is over a longer time. That issue is part of financial sustainability, which is what the commission has been talking about. The meat has been cut off the bone when it comes to efficiencies, so the issue is now about transformation. What we mean by that is a fundamental redesign: councils working together; one council delivering for Scotland, or joint councils—regional partnerships; collaboration with communities; co-production; and so on.

That is nicely set out in the Society of Local Authority Chief Executives and Senior Managers paper “Delivering a future for Scottish local authorities”. It sets out the examples that we are talking about when we discuss transformation. That is more about asking the question, what are councils for? That document refers to them as being “delivery agnostic” and enablers of place. That is the kind of shift that we do not yet quite see, but SOLACE has produced that paper with a very clear direction that it wants to go in.

However, there are some significant barriers to making that transformational change happen. In order to achieve financial sustainability in the longer term, we have to look at transformational change.

**Miles Briggs:** Thank you for that. I note that overall net debt increased by £1 billion. Has the commission managed to find any explanation for that? Specifically—we touched on this earlier—do some specific councils have more exposure to that debt than others? Are those councils at risk in the future?

**Jo Armstrong:** Again, borrowing has to be done on the basis of its being prudential, affordable and capable of being paid back. We in the commission do not get involved in looking at that in detail, but we look at the extent to which some of the metrics are monitored. For example, we are beginning to look more closely at metrics such as the proportion of revenue to debt and interest payments, to see whether any challenge might be coming through.

In the event of not being given an uplift on capital, or of capital funding being lower than perhaps had been anticipated, debt is the obvious

solution to plugging a gap in carrying out a project. It will be harder and harder to deliver the infrastructure projects that are required without using borrowing, but the corollary to that is whether the borrowing programme is affordable. I ask Blyth Deans to pick up on that.

**Blyth Deans:** Much as we found last year, the main movements in net debt related to either a reduction in cash and investment balances or increases to short-term or long-term borrowing. Again, nothing was particularly out of the ordinary when we looked at that in detail.

One thing that might be interesting to the committee is that the cost of servicing that debt has gone down. That is linked to what has already been mentioned: pushing the term to be slightly longer, which means that the annual repayments are less.

I will illustrate that with some figures. In 2013-14, 8.4 per cent of the general revenue budget was used to service the debt, but that figure has come down to 5.4 per cent. There has been some movement in between. For example, in South Ayrshire Council, cash and investments have gone from £17 million down to £11 million, which has had quite a significant impact on the net debt position, and, in East Dunbartonshire Council, there has been an almost £20 million reduction in cash and investments, which has had a knock-on impact on the net debt profile. The reason for that is that there might have been some borrowing to take advantage of attractive interest rates and assist with cash flow, but, as Jo Armstrong said, capital spending has also had a big impact on the borrowing profile. Nothing majorly concerning has come out of that analysis.

We have not analysed how the debt profiles of certain councils correlate, so I cannot offer a position on that.

**Miles Briggs:** Last year, there was also the one-off reprofiling of public-private partnership debt, which is probably reflected in those figures.

I have previously raised issues regarding the funding formula that the Convention of Scottish Local Authorities uses. Has the commission done any work, or does it intend to do any work, on the effect of population growth on demands on councils? Lothian is expected to experience about 80 per cent of all growth in Scotland, but there is expected to be depopulation in other council areas, such as Argyll and Bute. Will the commission be doing further work on that?

**Jo Armstrong:** We have not discussed that yet. I ask Carol Calder to come in.

**Carol Calder:** On behalf of the commission, Audit Scotland has looked at the funding formula in the past. There is a discussion to be had with

the Scottish Government and COSLA, because there are always winners and losers if the formula is changed. We found that there is a very weak correlation between funding and deprivation but a very strong correlation between funding and population levels. There are many different elements to the equation, but the biggest driver is population.

**The Convener:** Earlier this year, in March, when we looked at loan funds and capital finance accounting, we heard that regulations that were introduced in 2016 allow councils to extend loan fund repayments into the future, which adds pressure on future budgets. Given that most local authorities have used those flexibilities, is the commission concerned that future taxpayers could end up paying for assets that no longer exist?

**Jo Armstrong:** It is important to understand that assets must be maintained, so the issue for us is whether councils take on assets when they do not have the capacity to fund capital maintenance programmes for them. We do not look at that closely at the moment.

It could be argued that being able to extend the term of a loan to free up resources is a good thing if the resource is used for innovation or investment in something that will allow the council to provide a cheaper or more cost-effective service in the future. We are asking whether the benefits from, for example, the triennial pension valuation that has been introduced are being used to refigure or recast service delivery as a way of reducing costs in the future, or whether they are being used just to plug gaps. We see a mixed picture in that regard.

If assets are properly maintained, extending the life of a loan is not necessarily a bad thing, but, ironically, that will add to ring-fenced expenditure in the future, which one could argue is a good thing or a bad thing, depending on which side of the coin you are sitting.

**The Convener:** We do not have a crystal ball for these things, but perhaps we should keep an eye on that.

**Pam Gosal:** I have a few questions about reserves. The presentation of local authority reserves is sometimes interpreted as councils sitting on large amounts of surplus money. Could the commission say a bit more about committed and uncommitted reserves and provide examples of reserves being earmarked for specific purposes? Have there been any notable trends in the levels and use of reserves over recent years? Does the commission have any concerns about the relatively low levels of uncommitted reserves in some councils?

**Jo Armstrong:** Again, Blyth Deans is the font of all knowledge on that, so I will pass over to him.

However, any organisation needs to have some level of reserve to deal with rainy-day requirements, unexpected shocks and unexpected and unplanned issues, such as having to decant tenants from a house that has reinforced autoclaved aerated concrete. Having reserves is not a bad thing—that is prudent financial management.

The notion that there is a large amount of unutilised and unearmarked reserves is not one that I see, but I am happy to hand over to Blyth to give more detail behind that.

09:30

**Blyth Deans:** The commission has been quite consistent in how we have reported on reserves over the past few years. Exhibit 10 in the report offers a flow chart from the headline figure of total usable reserves all the way down to the committed and uncommitted elements. That shows that the headline figure is not really just what councils have got to use as they see fit. In exhibit 10, we can see that the uncommitted element of the general fund is £0.46 billion, which is 15 per cent of the general fund. That means that a larger proportion is committed for particular purposes. There will be particular purposes that are mandated by the policy commitments and the nature of the funding, but a lot of that commitment or earmarking is done locally. It will be down to councils to decide what works best for them in their circumstances.

We did a bit of work to identify what some of those earmarked funds are, as well as their appropriateness and how they fit into councils' general approach to maintaining their financial sustainability. As you might expect, the 32 individual authorities are quite different, and the disclosures in their accounts are quite different as well. To put it mildly, it is not the easiest comparability task that I have ever done.

However, we are seeing a growing trend towards councils taking steps to earmark funds for contingency, which, in a way, adds to the uncommitted element that we have shown in exhibit 10 in the report. That money is earmarked for unexpected events or uneven cash flows, so that councils can use it to help them to smooth the path, so to speak.

I will give you some examples of earmarked funds. Some of their titles are really detailed and some are less so. For example, North Ayrshire Council has a recovery and renewal support fund, which is worth £13 million. It also has a fund that supports a medium-term financial strategy, which feels quite high level. The council will have a bit of control over and discretion in how it applies the fund to meet the objectives of that financial strategy. It also has earmarked funds, which could

be for anything. Over the past few years, the commission has reported extensively on that sort of vagueness. Transparency around reserves—what they are there for, when they will be used and what the strategy is for putting them to use—will be really interesting and helpful for the public's understanding.

Another example is that West Dunbartonshire Council has funds for future pay awards. That feels quite specific, certainly in comparison with some of the other funds that we have seen. It has early retirement and voluntary severance schemes and a smoothing fund, which also feels a bit like a contingency fund. There are also risk and resilience funds.

As I said, the point still stands about transparency. As much as councils have taken pretty significant steps in recent years to improve transparency in their accounts, it still feels as though more could be done in relation to timing and plans for spend, when some of the funds enter into the general fund. Clearly, as we have seen in recent years, particularly around Covid, when councils receive funds late in the year, they cannot spend them at that point, so they must be carried forward in reserves. There is quite a lot going on with reserves but, as I said, I hope that, in the report, we have been able to show a clearer picture of the uncommitted element and what councils have to fall back on, should they require it.

**Pam Gosal:** Thank you for giving the examples of earmarked funds. I asked earlier about the forecasting, and I know that that is not your role, but it is about whether councils are doing the right thing and about what help they need.

I have a quick follow-up question on the reserve side. For how many more years do you think councils will be able to make up the difference in that way before uncommitted reserves run out? Have you done any work around that, or have you taken any data from councils?

**Blyth Deans:** We did some analysis on that, or loosely related to it, this year as part of the financial bulletin 2022-23. It relates to one of the Chartered Institute of Public Finance and Accountancy financial resilience index indicators. The analysis was around reserve depletion rates. We have seen in the past that councils might be at risk of exhausting their usable reserves within a set timeframe, but that is not necessarily the case just now. The trend is that councils are adding to their reserves. The analysis that we carried out showed that no council was at risk of fully exhausting their reserves within the next four years.

The warning sign that you were perhaps looking for has not come through in our analysis. Covid

had a bit of an impact on the general trend of inflating reserves, which could skew the analysis ever so slightly. That is part of the CIPFA resilience index.

**Pam Gosal:** Thank you for that information. It is interesting because 31 out of 32 councils have given me a different picture. They talk about how much pressure is on their reserves and that they will eventually run out. They also talk about the fact that they cannot make year-to-year savings and that they will have eventually have to stop making them.

You are right that transformational change will have to happen, and I have a question on that for Jo Armstrong. Do you think that councils are equipped to make those plans for transformational change?

**Jo Armstrong:** That is a very good question, and it is certainly in our best value reporting. We look at leadership and the ability to identify strategies and understand how best to implement transformational change opportunities. There is time for that to happen; it is running out, but there is time.

On the reserves picture, investing in transformational projects does not happen overnight, but we are asking about that, and we get a feel for whether that is happening. When we say that we need to increase the pace of change, our reports indicate that perhaps that is not as fast as it needs to be—perhaps we need to be slightly blunter.

**Carol Calder:** I will add to that. As Jo Armstrong says, it is variable. We have talked about risk, debt and reserves, which are the warning signs. It is a complicated picture, so one thing would not make us concerned about a particular council. We look at a variety of things, not only the level of reserves and the trend or pattern of depletion, as Blyth mentioned. We also look at the council's history of delivering its savings targets and plans, and what proportion is recurring versus non-recurring, whether it has good medium and longer-term financial planning, the budget gap, the level of unidentified savings, the bridging actions that it is using and the plans that it has for managing that. We look at a bundle of things. There is not one indicator that would say that the reserves are low so we are worried about council X, because those other things are also in the mix.

As Blyth said, the reserve position is very complicated. The commission will call for more clarity in our next piece of work about those reserves, including what is uncommitted and how much is committed for what and when, so that we can have a better understanding of how much cushioning there is or is not. The chief executives

told you that there is not, but we do not have the detail to be able to confirm that.

**The Convener:** I want to return to the subject of earmarked contingency funds. Blyth talked about how that happens at the local level—it is nuanced—but I am curious about the idea of earmarking such funds. Surely, they would be unearmarked. Could you say a bit more about that?

**Blyth Deans:** I think that I agree with you. I was trying to get that point across in my answer. It is difficult for us to know how those funds will be used. Beyond the contingency heading, the council might have plans that are in details that perhaps do not make it into the accounts, but that reinforces the message that accounts need to be clearer.

You are right that, when you have a contingency fund alongside an unallocated amount, they feel like the same thing. You will know that the commission recommended that councils hold between 2 and 4 per cent of net revenue expenditure in uncommitted reserves. We found that some councils were below that this year, which is not always the case, but when we did some analysis and looked in more detail, we saw that they also had contingency reserves, so they were actually sitting above the threshold.

There is a lot of nuance to all this, as you have correctly pointed out, but I think that it speaks to the challenge that we face in interrogating the accounts to get the true picture of what reserves look like. Again, we reinforce the message that transparency could improve.

**Jo Armstrong:** Just to follow up on that, I would say as the new chair that, with regard to using data to help drive our scrutiny of and reporting on what is happening in local government, understanding the finances and budgets is something that we need to do a bit more on. However, we do not want to add to local government's scrutiny burden, so we need to find the right way through that challenge.

Blyth Deans has started down that track, and the budget report that will come out in the next couple of weeks represents our first foray into what the outlook on budgets is for the next three years and whether that gives us enough comfort to say that the sector is, if not as strong as it could be, then sufficiently strong for us not to be concerned. We need to find some way of getting greater transparency about what the budgets and numbers are telling us so that we can give clarity to taxpayers, to council tax payers and to communities that their local authority is able to deliver the services that it needs to deliver, without facing a financial challenge.

**The Convener:** That was really helpful. Colin Beattie has some questions.

**Colin Beattie (Midlothian North and Musselburgh) (SNP):** Good morning. The commission notes that spending on unprotected services is continuing to fall. Have you conducted any assessment of the impact of such spending cuts—for example, by speaking directly to users of the services?

**Jo Armstrong:** We do talk to users—and, indeed, are increasingly doing so—but we have not actively reviewed the impact of spending reductions on specific services to specific users. Carol Calder will have more detail on, or more history to highlight with regard to, what is going on in that space.

**Carol Calder:** We have been talking to the Improvement Service about the local government benchmarking framework data to try to work out whether there is any correlation between the spend on and the performance of individual services. There is not a statistical relationship between the two things; the picture is much more complicated than that, with all sorts of things such as demand, need, criteria for services and policy decisions lying behind the headline figures. Correlation does not necessarily mean causation, but there are no clear-cut indicators from the LGBF data to show that performance and spend are related.

That said, our last local government overview report contained a diagram showing that education and social work were the two services that have had funding increases over the years, and that all other services have had cuts, with planning at the bottom with a cut of around 30 per cent. If you track the spend on individual services in individual councils, you can get a more meaningful relationship, but when you try to take a global 32-council approach, you will find that, because of the other factors and variables, it becomes meaningless and there is no correlation. We sometimes see that correlation when we look at individual councils, and if unprotected services, as we call them, were showing decreases in performance, the commission would report that in a best value report.

The Improvement Service has put out the annual report on the LGBF data this year, and it showed for the first time that, across all the indicators, more of them are declining than are being maintained or are improving. However, we are talking about the global level of all the indicators, and that does not include any weighting of indicators or consideration of what is more important to service users or behind-the-scenes efficiencies involved in delivering a service. The picture is really complicated, and the only way that

you can look at it is at an individual service or individual council level.

**Colin Beattie:** Members have heard previously about service rationing and the growing level of unmet needs. Have you looked at that at all? Has there been any change in that? Is there a negative trend in that respect?

**Jo Armstrong:** We do not monitor unmet need, which, by default, is difficult to put a figure on: it is difficult to measure people who do not come forward to ask for a service that is then recorded. It would be hard to believe that the cuts to some services or, more importantly, the increasing barriers to accessing services, suggest that there is no unmet need, but we do not have a metric to explain the size of that need.

09:45

**Colin Beattie:** It certainly appears that the bar to qualify for services is being raised. It seems to me that that would hide unmet need.

**Jo Armstrong:** We cannot verify whether that is happening across all local authorities, but we hear that anecdotally and, if the bar is getting higher, people who previously would have got a service will no longer be getting it, which is clearly a signal of unmet need.

**Colin Beattie:** I am looking at the chart that Carol Calder referred to, which shows the impact on unprotected services over the past 10 years. Planning has certainly been hit hardest—believe me, I hear a lot of complaints about that—but central support services come next. What is covered by “central support services”? Is that a uniform term across all councils?

**Carol Calder:** That covers things such as finance departments, human resources and back-office functions, which are important. We are finding a reduction in the capacity of finance departments across Scotland, which makes it more difficult for us to sign off our audits as part of the work that we need to do with those finance departments. Finance capacity is an issue.

Those services have been cut to protect the front-line services that people and communities receive, but they have important functions, including internal controls and all the work that goes on behind the scenes to ensure good financial management.

**Colin Beattie:** The bar chart shows percentage changes in spending, but that does not give a feel for how much money is behind the percentage figure. Being able to look at the budgets of those services, rather than a percentage change, would give us a better idea of the impact.

Culture and leisure have also been particularly hard hit. Does that mean libraries and so on?

**Carol Calder:** That includes libraries, culture, museums, swimming pools, leisure centres and that sort of thing.

**Colin Beattie:** Service users have also sustained reductions in capital budgets. What has been the impact of those reductions in capital budgets? Are any user groups more greatly impacted by those reductions?

**Carol Calder:** Any reduction in capital budgets means that there is less money to maintain and build new assets such as roads, schools or other community buildings. A cut to the capital budget means that those properties are not being maintained to the same level. We all know from the state of the roads that they are not being maintained to the level that we would expect, so cuts to capital budgets have an impact on infrastructure.

**Colin Beattie:** Has the commission made any assessment of the impact of reduced capital budgets on the net zero ambitions of local government?

**Carol Calder:** I do not think so. We are doing work on net zero, but I am not involved in that and would not be able to confidently answer that question, Mr Coffey.

**Colin Beattie:** Does the Accounts Commission take net zero into account in its audits?

**Jo Armstrong:** We certainly look at the environmental sustainability requirements for local authorities. Capital budgets have a significant effect on net zero plans and aspirations and will delay their delivery, but we do not have clarity about exactly what those plans are and therefore about how cuts in budgets will bring delivery forward or push it further back.

**Colin Beattie:** Who is monitoring local government progress on net zero?

**Andrew Burns:** That is a really important question. The Accounts Commission is undertaking a series of performance audits, with Audit Scotland’s support, to assess whether net zero targets are being achieved. Like Jo Armstrong and Carol Calder, however, I am not aware that there has been any direct link between reductions in capital budgets and an impact on net zero. That is certainly something that we can take on board, given your line of questioning. I can reassure you that a series of performance audits are examining the net zero targets and the achievement thereof, or not, and much of that work is referenced on the Audit Scotland/Accounts Commission website. I am not aware of a direct link being taken at the impact of a reduction in

capital budgets, but we can take that point away and consider it.

**Willie Coffey:** Jo, could I ask you for some views on the Verity house agreement, particularly the planned monitoring and accountability framework? It sits alongside other frameworks such as the national performance framework and the local government benchmarking framework. How does the Accounts Commission see those frameworks working together, or is there a better way to consolidate them to give us a single picture?

**Jo Armstrong:** It is an interesting idea that they ought to be interlinked—and they really ought to be. The extent to which we are actively involved in discussions about what the Verity house agreement is going to be and how we might get involved is limited, as nothing has come forward. We have signalled that we are very interested in being supportive of what comes out of those discussions, but we do not want to be actively involved in developing the agreement, because we would then be in danger of marking our own homework.

We definitely want to be involved in helping, however, by acting as the independent arbiter on accountability, allowing both sides to know that, while they might be ceding control on one side or another, there is an independent auditor and an independent assurance system in place that gives them comfort that, in ceding control or ownership of the moneys, they will get the outcomes that they have collectively signed up to. We must wait and see what comes out of that.

**Willie Coffey:** So, you do not have a direct role to shape, assist or develop that.

**Jo Armstrong:** We have decided not to pursue that on the ground that, if we do that, we end up marking our own homework. We have therefore not gone into that space.

**Andrew Burns:** I will amplify that point. The chair is right: we cannot get involved in the detailed workings of how the Verity house agreement commitments are delivered or not delivered, as we would thereafter be in danger of assessing our own work, as Jo has said.

That is a really important line of questioning, however. It is crucial to say that the commission has been very welcoming of the fact that the Verity house agreement was signed last year. I know that you may be coming on to this point, but my saying “last year” is the crucial point: it is now over 12 months since the agreement was signed, and I am pretty sure that, aside from the current focus on the upcoming UK election, everybody in this room recognises that we are now less than two years away from the short campaign for the next Holyrood election, so there is a narrowing window

of opportunity to finalise the details of the Verity house agreement, in particular the development of a fiscal framework, which will lie behind a lot of the potential solutions to the problems that we have been discussing this morning. The commission would contest, and I hope that everybody in the room would agree, that the closer we get to May 2026, the less chance there is of a consensual agreement around the fiscal framework. The further away we are from May 2026, the more chance we have of getting a consensual agreement. We would encourage the Government and COSLA to make progress on that.

The Government gave an update to us and to the committee in December 2023—in writing, I think—and that was welcome, but that is four months ago now. Like you, I am sure, the commission has heard Government ministers and the COSLA presidential team say that they want to get the agreement right, rather than rushing it and getting it wrong. That is totally understandable, but time is of the essence, and the commission would urge progress on the Verity house agreement and the fiscal framework within it in particular.

**Willie Coffey:** I will turn to a favourite question that the committee poses, on ring fencing and directed funding—using all the terminology that surrounds that. It sounds a bit like the debate that we had about reserves earlier, with multiple categories here and there. You have a figure of 26 per cent: that is your guess about the actual amount of ring fencing and directed funding. If we talk to the Scottish Government, it could be as low as 10 per cent; if we talk to COSLA, it could be as high as 60 per cent. Could you offer a wee flavour of why those discrepancies are there? Could you explain to the committee and to members of the public why there are those huge differences in figures?

**Jo Armstrong:** Again, I will ask Blyth Deans to come in with more detail. Strategically, the ring-fencing debates are around what is, and is not, included in the baseline. As soon as you add something to a baseline, the percentage change that you get can be significant or not.

We would hope that the Verity house agreement and fiscal framework would give greater clarity and certainty—on both sides—of what is, and is not, included in a ring-fenced pot. If you have something in a ring-fenced pot, the percentage change is an obvious arithmetic calculation. The differences between the Scottish Government’s assessment, our assessment and COSLA’s assessment are about what is, and is not, in that baseline figure.

**Lucy Jones (Audit Scotland):** In our exhibit 5 from last year’s local government overview, we attempted to illustrate the differing views and how

we came to our number, which is between the two of them.

The Scottish Government views ring fencing as relating purely to those funds in the specific resource grant. COSLA takes a different view, which is that it relates to all of the specific resource grant plus any obligations created by current or past policy initiatives from the Scottish Government. That would include, for example, all school teaching staff, because numbers are mandated, as well as a large amount of adult social care, where the costs are devolved to integration joint boards. Its estimate is therefore closer to 65 or 70 per cent.

The starting point for our calculation is the specific revenue grant. We then look through the budget documents—all revisions plus the financial circulars—for lines where funding has been directed to specific policies. Our calculation is therefore ring-fenced plus directed funding. When we add up all those elements, we get to a total for 2022-23 of 26 per cent, which is a small increase on the year before. That is how we get to our number, which differs from the other two.

**Willie Coffey:** That is really helpful. Do the Scottish Government and COSLA agree with your method of analysis?

**Jo Armstrong:** It is a sad indictment that, every year, we end up having to have this debate about ring fencing and what is, and is not, in. It would be much better if we could direct those efforts towards how we make the transformational change work, rather than towards having to defend, re-defend and reassess numbers. That would be my plea at this stage. Every year, there is a discussion about what percentage is ring fenced and what is not.

**Willie Coffey:** I look forward to that day.

**The Convener:** We have the fiscal framework in development. You would like to think that, within that, there will be an alignment around what we are talking about. That becomes really important, does it not?

**Jo Armstrong:** Yes. Absolutely. That is correct.

**Lucy Jones:** There were positive movements in the most recent budget, for 2024-25. The specific revenue grant decreased hugely, and some of that was baselined into the general resource grant. On the other side of that coin, we may still class that as directed funding, even though it is within the general revenue grant.

**The Convener:** Okay. There is a bit more work to be done there.

Willie Coffey has more questions.

**Willie Coffey:** I have a final question on the council tax freeze. The Scottish Government

provided £147 million to councils to freeze the council tax, plus another £63 million through Barnett consequentials, giving a total of £210 million. However, a comment in your report says that freezing the council tax

“suppresses the growth of the council tax base over that period and the income generated when the freeze is lifted is potentially lower”.

Will you explain to committee members what the Accounts Commission means by that?

**Jo Armstrong:** I will give you my interpretation of what we wrote. If I get it wrong, somebody can jump in and tell me that I am wrong.

If you do not increase your baseline by an amount and it is not guaranteed in future years, you will start off the next year with a lower baseline on which to levy your taxes. If you want to raise tax levels by a certain amount year on year, you have certainty on what your baseline is if you have increased your council tax year on year. If you cannot guarantee that budget allocation year on year, your baseline will be a smaller amount.

Blyth, have I given the correct answer?

**Blyth Deans:** It was perfect.

**Jo Armstrong:** He has to say that, of course. Does that help, Mr Coffey?

10:00

**Willie Coffey:** It certainly does. However, given that explanation, why would the councils choose to freeze the council tax if, by your estimation, they could actually generate more income in future years by not freezing it?

**Jo Armstrong:** Clearly, I am not involved in the debate and discussions behind the scenes between the Scottish Government and local government with regard to why they chose to freeze it if they could have increased it. There have obviously been some interesting debates in some councils about whether they should have increased it, but all have accepted the council tax freeze as a starting point.

**Willie Coffey:** Thanks. I will leave it there, convener.

**Stephanie Callaghan (Uddingston and Bellshill) (SNP):** Good morning. We have spoken a little bit already about budget transparency, and I am quite interested in the public engagement part of that as well. The Accounts Commission says that is it important that councils are

“clear with the public about their finances and have frank conversations about what services they can realistically provide”.

What led the commission to make that recommendation?

**Jo Armstrong:** Again, this work slightly predates me, and I cannot say exactly what was in somebody's mind when they wrote that, but I am pretty sure that it involves the fact that, if councils are going to have to cut services or ration services, they have to explain to communities why that is happening. Greater transparency about how budgets are being allocated and how services are being provided increases the potential for communities to at least accept, if not like, the outcome. Am I correct, Carol? Is that the justification?

**Carol Calder:** Yes. We have said in a few local government overviews that councils need to have honest conversations with their communities. Basically, they are asking communities what is the least worst scenario, and those are very difficult conversations to have. Even when councils have consulted on their budgets, the reality of something closing or a service being withdrawn is still very difficult for people to swallow, so there are a lot of barriers. You can say things conceptually, but when it actually happens, there is a lot of resistance to changing and reducing services, shutting schools and community centres and so on. However, there has to be a realistic conversation about what the least worst scenario is in those cases, even though they are difficult conversations to have with communities, and it is difficult for elected members to vote on those decisions, because they want to be voted back in. Such choices are against what communities want, but those are the hard choices that are being made at the moment. Of course, even when councils have consulted really well on their budget, we still see examples across Scotland of U-turns on decisions because of the public outcry.

**Stephanie Callaghan:** Have you done work to explore how councils are communicating and engaging with the public, and whether that is influencing the decisions that are made?

**Jo Armstrong:** Yes. In the individual best value reports on individual councils, we look at community engagement, which involves not only consultation but empowerment and the extent to which communities are involved in the decision-making processes around delivery of services.

**Stephanie Callaghan:** That brings me to my next question. We are 10 years on from the Christie commission and the vision that it set out. I am quite interested in the programmes and the transformation that we have had over recent years, and what leads to successful transformation. Do you have a good example of transformation that has gone well, and can you say what the key reasons are why it has come out better than others?

**Jo Armstrong:** I will hand that question over to Carol Calder, because she is definitely more informed in that regard than I am. However, I can say that it is about showing leadership, thinking strategically about what is needed and ensuring that that leadership drives through the change that is necessary. That is a challenge when you have to maintain services on a day-to-day basis.

**Carol Calder:** I will pick up on that but, first, I apologise to Mr Beattie for calling him Mr Coffey earlier in the discussion. I realised immediately and I have been trying to get in an apology ever since.

Have we seen any examples of transformation? Alongside the most recent local government overview report, there was a supplementary document that covered a number of case studies involving small-scale transformation of individual services in individual councils. There is a lot of work going on that is quite small scale.

When we gave evidence to the committee after the pandemic, we spoke about how the pandemic had enabled councils to be fleet of foot and to change the way in which they delivered services. At that point, we said that they were using data well to focus resources on need, that there was collaborative leadership that was driving councils forward with a common purpose and that there were new flexible ways of undertaking governance and using the workforce. Those things still apply.

In our local government overviews, we have also said that we need to work with the workforce to plan what the workforce should look like in the future. Those are all medium-term and long-term goals. At the moment, because the financial situation is so challenging, councils are focusing on the immediate term—on keeping the show on the road, making efficiencies and running services. I will shamelessly steal from one of my colleagues, who has said that it is really difficult to overhaul the aeroplane while you are flying it. That is a good metaphor for what we are asking councils to do right now.

The SOLACE document sets out a new paradigm for local government. What are we about? What should we be doing as guardians of place? How should we enable services to be provided without necessarily being the delivery body for those services? We face barriers in getting to that place. Those barriers include things such as getting the community to agree and come along with you, getting the unions and the workforce to understand, agree and come along with you, and getting the elected members to make the decisions and come along with you, along with all the issues that we have talked about around financial flexibility and being able to plan for the long term. Those are some of the barriers

that get in the way of the bigger change that we are saying is needed.

**Stephanie Callaghan:** Could you give a specific example of such partnership working and the empowerment of communities that goes along with that?

**Carol Calder:** From memory, I think that South Ayrshire Council has been good at such community engagement and delivering things differently. There is a lot of information on the Improvement Service website. There is also the supplement that I referred to, which is on our website.

I will turn to colleagues in case they have any other examples on the tips of their tongues that they want to throw in.

**Andrew Burns:** South Ayrshire Council is specifically mentioned in some of the individual BV work that we have looked at. That is the example that I, on behalf of the commission, would direct members to have a look at. South Ayrshire Council has done some really innovative stuff that has saved significant sums of money.

**Stephanie Callaghan:** Is that work tied in to early intervention and prevention? I ask that because you mentioned significant sums of money being saved.

**Andrew Burns:** It is tied in to Carol Calder's points about significant and deep community engagement at an early stage—in other words, involving local residents and other participants who have a stake in the service that is being delivered or, potentially, transformed. South Ayrshire Council has a record of engaging in a deep and meaningful way at a very early stage. That does not apply to all local authorities. I do not want to underplay how difficult that is, but South Ayrshire Council has a good record of doing that in recent years.

**Stephanie Callaghan:** Thank you. I should probably put on record the fact that I was a councillor on South Lanarkshire Council until 2022.

**The Convener:** I want to pursue that strand of transformational change a little bit more. We understand from our work on the Community Empowerment (Scotland) Act 2015 that Scotland has a community empowerment agenda. The community planning partnerships were set up through that piece of legislation. We have been looking at the national planning framework, which brought forward the idea of communities creating local place plans. We have one vehicle that is about the built environment and another that is more about the delivery of certain services. On top of that, we are beginning to do work on the whole community wealth building agenda.

Are there tools in place that could support the process of transformational change that need to be spruced up or looked at? It is interesting that the Verity house agreement points to the community planning partnerships as vehicles for supporting things such as transformational change to happen. What are your thoughts on that and on how we can support local authorities to look in those directions for transformational change?

**Jo Armstrong:** Again, my experience of that is more limited. Carol, is there anything specific that you want to pick up on?

**Carol Calder:** On the SOLACE transformation projects, there are a number of “anchors”, as it describes them, one of which is about community action. Another specifically looks at partnership working and systems thinking—so place thinking—and another one is about design for needs. That again brings in data. I know that the sector is looking at all those things to draw on to enable it to make the transformational change that is required.

I think that there is a good understanding of what to do and how to do it, but some of the barriers that I referred to earlier are getting in the way of that. The Verity house agreement is one thing that might help to smooth the passage of making those changes.

**The Convener:** I have heard in the conversation the question whether we can get to the place where communities lead with councils supporting and facilitating more nuanced local need, and then developers coming in to deliver what communities are looking for. Currently, we seem to have developers leading, especially in housing, but we are now talking about place making much more—thank you for bringing that in. Can we turn things around so that, instead of developers identifying land and saying that that is where things need to happen, communities say what needs they see, and there is then facilitation? You talk about the SOLACE report dealing with partnership working. I guess that that is what it is, but it is about the emphasis on who leads and how we get to the point at which communities have a sense of agency and a sense that they can lead in the first place.

**Carol Calder:** That is exactly what SOLACE is getting at. It talks about “unlocking community action” and it refers to being “delivery agnostic”. Therefore, it is much more about empowering communities. In the current climate, empowering communities to do things for themselves might sound like councils cutting services, so a sell needs to be made around all that. However, that is what SOLACE and the sector as a whole are looking at for the way forward.

**The Convener:** On that note of transformational change, I thank the witnesses for joining us this morning. The session has been very constructive and informative, which I really appreciate, and it has been great to have Jo Armstrong along for her first session with the committee. I look forward to seeing you in the future.

I will briefly suspend the meeting to allow for a changeover of witnesses.

10:13

*Meeting suspended.*

10:22

*On resuming—*

## **Housing (Cladding Remediation) (Scotland) Bill: Stage 2**

**The Convener:** We now begin our stage 2 proceedings on the Housing (Cladding Remediation) (Scotland) Bill. We are joined for this item by the Minister for Housing and his officials, as well as by Graham Simpson and Pam Duncan-Glancy.

First, for anyone who is watching, I will briefly explain the procedure that we will follow during today's proceedings. Members should have with them a copy of the bill as introduced; the marshalled list of amendments, which sets out the amendments in the order in which they will be disposed of; and the groupings of amendments, which sets out the amendments in the order in which they will be debated. Those documents are available on the bill web page on the Scottish Parliament's website.

There will be one debate on each group of amendments. In each debate, I will call the member who lodged the first amendment in the group to speak to and move that amendment and to speak to all the other amendments in the group. I will then call other members with amendments in the group to speak to, but not move, their amendments, and to speak to other amendments in the group, if they wish. I will then, at my discretion, call any other members who wish to speak in the debate. Members who wish to do so should indicate as much by catching my or the clerk's attention.

I will then call the minister, if he has not already spoken in the debate. Finally, I will call the member who moved the first amendment in the group to wind up and indicate whether he or she wishes to press or seek to withdraw the amendment. If the amendment is pressed, I will put the question on it.

Later amendments in a group are not debated again when they are reached; if they are moved, I will put the question on them straight away. If a member wishes to withdraw an amendment after it has been moved and debated, I will ask whether any member present objects. If there is an objection, I will immediately put the question on the amendment. If any member does not wish to move their amendment when it is called, they should say, "Not moved." In that situation, any other member present may move the amendment. If no one moves it, I will immediately call the next amendment on the marshalled list.

If there is a division, only committee members are entitled to vote. Voting will be by a show of

hands, and it is important that members keep their hands raised clearly until the clerk has recorded their names.

The committee is also required to consider and decide on each section and schedule of the bill, and the long title. I will put the question on each of those provisions at the appropriate point. Finally, it is our intention to complete stage 2 scrutiny of the bill today.

### Section 1—The register

**The Convener:** The first group is on the cladding assurance register, additional work assessments and levels of risk. Amendment 10, in the name of the minister, is grouped with amendments 44, 45, 11, 47, 48, 12, 49, 13 to 16, 56, 57, 18 to 20, 60, 61, 21, 22, 64, 25, 27 to 29, 31, 32, 69, 70, 73, 74, 37 to 40, 81, 41 and 43. I point out that, if amendment 10 is agreed to, I will not be able to call amendments 44 and 45, due to pre-emption.

**The Minister for Housing (Paul McLennan):** As drafted, part 1 of the bill outlines the requirement for the Scottish ministers to maintain a cladding assurance register. An entry will be created in the register only after a single building assessment has been completed and any remediation work identified in that SBA has been completed to the satisfaction of ministers. That was to ensure that entries are made only once any such remediation work identified in the SBA has been completed.

However, I acknowledge that, during the stage 1 evidence sessions that the committee conducted, numerous stakeholders highlighted the multifaceted challenges associated with properties affected by potentially unsafe cladding, with issues pertaining to remortgaging, buying, selling and insuring such properties being of particular concern. The committee's stage 1 report highlighted that there were concerns that the existing points of entry to the cladding assurance register might not adequately address those challenges, and that there was a growing consensus among stakeholders that supported the point of entry on to the register always being the completion of a single building assessment, including when a need for remediation work is identified.

In my response to the committee's stage 1 report on the bill, I made a commitment to review the Government's position on point of entry. After careful consideration, I agree that changing the entry point for buildings on to the cladding assurance register in cases in which the SBA identifies a need for remediation work would be a worthwhile change. That approach seeks to enhance transparency and might assist decision making in property transactions, while ensuring

that any change is aligned with the overarching objective of ensuring the safety and wellbeing of occupants residing in buildings with cladding. It responds positively and directly to a recommendation that the committee made in its stage 1 report.

The change is delivered by amendments 10 and 11, which will ensure that an entry on to the register is always created immediately after the SBA has been completed. That change creates a need to adjust section 1 to make it clear how the completion of works will be recorded. Government amendment 12 does that by confirming that an entry is to be updated

"as soon as reasonably practicable after the Scottish Ministers are satisfied that"

the work is complete. However, amendment 12 has an additional aspect, to which I will now turn.

Amendment 12, along with the remaining Government amendments in the group, also adds to the bill the concept of additional work assessments. Our approach to cladding remediation is centred on the process of a single building assessment and, specifically, on the works that are required to eliminate or mitigate risk to human life related to the external wall system.

Cladding assessment and remediation can be a complex engineering project. We must allow for a scenario in which additional relevant risk and associated works to address that risk are identified after the single building assessment has been completed, without going back to square 1. For example, that could occur when an issue becomes apparent after a cladding panel has been removed from a building during the course of planned remediation and it exposes a problem that was not evident in the original SBA. We do not want to create any unnecessary barriers of process that would delay the completion of necessary work.

Through the amendments, we also seek to ensure that all required works are documented, completed and captured in the cladding assurance register, thereby ensuring that the golden thread of information from assessment to completed remediation is maintained.

We must also ensure that the rights of owners are protected. We have therefore reflected existing procedural safeguards, including 21 days' notification of and appeal against newly discovered work being conducted, unless the work is urgent. I ask members to support all the Government amendments in the group.

Mark Griffin's amendments seek to amend the language of the bill, specifically in relation to a "risk to human life". In doing so, they touch on the central purpose of the bill and of the cladding remediation programme. As such, his

amendments propose changes in a number of places throughout the bill, but we are required to discuss them here due to amendments 44 and 45 being pre-empted by my amendment 10, which I have already discussed.

10:30

My assumption is that Mark Griffin's amendments, taken together, intend to replace the current references to risks that are directly or indirectly

"created or exacerbated by a building's external wall cladding system"

with broader references to "any risks" that are created or exacerbated by that system.

I do not support such an approach. The current language makes it clear that the risks to be addressed may be either directly caused by the cladding system itself or indirectly influenced by it. Not being clear on that point could risk narrowing the focus of the single building assessment to risks that are directly attributed to the cladding system alone, with the result that secondary or indirect risks that impact on the risk to life could potentially be overlooked. Ultimately, such a narrowing of the assessment could have the effect of leaving remediated buildings at a higher risk level post remediation than the bill currently allows for. I urge Mark Griffin not to move the amendments, as they might increase the risk to owners and occupiers in affected areas.

I want to touch on amendment 49, in the name of Miles Briggs, which seeks to remove section 1(3)(b) from the bill. That provision relates to the cladding assurance register and, specifically, the ability of the Scottish ministers to include in the register any information that they consider appropriate, in addition to that required to be included by section 1(3)(a) and—if my amendment 12 is agreed to—new paragraphs (aa) and (ab).

The Government's intention with the existing provision is to retain flexibility in terms of what can be added to the cladding assurance register, to allow us to add further information to the register, if required, as it is operationalised.

I have already committed to working with stakeholders including the Association of British Insurers and UK Finance to ensure that the register can be of maximum value to them as they consider their ability to lend on and insure properties with potentially unsafe cladding. It is imperative that we have the ability to capture the data that will allow the register to operate as effectively as possible.

Although I appreciate that certainty as to what can be added to the register is an attractive prospect, on balance, the Government's position is

to retain such flexibility. I urge Miles Briggs not to move amendment 49.

In conclusion, I ask members not to move their amendments in this group.

I move amendment 10.

**Mark Griffin (Central Scotland) (Lab):** I have a number of amendments in the group, which, at this point, are all probing amendments. I appreciate the engagement that the minister has had with me ahead of stage 2 and that which we will have ahead of stage 3, as we seek to finalise the bill.

As the minister said, all my amendments in the group seek to change the language in the bill so that it clarifies that issues that are raised through the single building assessment must link directly to life-critical risk. However, taking account of the minister's points, I am happy not to move the amendments and to continue discussions with him prior to stage 3.

**Miles Briggs:** Amendment 49 is my only amendment in the group; it, too, is a probing amendment. The minister has clarified—this is important for developers—what works will need to be undertaken and the detail that will be in the cladding assurance register beyond the single building assessment. My specific concern is in relation to additional information that might come forward with regard to orphan buildings, and that potentially resulting in a delay for funding for related works.

Has the minister taken any advice on that issue? It has already been highlighted that limited funds will be available for works on orphan buildings. Will the requirement to provide more and more information create a situation that could limit the scope for the Government to progress works on orphan buildings? For those of us who represent people who live in such buildings, we do not want that to happen.

**Paul McLennan:** Shall I respond to that, convener?

**The Convener:** I will just check whether anyone else wants to come in first. As no one does, I invite the minister to respond.

**Paul McLennan:** We have spoken to the ABI and UK Finance about that. I come back to Mark Griffin's point. We have had discussions all the way through the process, and we will continue to do so. We had a quick chat yesterday to talk about that. I am happy to pick up that point, but we have had discussions with stakeholders about that.

**Miles Briggs:** Given that we are at stage 2, it is important that we have clarification on that, especially in relation to orphan buildings. Although they are not being looked at in two separate categories, it is important that we try to make sure

that it is clear that work on such buildings will be supported. I am happy not to move the amendment at stage 2, but I would appreciate engagement ahead of stage 3.

**Paul McLennan:** I will write to you.

**The Convener:** Do you have anything else to say to wind up, minister?

**Paul McLennan:** I have nothing further to add.

**The Convener:** I remind members that, if amendment 10 is agreed to, I will not be able to call amendments 44 or 45, due to pre-emption.

*Amendment 10 agreed to.*

*Amendment 11 moved—[Paul McLennan]—and agreed to.*

**The Convener:** The next group is entitled “Single-building assessments—content, definition, and effect”. Amendment 46, in the name of Mark Griffin, is grouped with amendments 51 to 53, 82 to 84, 42, 85 and 86. I call Mark Griffin to move amendment 46 and to speak to all the amendments in the group.

**Mark Griffin:** My amendments in the group are probing amendments to get more detail, as per what we heard at stage 1 about what a single building assessment would look like and other content around that. However, I have discussed the matter with the minister in advance and I welcome continuing into stage 3 on the design of the single building assessment.

Amendment 46 will provide a starting point for discussions, based on the report that the SBA should produce, highlighting the products that are used in the context of a ban. By mandating that that data be made available, Parliament would be able to scrutinise the process and ensure that the Scottish context in the PAS—publicly available specification—is not used to allow combustible materials to remain in situ on buildings that are over 11m high. The amendment would require the Scottish single building assessment to include information on the type of products that are present and their Euroclass ratings.

Through amendment 53, the bill would focus on the key concept of a single building assessment, as outlined in the explanatory notes. With so much of the process hanging on that key concept, it is essential that all parties that will be impacted by it have full clarity at the outset about what a Scottish single building assessment is, its specification, what it looks like and what standards it is assessing. None of that detail is provided in the bill but it is important detail that we should define. We should give people—residents and developers—more clarity about the details that should be contained in the SBA.

**Graham Simpson (Central Scotland) (Con):** Will you take an intervention on that point?

**Mark Griffin:** I will.

**Graham Simpson:** Amendment 53 says:

“Each single-building assessment report must state who is responsible for carrying out any remediation work”.

What level of detail would you expect in that? Are you talking about identifying companies or types of tradespersons? What are you driving at, in that amendment?

**Mark Griffin:** Thank you for that intervention. It would not be the company or tradesperson who would be responsible for carrying out the principal work, but the organisation or the corporate body that is responsible for commissioning, inspecting and ensuring that the work is up to an appropriate standard. That is the reference in amendment 53.

Amendment 82 is similar to amendment 53 and provides more detail on responsibility for the required works that are highlighted in the single building assessment.

I turn to amendment 83. The current guidance does not allow for tolerable risk in buildings. Each element that is included in the scope of the single building assessment can be categorised only as high risk or no risk. By implication, that means that most developments over 11m high will potentially default to being categorised as high risk. Again, we took evidence on that issue at stage 2. That could make things worse for home owners even if there are no life-critical issues that require remediation. The amendment seeks to remedy that by including a further category of risk that is defined as “tolerable”.

Amendment 84 seeks to ensure that information on the types of products that are present and their Euroclass ratings will be included in a building’s entry in the cladding assurance register, which will be publicly available. That will allow scrutiny of the SBA process and an understanding of the types of materials that are used in the external façades of the buildings in question. More generally, the amendment follows a number of written questions on the SBA process that I have lodged, through which I was looking for more detail up front for residents and people who will be responsible for scrutinising properties that they are looking to move into.

I turn to amendment 85. The bill provides a specific definition of buildings that fall within scope that includes a requirement on their height, but its wording would allow that to be amended by regulations at a future date, including to add buildings of heights lower than 11m. For consistency, amendment 85 seeks to prevent the Government from being able to alter the height specification of the buildings that will fall under the

legislation. It seeks to allow the height specification to be aligned with the Building (Scotland) Amendment Regulations 2022, which stipulate that a

“relevant building”

is

“a building having a storey, or creating a storey (not including roof-top plant areas or any storey consisting exclusively of plant rooms) at a height of 11 metres or more above the ground”.

I look forward to hearing the Government’s response to my amendments.

I move amendment 46.

**The Convener:** I invite Pam Duncan-Glancy to speak to amendment 51 and other amendments in the group.

**Pam Duncan-Glancy (Glasgow) (Lab):** My amendments in this and other groups are intended to address issues that I have heard about from residents who live in the Glasgow region, and which are, no doubt, also of concern to people across the rest of Scotland.

Amendment 51 seeks to introduce an oversight and advisory committee on the continued development and improvement of single building assessments. Amendment 52 seeks to create an independent reviewer who will be tasked with approving the key stages of the development of single building assessments. Amendment 86 is, I suppose, what we would call a tidying amendment. It seeks to ensure the timeous setting up of the committee that is proposed in amendment 51.

Residents in Glasgow—and probably, as I said, across the rest of the country—have felt quite distanced, in some cases, from the development of single building assessments and the processes. Residents associations in the region have raised concerns with me about conflicts of interests in relation to buildings with dangerous cladding, and they believe that occupier and owner voices in the process are essential to balancing such conflicts. I share that view. Occupier and owner voices are essential in the single building assessment development process to ensure that there is transparency and a system of checks and balances. In developing my amendments in the group, I considered that the Government must include owners, occupiers and representatives in the development of the building assessments.

Amendment 51 seeks to create a specific committee for single building assessments. It would require ministers to consult people on the development and continued improvement of the single building assessment under part 2 of the bill. Where problems were identified with the SBA system, the committee could consult ministers and

the required changes could be made. The amendment provides that membership of the committee must include owners and occupiers in buildings that are covered by the legislation as well as organisations that represent them, and it provides that ministers may identify other members of the committee as appropriate. Further, it would require ministers to try, in so far as it is reasonable to do so, to include disabled people and their representative organisations in that committee, given the number of disabled people who died during the Grenfell tragedy.

10:45

Further to amendment 51, amendment 55 has been lodged because residents have raised concerns about the current plan that only developers would create the single building assessment. Residents think that that would create a conflict of interests; I, too, am worried about that. The current plan means that the developers who are responsible for constructing a building would be chiefly responsible for ascertaining whether that building is a fire risk.

Amendment 52 would create an independent reviewer who would be responsible for approving the arrangement of the single building assessment, the single building assessment report and any subsequent works that were identified in it. It is my view, and that of the residents whom I have consulted, that that would add transparency and their voice to the process. Scottish ministers would have the power to determine the necessary expertise of the reviewer, but I suggest that that person should have expertise that is relevant to the issue that we are facing, which is fire safety and building development. That is essential to ensuring that the reviewer can adequately address the fire risks that are identified through the building assessment. In my opinion, amendment 52 would introduce checks and balances and transparency to the system that is currently proposed.

Put simply, amendments 51 and 55 would give occupiers and owners a voice in the development of the single building assessment. They seek to address the concerns that residents raised with me about potential conflicts of interests. I believe that the amendments would alleviate many of the concerns about developers having sole responsibility and would add the necessary checks and balances. I hope that the Government will support my amendments.

As I said earlier, amendment 86 is a tidying amendment to ensure that the proposed committee would be up and running timeously, in line with commencement of the legislation.

**The Convener:** I note for clarity that amendment 55 is not in this group. I heard some rustling of papers.

I invite the minister to speak to amendment 42 and other amendments in the group.

**Paul McLennan:** I will touch on the point about amendment 55 when we move to that group, Ms Duncan-Glancy. I note that reference.

I will begin with amendment 46. The cladding assurance register is designed to provide a reliable source of information on the condition of relevant buildings, including information on what remediation work, if any, the SBA states must take place in a building. The SBA itself will contain information on the different types of cladding that are used in a building. It is also possible that the register entry in relation to any remediation works that are required in a specific building could refer to the types of cladding that are used in the building, where that is relevant to the entry on remediation works.

We do not consider that it would be of benefit to have the register include the types of cladding that are used in a property, as is proposed by amendment 46. Remediation work to bring a building up to a tolerable risk level will not always include the removal of cladding in its entirety. There is therefore a risk that providing information about the types of cladding that are used in a specific building could work to the detriment of homeowners if insurers or mortgage providers were to use that information to refuse on a blanket basis to insure or to lend on that building, even when the SBA has concluded that the presence of a degree of cladding within the building is acceptable in that context.

I therefore invite Mark Griffin to seek to withdraw amendment 46 and I ask members to reject the amendment if it is pressed.

**Graham Simpson:** Minister, Mr Griffin's amendment 46 simply asks for owners and occupiers to be given the fullest possible information about what the property is actually built of. Is that not reasonable? You are surely not arguing that that is unreasonable.

**Paul McLennan:** In my opinion, the process in the bill would give them that information. I would be happy to pick up on that and to chat with Mr Griffin about the SBA process when that is completed, but I think that we have the process in place. I have discussed the matter with you, Mr Simpson. The SBA process currently includes developers and stakeholders. We are due to complete the process by the end of May and I hope to come back to the committee about the particular point. I think that we have in place a process to deal with the matter.

If it is okay to move on, convener, I will turn to amendment 52, which proposes the creation of an independent reviewer to bring a degree of independent assurance to the assessment and remediation process. I do not disagree with the principle of ensuring that appropriate checks and balances are in place to protect owners and residents, but I ask members to consider the relevant measures that we have already built into the bill.

Regardless of whether a single building assessment is instructed by the Scottish ministers or a developer, it must be carried out in accordance with the standards that are specified by the Scottish ministers and by a person who is authorised by them. That will ensure not only that there is a consistent approach to assessment, but that an assessment is always completed by a suitably qualified and competent individual—for example, a fire engineer with professional registration.

**Pam Duncan-Glancy:** Before I make my point, I clarify that the arguments that I made earlier related to amendments 51 and 52. I mixed up amendment 52 and amendment 55 but—I hope—not my arguments. I hope that that is clear.

Residents are particularly concerned that the bill's current provisions allow a developer to have almost sole control over the single building assessment for a particular development. Which aspects of the bill can mitigate those concerns?

**Paul McLennan:** I have a little bit more to say, so I will move on, but I will, I hope, pick up the points that you have mentioned.

Works will be considered to be complete only when the cladding assurance register is updated accordingly, which will require that works have been completed to the satisfaction of the Scottish ministers. Work is under way to develop a robust compliance and assurance framework to support that through the cladding remediation programme. That touches on the point that Ms Duncan-Glancy referenced, but I am happy to pick up points about completion of the SBA process.

I remind members that we always seek to undertake works with the consent of owners. If that is not possible, they have a right of appeal to the sheriff court, except in circumstances in which work is considered to be urgent because of there being an immediate risk to life, in which case such notice as the circumstances permit will be given.

In the light of the measures that I have outlined, I do not believe that an independent reviewer is necessary, why is why I ask members to reject amendment 52 if it is moved. We must avoid unnecessary delays in progressing with assessment and remediation.

On amendments 53 and 82, assigning responsibility for remediation work is not part of the SBA and is not an appropriate task for the experts who undertake the assessments. The purpose of the SBA is to comprehensively assess the risk to human life that is directly or indirectly created, or exacerbated, by a building's external wall cladding system. Responsibility for remediation work will be attributed after that work is identified in the SBA, when contractors will be engaged to carry out the remediation work. Amendments 53 and 82 would distract from the purpose of the SBA rather than improve the bill, so I ask members to reject the amendments in the event that they are moved.

I thank Ms Duncan-Glancy for lodging amendments 51 and 86, on a committee for single building assessments, which bring a key point to the attention of the committee. Home owners and residents must remain firmly at the heart of cladding remediation. We should, and we will, ensure that lived experience is considered, as we develop, implement and improve our approach to cladding remediation.

However, it is important for residents who are affected by such issues that the cladding remediation programme can be progressed as quickly as possible. It is inevitable that placing that aspect of the process on a statutory footing would delay, rather than speed up, the programme. I therefore propose to engage directly with Ms Duncan-Glancy to consider how best to build lived experience into our operational programme. I wrote to her last night about engaging with her as we move towards stage 3; I hope that she has received that correspondence. She has my commitment that we will consider how best we can ensure that everything that we do is informed by the lived experience of owners and occupiers, including those with disabilities.

On that basis, I ask that Pam Duncan-Glancy not move amendments 51 and 86 and that she agrees to meet me to consider how best we can embed lived experience in the cladding remediation programme.

Amendment 83 would require that the SBA sets out whether each risk that is identified during the assessment process is tolerable. That is not how tolerable risk will be assessed in the SBA. After all the risks have been identified, the SBA will state which of those risks should be addressed and how, in order to bring the risk as a whole that is posed to human life down to a tolerable level. As such, there will be no way to assess whether each risk is tolerable; tolerable risk must be assessed in the round, taking into account the risks as a whole that have been identified in a building and how they might be mitigated. The way in which amendment 83 is expressed would not allow an

SBA to be conducted in the way that is required. In any event, the standards in development are the best place to deal with questions about how tolerable risk is identified. I therefore ask Mark Griffin not to move amendment 83, and I ask members to reject it if it is moved.

Amendment 42 is a technical amendment to bring the definition of "building height" into line with the definition that we expect to be proposed for the single building assessment standard, which, in turn, draws on the definition that is contained in the PAS 9980 standards that are used elsewhere in the United Kingdom. An updated definition of building height will therefore support consistency between SBA assessments in Scotland and PAS 9980, and it will provide greater accuracy and clarity for all interested parties.

On amendment 85, our risk-based approach has consistently outlined the current scope of the programme as being buildings that are more than 11m in height. That is based on a risk assessment of capability to fight a fire, reflecting the reach of ground-mounted water jets and the use of specialist height appliances. The SBA is for buildings over 11m, and the bill is reflective of that scope. If ministers want to change the scope in the future, that would be subject to due consideration through appropriate regulations. We do not want to limit flexibility by stating the height in the bill. I reject amendment 85 and invite members to do the same.

**The Convener:** Before I invite other members to speak, I ask members to request interventions through the chair. As no other member wants to speak to the amendments, I call Mark Griffin to wind up.

**Mark Griffin:** I appreciate the minister providing the Government's response to the amendments in the group that I lodged. As I have said, they are probing amendments, and I look forward to working with the Government on the detail, as we move forward.

The single building assessment is such a crucial part of the bill that there should be clarity for residents and developers about what is contained in the SBA. I note that the Government intends to conclude the work by the end of May. I look forward to discussions with the minister about how we could incorporate some of the detail in the bill ahead of stage 3, so I seek permission to withdraw amendment 46.

*Amendment 46, by agreement, withdrawn.*

*Amendment 47 not moved.*

*Amendment 48 not moved.*

*Amendment 12 moved—[Paul McLennan]—and agreed to.*

*Amendment 49 not moved.*

*Section 1, as amended, agreed to.*

**Section 2—Offence of providing false or misleading information for the register**

*Amendment 13 moved—[Paul McLennan]—and agreed to.*

*Section 2, as amended, agreed to.*

**After section 2**

**The Convener:** We move to the next group of amendments, which is on communication and consultation. Amendment 5, in the name of Graham Simpson, is grouped with amendments 55 and 2.

**Graham Simpson:** Members will know that I was recently evacuated from the flat that I rent in Edinburgh. They will also know that everyone who was there that night got out okay, which is the most important thing.

The flats where I was living have cladding, and I know that the owners have been in discussions with the developers about that, so those owners are very much in the scope of the bill.

One thing that struck me at the time of the fire was that there was no list of who actually lived there. Such a list would not have told us who was there during the fire, but it would have been helpful—especially afterwards. We had police going around asking for names and contact numbers of everyone who got out. They did that twice, yet the contact details were never used; they should have been used to provide updates to people. Communications were initially poor, although they have definitely improved.

No one appears to be in charge. We have a residents' forum, which is very useful, but not everyone is necessarily aware of it or on it. Factors deal with owners, as they should, but I have long thought that factors should deal with anyone who is living in a development for which they are responsible. Tenants, of which I was one, should never have to rely on an owner who they might never have met to inform them of a building's fire safety status. Communication is key.

11:00

My amendment 5 would require that a register be set up of the owners and occupiers of the buildings in the cladding assurance register. That way, everyone would know if work was to be carried out. It would also mean that, should there be a fire, there would be an invaluable central record of information.

I would say that the current system is haphazard—but for the fact that there is no

system. Wider issues with tenements are being looked at by the Scottish Law Commission and the tenement maintenance working group, which I convene. If members are interested, they can attend a joint meeting of those groups on 8 May, from 6 o'clock, in committee room 5.

The other amendments in the group should also be supported. Pam Duncan-Glancy's amendment 55—yes: it appears in this group—says that ministers must consult with owners, occupiers and residents committees before arranging a single building assessment. However, of course, you first have to know who those people are, so amendment 55 works well with my amendment 5. Miles Briggs argues that the same people should be told the results of an assessment and be informed about any on-going work. There is no reasonable argument to be made against any of the amendments in the group, but no doubt the minister will have a go.

I move amendment 5.

**Pam Duncan-Glancy:** Amendment 55 is in a similar vein to my amendments in the previous group. The previous group was about a committee for all SBAs and having an independent reviewer. Amendment 55 specifically introduces a provision to make it mandatory for ministers to consult the occupiers and owners in a building before a single building assessment is undertaken on that building under the legislation. Again, that would add the owner/occupier voice to the process.

The amendment has been produced very much in response to a group of residents, of whom I know the minister is aware, who felt that their voice was not fully taken account of in the development of the single building assessment. In some cases, things such as a waking watch were put in place without much consideration for the residents and without giving them advance communication. Although it was necessary at the time, residents felt that that was particularly difficult and that they should have been a bit more involved. Amendment 55 seeks to guarantee that owners and occupiers will have a voice in the creation of single building assessments that are relevant to their building.

**Miles Briggs:** This goes to the heart of what was said by those who gave evidence to the committee and those who are angry that we have not seen any real progress in Scotland on the issue. They have faced an information vacuum. That is not fair and needs to be addressed. That is why I have lodged amendment 2, which seeks to introduce a duty to inform by calling on the Scottish Government to inform occupiers of buildings of the results of the single building assessment and give residents on-going information that they will want to be made aware of.

We do not have a timescale for when all the assessments and works that may be needed will take place, but it is important that those who live in those buildings are put at the heart of that. That is why I want amendment 2 to be passed and for it to be put in the bill that the people who live in those buildings should know what is going on and should be given the information that they are entitled to. That has not happened to date.

I hope that the Government will accept amendment 2 today or take it forward as a working amendment at stage 3, because those who are affected need to be put at the heart of the bill. That is what I tried to achieve through my work on the committee and through the stage 1 debate, when all that was highlighted.

Amendment 5, in the name of Graham Simpson, could provide a lot of good additional information. Properly collating the information on residents who own their property or who rent it would add value. As communications are taken forward, those who rent—they are not owners but are occupiers—should be given the same information. I see no reason for any difference.

**The Convener:** Since no other members wish to speak to those amendments, I will ask the minister to speak.

**Paul McLennan:** Amendment 5, in the name of Graham Simpson, seeks to establish a register of contact details for owners and occupiers, to enable them to be notified of works to be carried out on their building and in the event of a fire, so long as remediation works have not been carried out. Such a register would be maintained by a factor, a residents committee or other such persons as the Scottish ministers consider appropriate.

Graham Simpson's amendment is likely to be reflective of common practice in multi-residential properties across Scotland. Factors, for example, no doubt often maintain such lists as part of their routine business and best practice. I appreciate the comments that Mr Simpson has made, and I will come on to them.

However, I have significant concerns about data protection—

**Graham Simpson:** The minister says that it is common practice to keep in communication with everyone who lives in a building, and he says that factors do that routinely. Factors do not do that routinely. Factors deal with owners, and owners might not live there. That is the reality of the situation, and that is what my amendment 5 seeks to rectify. It is certainly not common practice. People who are renting are not generally communicated with.

**Paul McLennan:** I will come on to that. I appreciate the comments that you have made. I met residents from flats in the area that you stayed in, I spoke to them directly about the issue and I will have a follow-up meeting with them on that point.

As I said, I would have significant concerns about data protection if that practice was to be placed on a statutory footing, and I will touch on that in a wee second. The implications need to be fully explored, and, regrettably, in the context of the bill, we do not have enough time to do that.

However, again, I note that the maintenance of such lists is likely to be common practice, and, as we have touched on, would no doubt be advantageous in the scenarios that Graham Simpson refers to in amendment 5.

As part of the operational aspects of the cladding remediation programme, where the Government is involved in remediation, it will encourage adequate communication with residents via factors or residents associations.

All that being said, I urge committee members to reject amendment 5.

I will come on to the other amendments and how we will progress with those. Moving on to amendment 55, in the name of Pam Duncan-Glancy, I will state again to the committee and to those owners and residents of buildings within the scope of the cladding remediation programme that, where the Scottish Government is involved in the remediation of buildings, our communications must improve. I previously updated the committee that we are working on an improved communications protocol; we are ensuring that we engage fully with owners and residents, ahead of ministers arranging for a single building assessment to be carried out.

As a result, I am of the opinion that we can have some sympathy with the principle of Pam Duncan-Glancy's amendment 55. However, the amendment does not cover the situation where developers are in charge of the remediation of buildings, and it appears to me that the consultation with owners and occupiers should be conducted by the party in charge of remediation. Therefore, I ask Pam Duncan-Glancy not to move amendment 55 but, instead, to work with me to refine the details ahead of stage 3—I would say the something similar to Graham Simpson. If amendment 55 is moved, I ask committee members to reject it.

**Pam Duncan-Glancy:** Thank you for that, minister. I appreciate the willingness to talk more about that, and I appreciate your reaching out in your letter to offer that.

However, you just made a point about developers leading the single building assessment and ministers not necessarily being the people who do the consultation. That is part of the concern that I am trying to address. Residents are worried that, with developers having sole control over the single building assessment—as they see it—they will not have the opportunity to have any input.

If the minister does not support amendment 55, could he clarify how he envisages that conflict being addressed?

**Paul McLennan:** That is why I am coming back to you, because I am aware of the situation in the building that you are referring to. There are different situations in different parts of Scotland with different buildings, so we are trying to take that on as a whole in the discussions that we are having. I am aware of the specific point that you make, as we prepare for stage 3. There are different situations in different buildings in the country, which we hope to pick up on in all parts of the country. I am happy to have that discussion, which we are having on the specific building that you mentioned.

Lastly, I move on to non-Government amendment 2, in the name of Miles Briggs. The Government is sympathetic to the principle of the amendment as it accords with our usual practices of open and transparent government. Sharing the results of the SBA will promote understanding of the process and the works that are to be carried out, and enable homeowners and occupants to organise themselves accordingly.

However, I have some technical concerns regarding the drafting of the provision and how it would operate in practice, such as in cases where the remediation is developer led, given that the amendment places an obligation on ministers. I therefore ask Miles Briggs not to move amendment 2 and to work with the Government to refine it ahead of stage 3. If the amendment is moved, I ask the committee to reject it.

**Graham Simpson:** I do not have a lot to add. I was initially disappointed with the minister's comments, but I am sure that I heard him say that he was offering to work with me and others ahead of stage 3. If the minister is able to provide some clarity on the extent of that and whether we will get to a point where he accepts my principle that all those living in a building should be communicated with, I think that I could accept what he is offering. If he wants to intervene to clarify that point, I am happy to take the intervention.

**Paul McLennan:** We have indicated that we are willing to work in that regard and to take into account the aspects that have been raised. We will reach out to you to arrange further

discussions. If you require further clarity before that, we will pick that up with you. I also say to Ms Duncan-Glancy and Mr Briggs that communication is important, as can be seen from what Mr Simpson said about the incident that he was involved in.

I am happy to engage with you before stage 3, Mr Simpson. If there are any specific points that you want to talk about, you can contact my colleagues or me so that we can try to address them. We have shown willingness to discuss the points that have been raised, which are all related. I am happy to clarify matters and have a meeting to see how we can progress that as we move towards stage 3.

**Graham Simpson:** I thank the minister for that intervention. However, I will not be looking for clarity; I will be looking for a meaningful amendment at stage 3 that covers the point that I have raised. I am prepared to give the minister a chance—I hope that I do not regret it. He likes his meetings, but if we are to have a meeting, it has to be a meaningful meeting with action at the end of it and an amendment or two that addresses the points that were made by me, Ms Duncan-Glancy and Mr Briggs, or a combination of those points. We need action. It cannot just be a meeting for the sake of having a meeting.

On that basis, I will go with the minister on this occasion and seek the committee's agreement to withdraw amendment 5.

*Amendment 5, by agreement, withdrawn.*

### Before section 3

**The Convener:** The next group of amendments concerns liability for costs of assessment and remediation. Amendment 50, in the name of Miles Briggs, is grouped with amendments 54, 59 and 62.

**Miles Briggs:** I lodged the amendments after having been in communication with various home owners in the affected buildings across Scotland with regard to some of their concerns about future costs that they might face. I lodged the amendments in order to see where the Government is with regard to ensuring that the bill clarifies that owners and residents of buildings that are affected by cladding issues will not be held liable for the associated costs.

We also need to consider the management of those costs. We know that, for many of the buildings that might be seen as having a tolerable risk, there may be additional costs around on-going management which, at present, would be part of a factoring bill. Residents want clarification about what that will mean. I do not think that any of us wants to see a situation in which that becomes a licence to print money, with home

owners facing annual additional costs on their factoring bill for the inspection of, for example, any cladding that the Government has decided is tolerable, under the single building assessment.

I lodged the amendments to see what the minister's thoughts on that are, as I said, and to point towards a potential stage 3 amendment that would clarify the situation for home owners who, through no fault of their own, are living in those buildings with cladding and are worried about additional costs that the Government might place on them with regard to the management of their buildings.

I move amendment 50.

11:15

**Paul McLennan:** It would not be appropriate for the bill if amendments 50, 54, 59 and 62 were passed. There is a variety of circumstances in which cladding is managed, assessed and remediated. Amendment 50, in particular, makes no distinction as to the characteristics of the buildings, so liability would be excluded for any owner, including owners of hotels, residential care homes and so on. In practice, that would prevent such owners from being able to arrange single building assessments and remediation.

Amendment 54 would amend a section dealing with ministerial powers, so an exclusion of liability of costs for owners does not make sense in this context. In addition, those who instruct a single building assessment or work would be liable to pay for it under any ordinary contract arrangements. There should be nothing to stop owners instructing their own SBA and remediation work if they want to do that, but amendment 54 would have that effect.

The effect of amendment 59 in a section relating to ministerial powers is unclear. An SBA contains a fire risk assessment, and issues may therefore be identified that are the legal responsibility of owners—to keep common passages clear, for example. It would not be appropriate for the bill to exclude liability for that, and such a provision could have significant unforeseen consequences regarding the safety of buildings.

Amendment 62 is redundant, as section 7 relates to ministerial powers, and an exclusion of liability for owners does not make sense in that context.

For all those reasons, I ask Miles Briggs to seek to withdraw amendment 50 and not to move the other amendments in the group. If the amendments are pressed, I urge members to reject them.

**Miles Briggs:** As I have said, this group is a set of probing amendments. The minister did not

comment on the rationale behind why I lodged them, which specifically relates to the future management of cladding. The bill is empty regarding situations following a single building assessment, where a building is ascribed a tolerable risk, or amber, and regarding what that means for the future management of those buildings.

I would be happy to work with the minister towards stage 3 amendments, as home owners want that clarification as to who, potentially, will be paying the costs. As I said during the stage 1 debate, much of the work that the committee has done suggests that a lot of the future maintenance of buildings is not included in the bill, and there are secondary factors that we need to consider. That might be in the context of a specific factoring bill for the buildings that will be identified and then rated in different ways, with the on-going maintenance of any cladding that is seen to be tolerable.

I wonder what the minister's thoughts are on that. Is there scope for amendments around that at stage 3?

**Paul McLennan:** We have talked about this matter previously as regards amendment 50 itself, and it falls within the scope of the bill. You have mentioned a factoring bill, and I am happy to pick up that point with you, as it is important regarding the scope of the bill and how such provisions fit in. I am also happy to pick up on the other amendments as we go through the SBA process, both during the passage of the bill and after the bill is passed. I can give a commitment to have a discussion about it once the SBA process moves to completion.

Specifically on amendment 50, I am happy to pick up on the issue around the factoring bill, as you discussed.

*Amendment 50, by agreement, withdrawn.*

**The Convener:** I call Pam Duncan-Glancy to move or not move amendment 51.

**Pam Duncan-Glancy:** On the basis of the minister's commitment to discuss the issue at stage 3, I am minded not to move the amendment, although I will be looking for significant commitments allowing the committee to oversee the development of single building assessments. That also applies to other amendments in the same group, to which I will come in a moment.

*Amendment 51 not moved.*

**The Convener:** I call amendment 52, also in the name of Pam Duncan-Glancy.

**Pam Duncan-Glancy:** I will not move amendment 52, on the same basis—that I am happy to engage with the minister between now

and stage 3 to see how we can further strengthen the bill to ensure that there is independence, that the conflict of interest is removed from the bill and that owners and occupiers have sufficient voice not only in the development of the single building assessment in general, but in relation to their own buildings specifically. On that basis, I am happy not to move amendment 52.

*Amendment 52 not moved.*

### **Section 3—Power to arrange single-building assessment**

*Amendment 53 not moved.*

*Amendment 54 not moved.*

**The Convener:** Amendment 55, in the name of Pam Duncan-Glancy, has already been debated with amendment 5. Pam Duncan-Glancy, will you move or not move the amendment?

**Pam Duncan-Glancy:** I will not move it on the basis that there is a commitment from the minister to discuss the matter between now and stage 3.

*Amendment 55 not moved.*

*Section 3 agreed to.*

### **After Section 3**

*Amendment 14 moved—[Paul McLennan]—and agreed to.*

### **Section 4—Power to require information for single-building assessment and the register**

*Amendment 15 moved—[Paul McLennan]—and agreed to.*

*Section 4, as amended, agreed to.*

*Section 5 agreed to.*

### **Section 6—Power to arrange remediation work**

*Amendment 16 moved—[Paul McLennan]—and agreed to.*

*Amendment 56 not moved.*

*Amendment 57 not moved.*

**The Convener:** The next group of amendments is on fire safety measures. Amendment 17, in the name of Graham Simpson, is grouped with amendments 58 and 66.

**Graham Simpson:** Thanks, convener. There is a bit of a pattern developing already, and we will see whether that continues.

I once again share a group with Pam Duncan-Glancy, which is always a pleasure. I have one amendment in the group, but given that the group is on fire safety measures, it is pretty fundamental

to the bill. If the convener will allow me to remind the committee of its recommendation in paragraph 73 of its excellent report, it says:

“The Committee notes the Scottish Government’s expressed ambition for the Bill is to address cladding issues and in so doing encourage speedier remediation. However, the Committee heard in evidence concerns about wider fire safety issues broader than cladding and would welcome a response from the Scottish Government on how it plans to tackle these issues in the future. It would appear to the Committee from the evidence it heard that the problems of obtaining building insurance and also resolving issues relating to lending and selling affected properties will persist if these wider fire safety issues are not resolved or managed.”

That is very sensible stuff, and it is that issue of wider fire safety issues that my simple amendment seeks to address. The minister, in his response to the committee on that point, said:

“Whilst additional risks related to building safety or fire prevention may become evident during the process of assessing and remediating unsafe cladding, it’s important that we recognise that there are broader systems and legislation in place to manage these where they fall outside the scope of the Cladding Remediation Programme.”

I am not exactly clear what he means by that, but, in any case, my proposed amendment to section 6, which I now invite members to look at, merely adds the words,

“including any associated fire safety risks”.

Section 6(1) would then read:

“The Scottish Ministers may arrange for work to be carried out that is identified in a single-building assessment report as being needed to eliminate or mitigate risks to human life that are (directly or indirectly) created or exacerbated by the building’s external wall cladding system, including any associated fire safety risks.”

That is within the scope of the bill, but in some ways it alleviates the committee’s justified concerns. People cannot look at just one part of a building when assessing fire risk. If a building has cladding, other things become linked, such as escape routes, alarm systems, the lack of sprinklers or otherwise—I could go on. My amendment is narrowly worded—the convener rejected an earlier effort—and I invite the committee to accept it.

Amendment 66, which is Ms Duncan-Glancy’s substantive amendment in the group, calls for a risk assessment to be done for any occupier with a disability. She and I have discussed that. That throws up a number of issues but, in essence, she is right. I might respond to what she has to say once I have heard it, and I will come back on what the minister has to say. I hope that he will be as positive as he has been so far.

I move amendment 17.

**Pam Duncan-Glancy:** Amendment 58, which is in my name, builds very much on what we have

just heard from my colleague Graham Simpson about the need to address other fire safety issues that may be identified in the development of a single building assessment. The minister will be aware that residents of buildings with flammable cladding have raised concerns with me about the fact that other issues have been picked up in assessments that have been made available by independent fire engineers. They fear that, as the bill stands, those other issues would not be considered or would not be part of an assessment. Amendment 58 would mean that any works that a single building assessment identified as having to be completed to mitigate the fire risk of dangerous cladding must be done in line with fire safety guidance, in the hope that broader safety and fire safety considerations might be taken into view.

Amendment 66, which is in my name, is specifically about disabled people. In the inquiry into the Grenfell tragedy, it was found that 41 per cent of disabled people who lived there died in the fire. I am determined that we ensure that that never happens again, and I think that there are mechanisms in the bill for us to do that.

In the event of a fire at a building with flammable cladding, there is presently a risk that no specific plans are in place to ensure that disabled people get to safety. I want to do everything that I can—I am sure that other committee members and the minister also want to do everything that they can—to mitigate that risk by ensuring that any works that are identified by a single building assessment under the legislation are followed up by having a specific assessment of the risk to disabled people in the building, including how they would be expected to escape.

The Grenfell tragedy taught us many lessons, and we all have to work to ensure that this never happens again. As I have said, one of the starkest lessons is how fatal it can be when disabled people's particular issues are not necessarily provided for.

Amendment 66 seeks to give ministers the responsibility to ensure that, when a specific risk assessment is undertaken, disabled people in the particular building are considered so that they know that, in the event of a fire or an evacuation, there is specific support and a plan to help them to get out. The amendment seeks to revert to ordinary standard procedures once the building has been remediated, so as not to bring it outwith the scope of the legislation. Given what we have learned from Grenfell, the amendment is particularly important, and I encourage members and the minister to give it serious consideration.

**Paul McLennan:** I will speak first to amendment 17, which seeks to amend section 6. Section 6 refers to the building's external cladding system as the basis for the Scottish ministers to arrange for

work that is identified in a single building assessment, where such work is needed to eliminate or mitigate risks to human life. Amendment 17 would add

“any associated fire safety risks”

to that of the cladding system. As such, it would broaden the scope of the cladding remediation programme.

I recognise the amendment's positive intent but, on balance, my position is to retain the focus on the cladding system. The bill's narrow focus is imperative to ensure that the multiresidential buildings that we have identified as being at most risk of causing harm because of unsafe cladding are remediated as swiftly as possible. For good reason, wider fire safety is outwith the scope of the cladding remediation programme and the bill cannot address it. On that basis, I urge Graham Simpson not to press amendment 17, and I urge the committee to reject it if it is pressed. However, I acknowledge the points that he has raised, and I am happy to write to him on the wider fire safety aspect or meet him.

11:30

Amendment 58 seeks to amend section 6 by requiring any works that are carried out under the section to adhere to the latest fire safety guidance. That should always be the case, and I have concerns about the drafting of the amendment. There is a lack of clarity about whose guidance is to be followed. That question is left open, which prompts additional uncertainty about what should be considered the latest fire safety guidance.

The position on fire safety guidance is clearly set out in the bill, and the single building assessment process will be the place for a qualified person to assess fire risk. That should not be covered by an amendment, so I ask the member not to move the amendment and, if it is moved, I ask the committee to reject it.

Amendment 66, in the name of Pam Duncan-Glancy, raises the important question of how we ensure the safety of building occupants with a disability when a building has an identified risk following a single building assessment. Although I have great sympathy with the amendment's intention, I am concerned that the amendment might be unworkable because of the sensitive personal data that ministers would be required to collect and store. That needs to be carefully considered, not only here today but among the full range of partners that can contribute to developing and operationalising an appropriate solution. That is why I will not be able to support amendment 66 today. However, I would like to discuss it further with Pam Duncan-Glancy, and I very much hope that she will work with me on her specific points.

I ask Graham Simpson to withdraw amendment 17. I said that I would contact him in writing about the wider fire safety issues. I ask Pam Duncan-Glancy not to move amendments 58 and 66. If the amendments are pressed, I will ask committee members to vote against them.

**The Convener:** Does Graham Simpson want to press or withdraw amendment 17?

**Graham Simpson:** I listened with interest, as I always do, to Pam Duncan-Glancy. She has raised very important issues. Committee members can imagine that, if there is a disabled person in a block of flats, unless they are on the ground floor, they could struggle to get out of a burning building when the lifts are out of action. How do they get out? You just dread to think about it. It would be an awful situation. Pam Duncan-Glancy raises a really important issue.

The minister makes a fair point about sensitive personal data, but I would have thought that, if a system was in place whereby disabled people could declare themselves disabled, some kind of register or list could be kept, so that you would at least know that there was a disabled person in flat 1, 2, 3, 4 or wherever it was, and plans could be put in place in the awful event of a fire breaking out. I think that that is what Pam Duncan-Glancy is getting at.

I am disappointed that the minister has offered only to write to me. I enjoy reading his letters, but I am looking for something a bit stronger than just writing. I am happy to receive his correspondence, but it sounds as though we are probably never going to agree on the issue, so although I look forward to his letter, I will press amendment 17, on the basis that he has not offered to work with me for stage 3. I might as well give the committee a vote.

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

**Members:** No.

**The Convener:** There will be a division.

#### For

Briggs, Miles (Lothian) (Con)  
Gosal, Pam (West Scotland) (Con)  
Griffin, Mark (Central Scotland) (Lab)

#### Against

Beattie, Colin (Midlothian North and Musselburgh) (SNP)  
Burgess, Ariane (Highlands and Islands) (Green)  
Callaghan, Stephanie (Uddingston and Bellshill) (SNP)  
Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)

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

*Amendment 17 disagreed to.*

*Amendment 18 moved—[Paul McLennan]—and agreed to.*

**The Convener:** Does Pam Duncan-Glancy wish to move amendment 58?

**Pam Duncan-Glancy:** On the basis of what we have just heard, I will not move amendment 58, and I undertake to work with the minister on it.

*Amendment 58 not moved.*

*Amendment 59 not moved.*

*Amendments 19 and 20 moved—[Paul McLennan]—and agreed to.*

*Section 6, as amended, agreed to.*

#### Section 7—Power to arrange urgent remediation work

*Amendments 60 and 61 not moved.*

*Amendments 21 and 22 moved—[Paul McLennan]—and agreed to.*

*Amendment 62 not moved.*

*Section 7, as amended, agreed to.*

#### Section 8—Power to evacuate

**The Convener:** The next group is on the power to evacuate. Amendment 63, in the name of Miles Briggs, is grouped with amendments 23, 24 and 65.

**Miles Briggs:** The bill gives ministers substantial powers, so my two amendments in the group are about ministers acting reasonably. We need to look towards how ministers will exercise their powers and look at potential grounds for legal challenge that overreach might bring forward. My amendments would set it out in the bill that ministers should act reasonably in exercising their powers under section 8.

I move amendment 63.

**Paul McLennan:** I will speak to amendments 23 and 24 in the group. Occupants may be required to evacuate from premises when there is a substantial risk to life due to a building's external wall system. However, the risk may not be shared equally by all occupants who are required to remove themselves from that building; often the most significant risk will be to those who are higher up in a building. It is therefore important that the evacuation power is available in relation to premises the occupation of which would create a substantial risk to others, even if the lives of the occupants of those premises were not themselves at risk. For example, if the continuing occupation and use of ground-floor commercial premises is putting the lives of others in the building at risk, we must be able to act decisively and instruct removal from the ground-floor premises in order to prevent risk to those higher up in the building. Government amendments 23 and 24 seek to address that and

other similar situations, and I ask members to support them.

I turn to amendments 63 and 65, in the name of Miles Briggs. As a matter of public law, it is clearly the case that the Scottish ministers must act reasonably and proportionately in exercising any of their powers. Any exercise of the power to evacuate will be based on robust evidence that there is no alternative or mitigation. That will be specific to each unique development and set of circumstances. Adding the word “reasonable” would not enhance the bill or change the law in any way, and it is entirely unnecessary. I therefore ask Miles Briggs not to press amendment 63 and not to move amendment 65. If the amendments are pressed, I invite members to reject them.

**The Convener:** No other members wish to speak to the amendments in the group.

*Amendment 63, by agreement, withdrawn.*

*Amendments 23 and 24 moved—[Paul McLennan]—and agreed to.*

*Amendment 64 not moved.*

*Amendment 25 moved—[Paul McLennan]—and agreed to.*

*Amendment 65 not moved.*

**The Convener:** The next group of amendments is on notices. Amendment 26, in the name of the minister, is grouped with amendments 33 and 34.

**Paul McLennan:** Section 8 refers to the ministerial power to evacuate, while section 16 refers to giving notice when the recipient’s address is unknown. In both cases, there is an obligation to display a notice

“on or near the premises”,

and amendments 26 and 34 simply clarify that such notices must be displayed “conspicuously”, in line with similar provisions that are made in legislation elsewhere.

Amendment 33 further amends section 16 to the effect that a notice that is displayed is taken to be received 48 hours after it is put up. It is important to be clear when notice periods start and finish as, in the absence of owner consent, it is only after the required period of notice that a single building assessment and remediation work can begin. It is thought to be reasonable to deem a notice to be received 48 hours after it is displayed.

I move amendment 26.

*Amendment 26 agreed to.*

*Section 8, as amended, agreed to.*

*Schedule 1 agreed to.*

*Section 9 agreed to.*

## After section 9

**The Convener:** Amendment 2, in the name of Miles Briggs, was debated with amendment 5. Does Miles Briggs wish to move the amendment?

**Miles Briggs:** Given what the minister said about some technical issues that he has with my amendment and given his willingness to discuss it in order to bring it back at stage 3, I will not move the amendment.

*Amendment 2 not moved.*

## Section 10—Appeal against arranged remediation work

**The Convener:** The next group of amendments is on appeals against arranged remediation work. Amendment 7, in the name of Graham Simpson, is the only amendment in the group.

**Graham Simpson:** Amendment 7, which is the only one in the group, deals with section 10, which allows for appeals to a sheriff against arranged remediation work. The view of property managers who have spoken to me is that, as a sheriff is a layman in technical terms, even when they act on a professional witness’s advice, they are unqualified to interpret and singularly determine or make an order on what are often vastly complicated as-built technical challenges. As I agree with that assessment, my amendment says that sheriffs should nominate a panel of experts and take their views into account when dealing with such appeals. I invite the committee to support what is, I say to the minister, another commonsense amendment.

I move amendment 7.

11:45

**Paul McLennan:** Amendment 7 would require a sheriff to appoint a panel of technical experts with knowledge and experience of remediation work and take into account their views when making a decision on an appeal.

I recognise the positive intent of Graham Simpson’s amendment as, often, matters may be technical and expert advice might assist the court. However, appeals under section 10 would carry a great degree of urgency, as they would be brought forward in cases in which a single building assessment, which was produced by appropriately qualified professionals, had identified the need to act promptly to eliminate or mitigate risks to human life. A requirement to appoint a panel of experts would almost invariably add to the time that it takes for a court to consider an appeal in what may be life-critical matters.

That is not to say that there is no role for technical experts in some cases, and parties may

instruct their own expert witnesses. However, it is not proportionate to require a sheriff to nominate a panel in every case, and I would have concerns about the impact of amendment 7 on judicial independence and on the court's ability to deal with cases as it sees fit.

The Government's informal engagement with the Scottish Courts and Tribunals Service, ahead of stage 2, suggests that it shares at least some of those concerns. In addition, how the arrangements would work in practice is unclear, and there are questions about the cost, size and composition of the panel—including whether the membership was agreeable to both parties, for example—as well as the impact on court rules.

For those reasons, I ask Graham Simpson not to press amendment 7. If the amendment is pressed, I ask the committee to reject it.

**Graham Simpson:** I always think that it is useful for people to listen to the arguments that are presented at stage 2 and be prepared to change their minds, even if they have a voting intention in front of them—and even if they moved an amendment. I have listened to the minister's arguments, and he has persuaded me, so I will not press amendment 7.

**Paul McLennan:** A commonsense approach.

**Graham Simpson:** That is what we need more of, minister.

*Amendment 7, by agreement, withdrawn.*

*Section 10 agreed to.*

#### **Section 11—Authority for carrying out assessment or work**

*Amendments 27 to 29 moved—[Paul McLennan]—and agreed to.*

*Section 11, as amended, agreed to.*

#### **Section 12—Warrant authorising use of force to effect entry**

**The Convener:** Our next group is on warrants authorising the use of force to effect entry. Amendment 30, in the name of the minister, is the only amendment in the group.

**Paul McLennan:** Section 12(6)(c) currently includes justices of the peace as judicial office holders to whom application may be made for a warrant authorising the use of reasonable-force entry. Amendment 30 will delete that reference. Given the urgency attached to such warrant applications, we want to make sure that the process runs as smoothly and quickly as possible. It is understood that, in practice, such applications are likely to be more speedily dealt with through an application to a sheriff or summary sheriff, and

the bill should therefore direct applicants accordingly.

I move amendment 30.

**The Convener:** Since no other member wishes to speak to amendment 30, I invite the minister to wind up.

**Paul McLennan:** I have nothing further to add, convener.

*Amendment 30 agreed to.*

*Section 12, as amended, agreed to.*

#### **Section 13—Offence of obstructing assessment or work**

*Amendment 31 moved—[Paul McLennan]—and agreed to.*

*Section 13, as amended, agreed to.*

#### **Section 14—Offence of failing to assist with assessment or work**

*Amendment 32 moved—[Paul McLennan]—and agreed to.*

*Section 14, as amended, agreed to.*

*Section 15 agreed to.*

#### **Section 16—Giving notice where recipient's address is unknown**

*Amendments 33 and 34 moved—[Paul McLennan]—and agreed to.*

*Section 16, as amended, agreed to.*

*Section 17 agreed.*

#### **After section 17**

**The Convener:** I call Pam Duncan-Glancy to move or not move amendment 66, which has already been debated with amendment 17.

**Pam Duncan-Glancy:** On the basis of the minister's undertaking to speak with me between now and stage 3—I have sought and am seeking assurances that we will work together to do something in the bill that will protect disabled people where flammable cladding is found on a building—I will not move amendment 66.

*Amendment 66 not moved.*

*Sections 18 and 19 agreed to.*

#### **Section 20—Power to establish scheme**

**The Convener:** The next group is on the responsible developers scheme. Amendment 67, in the name of Miles Briggs, is grouped with amendments 68, 71, 35, 3, 72, 36, and 75 to 79.

**Miles Briggs:** I hope that members will follow my train of thought throughout this group of amendments—there are quite a lot of them. These are probing amendments that seek important clarification from the Government on how the responsible developers scheme will operate. The bill does not set that out clearly in a number of areas.

Amendment 67 seeks to amend section 20(1), which would empower the Scottish Government to create several responsible developers schemes. I am interested to understand why several schemes would be needed and how any resources that are provided would be administrated within those schemes.

Amendment 68 seeks to ensure that developers and those in the supply chain make proportionate contributions towards remediation.

Amendments 71 and 72 seek to address issues with regard to paying fees into the scheme. There is no clarity on how much those will be. As we move to stage 3, we need to know how that aspect will operate.

Concerns have also been expressed about the opportunity for a right to appeal. It is important that we consider anyone who will be excluded from the scheme and what impact that could have. That needs to be clear in the bill. My amendment 78 seeks sufficient detail on the right to appeal that may be created through regulations.

All of us have accepted the need to create the right environment for developers to fix cladding and to fund remediation works that might take place. That is important. Amendment 79 would remove powers to create a prohibited developers list. There is concern about what effectively blacklisting companies in Scotland would mean. For some small and medium-sized enterprises, that could be hugely damaging—it could put them out of business.

Through my amendment 3, I am keen to probe the Government's position on turnover. In the rest of the UK—in England—SMEs with an annual turnover of £10 million have been excluded from the scheme. We know that housing completion rates have been low recently and the impact that that can have on rural and island communities, where most housing is being developed by SMEs. What impact assessments have been carried out on how the bill will impact on those SMEs? I take on board that a limited number of SMEs are exposed to the buildings that are included in the first phase of work.

I hope that these probing amendments are useful to help us to consider the unintended consequences on developers. I am happy to work with the minister ahead of stage 3 to iron out some of the detail, but I think that it would be useful to

have clarification on the scheme and on any unintended consequences that might lead to developers being blacklisted.

I move amendment 67.

**Paul McLennan:** I appreciate Miles Briggs's comments. For general context, I note that I have had a number of meetings with Homes for Scotland, particularly about the SME concerns that have been raised. Those concerns will be considered as part of the SBA process as it continues and as things move on to the responsible developer scheme.

I will speak first about my amendments 35 and 36. Amendment 35 requires the Scottish ministers to consult before making regulations to establish a responsible developers scheme. That consultation would primarily be with those concerned with the construction or development of buildings, but would also include any persons that the Scottish ministers consider appropriate. I trust that the committee will welcome the amendment, which responds to concerns that were raised during the stage 1 process about the lack of detail on and lack of consultation regarding the responsible developers scheme.

Requiring consultation on the detail of the responsible developers scheme before developing secondary legislation signals our intention to work collaboratively and to undertake a full consultation with developers, including SMEs and other interested parties. Developers play an important part in Scotland's economy by providing safe and high-quality homes and we want to work with them to ensure a proportionate and collaborative approach to delivery of the cladding remediation programme.

Amendment 36 clarifies the definition of a "developer" in section 21(6) and is also part of the Government's response to concerns that were raised during the stage 1 process regarding some of the definitions in the bill.

I move to amendment 67 and will also touch on the remaining amendments in the group, which are all in the name of Miles Briggs. In doing so, I ask members to keep in mind the Scottish Government's clear policy objective that developers must play their part in making buildings safe. The Scottish Government expects developers to commit to identifying, assessing and remediating buildings in Scotland, as they have done in Wales and England.

Amendment 67 amends section 20 of the bill and appears to aim to remove the Scottish ministers' ability to set up more than one scheme. My position is that it is important for ministers to be able to respond to the needs of homeowners, developers and other stakeholders and that, following consultation, we will be in a better

position to determine precisely what is required. The bill therefore retains the ability to form more than one scheme, which would enable us to accurately and sensitively design schemes for different sizes or types of developers, in line with their needs. I therefore ask the member not to press amendment 67.

Amendment 68 seeks to amend section 20 by changing the purpose of a scheme from requiring a person in the industry to “address or contribute” to the costs of addressing issues covered by the bill and the cladding remediation programme to requiring that they should instead

“make a reasonable and proportionate contribution”.

I am concerned that that apparently slight change in wording could have the effect of diluting the policy aim that I stated earlier, which is that developers must play their part in making buildings safe.

The stated aim of the responsible developers scheme is for developers to address and contribute to the buildings that they have developed. The provision as it stands allows for flexibility in the subsequent regulations as to how developers will be involved in remediation. The consultation that precedes the making of regulations will allow for that issue to be explored in more detail and I would not wish to reduce the mandate of that consultation by reducing flexibility at this point. I therefore ask the member not to move amendment 68.

Amendment 71 seeks to amend section 20 of the bill by removing the option that a scheme set up by the subsequent regulations may

“require members, or persons seeking to become members, of a scheme to pay fees”.

Although I can understand why some would like to see that excluded from any future scheme, it is important that that remains an option for the Scottish ministers, because it requires consideration of the impact of the cladding remediation programme on the public purse and allows ministers to require, for example, that admin fees be paid as part of that scheme. In that context, I again refer members to the policy objective that I stated some moments ago.

I acknowledge that there will be strong views regarding any such fee, which will form part of the Government’s consultation. However, my position is that it is important to separate that question from the question whether the Scottish ministers should have the option of requiring fees from scheme members. I therefore cannot support amendment 71. I urge Miles Briggs not to move it and committee members to reject it, if it is moved.

Amendment 75 relates to conditions of membership and inserts the words “reasonable

and proportionate” into the existing provision that requires scheme members to make financial contributions in respect of single building assessments and the carrying out of work identified in such assessments. I am concerned that that change could limit the scope of how scheme members will contribute to the scheme and I consider it unnecessary at this point. I again point to the consultation process to flesh that out, and I am concerned that adding that wording to primary legislation would limit what is possible in the regulations.

I turn to amendments 76, 77 and 78, which concern the right of appeal and change the potential for regulations to provide for a right of appeal to a court or tribunal, to a requirement that they should do so. Amendment 78 seeks to add procedural details that should be covered in the regulations. That seems to be a reasonable proposition, but I want to fully consider the impact that amendment 78 might have on the Scottish Courts and Tribunals Service and what other options would be available and consider that that would best be explored via the consultation process.

Amendment 3 would insert a requirement into section 21 on eligibility for membership, requiring that membership of a responsible developers scheme would be restricted to developers with an annual turnover of more than £10 million.

By way of background, the Scottish Government is currently engaged in a detailed discussion with a wide range of developers, including smaller developers, on the detail of the Scottish safer buildings developer remediation contract. The intention is that there will be a close alignment between that contract and the schemes.

One of the key themes in those discussions is developers’ ability to pay. We have established a task and finish group that is focused on ability to pay, which is engaging closely with developers in Homes for Scotland on financial thresholds, the contribution of smaller developers and the arrangements for firms that may find themselves in financial distress.

12:00

Amendment 3 would, again, reduce the flexibility of the regulations that would create the scheme. We do not wish to put such a figure on the face of the bill, as we may require to amend it in order to ensure the fairest settlement for all parties. Again, reducing the flexibility of the scheme prior to consultation is undesirable. That is the same approach that was taken in the United Kingdom Building Safety Act 2022, which left such details to regulations that formed the UK Government’s responsible actors scheme.

Amendment 72 seeks to amend section 21 by adding in that eligibility for the scheme will be dependent on a person having a connection to a building that is described by the regulations as posing a risk to human life that is created or exacerbated by problem cladding. However, since section 21(6) of the bill already defines problematic cladding as a cladding system that directly or indirectly

“creates or exacerbates a risk to human life,”

the amendment would have no effect on the bill, other than to confuse matters. As such, in the interests of simplicity, I ask members to object to the amendment if it is moved.

Finally, I will speak to amendment 79. I welcome the approach taken by the majority of developers concerned, in taking responsibility for their part on the programme. Many are keen to get on with the job and, indeed, aspects of the bill are there expressly to help them to do so. At the same time, it is important that any responsible developers scheme carries an accountability mechanism so that those who are responsible are not disadvantaged compared with those who are not. Considerable development has gone into those sections, which, again, take a similar approach to those that were enacted by the Westminster Government.

Amendment 79 would remove section 24, which establishes that the responsible developers scheme may contain, in effect, sanctions against any person who is included on a prohibited developers list. Section 24 is crucial to the operational integrity and, thus, deliverability of the scheme. Acknowledging that regulations will be subject to consultation, my position is that section 24 must remain in the bill in order that the Government can introduce an element of sanction to the scheme. I recognise the desire of Miles Briggs and other members for more detail on the scheme. However, in view of the Government's stated intention to consult, I ask Miles Briggs not to press amendment 67 and not to move amendments 68, 71, 3, 72, 75, 76, 77, 78 and 79.

**The Convener:** As no other members wish to speak to the amendments in the group, I call Miles Briggs to wind up, and to press or withdraw amendment 67.

**Miles Briggs:** The minister touched in his comments on amendments 76 and 77, and I think 78, and some of the concerns around where a right of appeal is currently not strong within the bill. I do not know whether the minister is therefore minded to discuss that ahead of stage 3. For SMEs, there is concern about what will effectively become a blacklisting exercise by the Scottish ministers. There have previously been concerns about such practices taking place in Scotland and

I am concerned about what that will look like, especially when SMEs will be included in all the legislation. I wanted to seek more detail on that.

On profit margins, there has not been clarity from the Scottish Government on what has already been taken into account as a UK-wide profit margin and where the Scottish legislation would take that UK-wide profit margin, again, rather than profits that are raised or secured only here in Scotland. The Scottish Government needs to provide clarification on those areas at stage 3, because none of us wants to see developers going out of business and not realising the resources that will be needed, specifically around orphan buildings. Driving up the number of orphan buildings is not in the interests of anyone.

Will the Scottish Government provide more detail on that at stage 3? I am happy to work with the minister on drafting workable amendments, specifically regarding amendments 76, 77 and 78.

**Paul McLennan:** I am happy to discuss with Miles Briggs the specific concerns that he has raised. As I said, there is the consultation process, which is already in place, and there are discussions with colleagues in Homes for Scotland and SME builders on some of the specific points that he mentioned. However, I am happy to discuss the points that he has raised before stage 3.

*Amendment 67, by agreement, withdrawn.*

*Amendments 68 to 71 not moved.*

*Amendment 35 moved—[Paul McLennan]—and agreed to.*

*Section 20, as amended, agreed to.*

### **Section 21—Eligibility for membership**

*Amendments 3 and 72 not moved.*

*Amendment 36 moved—[Paul McLennan]—and agreed to.*

*Amendments 73 and 74 not moved.*

*Section 21, as amended, agreed to.*

### **Section 22—Conditions of membership**

*Amendments 37 and 38 moved—[Paul McLennan]—and agreed to.*

*Amendment 75 not moved.*

*Amendments 39 and 40 moved—[Paul McLennan]—and agreed to.*

*Amendment 76 not moved.*

*Section 22, as amended, agreed to.*

### Section 23—Loss of membership

*Amendments 77 and 78 not moved.*

*Section 23 agreed to.*

### Section 24—Consequences of not being a member

*Amendment 79 not moved.*

*Section 24 agreed to.*

#### After section 24

**The Convener:** Group 11 is on a reinsurance scheme. Amendment 8, in the name of Graham Simpson, is the only amendment in the group.

**Graham Simpson:** I cannot help reflecting on what a well-behaved committee this is. It is very quiet. I think that this is the only committee meeting that I have attended where Mr Beattie has not said a word, but we will see whether that continues.

Amendment 8, which is the only amendment in the group, relates to a reinsurance scheme and flows from my discussions with property managers. If there has been an evacuation, the co-owners could invalidate the terms of their buildings insurance, whether the policies are communal or individual, as there will be an unoccupancy clause requiring that premises be lived in or inspected at regular intervals. Insurers would not need any excuse to apply that clause, and the fact that the building had been evacuated would make renewal of an insurance policy—particularly a communal policy—extremely challenging, if not impossible.

Concerns about insurance renewal are a common theme, and they arise from concerns about the unintended consequences of all sections of the bill relating to co-owners being dispossessed of control of their premises. As I said earlier, I have some experience of that and have seen the anguish that it causes. In the event that the unintended consequences of any part of the bill result in the withdrawal of insurers from a property, it would seem reasonable for the state to give a guarantee of insurance via an underwritten scheme.

I am told that that issue was raised at a round-table meeting that was attended by the minister and others just before Christmas. The minister referred to talks about such a scheme at that meeting with his counterparts in other parts of the UK.

The bill makes no mention of insurance, which is, in my view, remiss. The committee's report mentions insurance a number of times, though not this particular issue.

I have had some very useful feedback on amendment 8 from the Association of British Insurers. In the interests of time, I will not read out everything that it sent me, but I will read out a couple of sections:

“Insurers will need to understand the circumstances of any evacuations or extended periods when properties are unoccupied and these may run across renewal periods for policies. We are not aware of major concerns in this area, and cover should still be available in the market subject to conditions in policies to recognise properties are not occupied.

We do not understand how a reinsurance scheme as proposed”—

by me—

“would address concerns about cover being invalidated by properties not being occupied for an extended period of time, as a reinsurance scheme would relate to the affordability of a policy rather than the terms of cover. Therefore we do not support the proposal for Scottish Ministers to provide a reinsurance scheme.”

I thought that, for balance, it would be useful for the committee to hear that about my proposal. We have heard from the industry that it does not support amendment 8, but it has offered to work with me before stage 3 on a separate amendment on the issue of unoccupied properties.

Once again, I will be extremely reasonable and listen to the minister's arguments. I will see what he has to say. If he wants to work with me and insurers ahead of stage 3, that would be very positive.

I move amendment 8.

**Paul McLennan:** Amendment 8 would require the Scottish ministers to create a reinsurance scheme via regulations to

“promote affordability and availability of insurance for an owner or occupier of a premise”

with unsafe cladding. There is dubiety about the meaning and effect of the provision. It is not evident what scheme would be created and what it would seek to achieve, and it is not clear at whom the scheme would be aimed, or how. As such, I am unable to make an assessment of the likely costs or affordability of any such scheme.

I will take into consideration what Mr Simpson said about working with insurers, but I do not support amendment 8 based on its unclear drafting in relation to the aim and preferred outcome of such a scheme. Legislation should be drafted clearly and precisely. The lack of clarity is also relevant when considering the potential costs of such a scheme, as they cannot be quantified, which makes amendment 8 difficult to support.

12:15

Members may wish to note that we have engaged with the ABI, which has indicated that it does not support the amendment. Instead, more pragmatic measures are preferable to the ABI. We will work with it and other stakeholders to define the detail that we would like to be in the cladding assurance register. We touched on the point about unoccupied buildings during our discussions. I urge the member to seek to withdraw the amendment. If he wants to keep us up to date on his discussions with the ABI, there might be an opportunity to discuss what comes from them, if he wants to lodge an amendment at stage 3. As I said, we have engaged with the ABI and we got similar feedback.

**Graham Simpson:** I will seek to withdraw amendment 8, on the basis of the comments from the ABI, which I am keen to work with ahead of stage 3. Indeed, I am keen to work with the minister if he is up for that. However, if he is not, I will keep in contact with him with regard to my discussions with the ABI.

*Amendment 8, by agreement, withdrawn.*

**The Convener:** The next group of amendments is on reviews and reports. Amendment 1, in the name of Miles Briggs, is grouped with amendments 4, 6, 80 and 9.

**Miles Briggs:** There are three key amendments on reviews. The first, amendment 1, is on other buildings. I raised this issue with many people who gave evidence at stage 1, specifically in relation to buildings that are currently not going to be subject to single building assessment but where people sleep, such as hotels, care homes and student accommodation. Although such buildings have been included in other schemes and in other potential reviews, there is not a timescale for what that will look like in Scotland. Work is already ongoing with regard to some student accommodation, but will ministers also review other buildings in that category, and will those that are higher than 11m be captured? It is important that we look at how that part of the scheme is managed by ministers.

Amendment 4 is on undertaking a review of the ways in which the act will impact on the construction industry. In my previous set of amendments, I expressed concern about the SME sector. Completions are at an all-time low, and that will potentially have an impact on our construction and home-building industries. Ministers must be mindful of what that will mean for the housing crisis and delivering homes for people across Scotland. Amendment 4 calls on ministers to undertake a review of the act and how it will impact on the construction industry.

Finally, amendment 80 asks ministers to undertake an annual review of the act. I suggest an annual review, but I am happy to discuss that with ministers. There is a lot in the act; the only thing that is not in the act is how long it will take for us to be able to say that we have addressed all of the cladding concerns in Scotland. That could be a decade away. Also not included is whether the act is effective or ineffective in helping home owners to ensure that their homes are properly reported on and made safe through remediation or management, as might be the case for those that are seen as being below a tolerable standard. We are at the start of that journey. Amendment 80 provides for a review of the act and its actions.

I move amendment 1.

**Graham Simpson:** This may be the last time that I speak in the meeting because, as members will be relieved to hear, we are almost at the end. The amendments in the group that Miles Briggs and I have lodged would introduce the requirement to—in the case of my amendment—produce an annual report of single building assessments.

Amendment 6 simply lists the things that the report should include. It is about transparency—we need to have that information. The Government may say that it is all too difficult but—as we have heard throughout the session—information and communication are key, so it is important, as is the issue that Mr Briggs raised.

Convener, I thank you for the way in which you have convened this meeting. We have rattled through it, so well done, everyone.

**The Convener:** Thank you. If no other member wishes to speak to the amendments, I call the minister.

**Paul McLennan:** There are a number of amendments in this group. I will speak first to amendment 1, in the name of Miles Briggs, which seeks to provide that ministers undertake a review of the meaning of “single-building assessment” 12 months after royal assent, with a particular focus on extending single building assessments, under the provisions of the bill, to buildings that contain

“at least one room ... used ... as ... overnight accommodation or short-term dwelling”.

From the member’s previous contributions, I believe that that is with a view to bringing hotels and care homes, for example, within the scope of the bill.

I have been clear from the outset of the programme that the scope of the bill and the barriers that it aims to address concern the issue of consent, which is not applicable to non-residential buildings such as hotels and care homes, as those buildings have a single owner.

We must remember that the main driver for the bill is the need to address barriers and challenges to assessing and remediating cladding in multiresidential domestic buildings.

Building safety is the responsibility of the building owner. Where there are clear owners and duty holders of non-domestic buildings such as hotels, we would rightly expect them to understand and assess any risks of their cladding and, where necessary, to take action to remediate unsafe cladding.

That is not to downplay the importance of safety in other buildings—far from it—but to recognise that the prime purpose of the bill and the powers that it contains is to address challenges that have been encountered in multiresidential premises.

**Miles Briggs:** I take on board what the minister has said so far in relation to a care home or hospital setting. Student accommodation, however, has increasingly been built for multiple occupancy, with four to eight students in what would otherwise be a mixed development and mixed tenancy. I am concerned that such buildings have not been included to date. What work has the Government undertaken around student accommodation in Scotland to look at the number of buildings that are potentially over 11m high and would fall within the scope of the bill?

**Paul McLennan:** I am happy to write to the member on that point with regard to the work that has been undertaken so far. I am happy to discuss that—I know that we have discussed it previously, not specifically in relation to student accommodation but for other settings.

I come back to the amendments. The committee has heard much about the need to increase the pace of progress on cladding remediation, and I am committed to delivering that. Any dilution of its focus will limit progress and have an impact on residents and owners who are already affected by the on-going risks from potentially unsafe cladding. As I mentioned, I offer to write to Mr Briggs. I therefore ask him to seek to withdraw amendment 1. If the amendment is pressed, I urge members to reject it. However, I am happy to pick up the issues that he has raised in relation to it.

I turn to amendments 4 and 80, in the name of Miles Briggs, and amendments 6 and 9, in the name of Graham Simpson, regarding annual reporting. I stress that I support the principles of open and transparent government—in fact, I have already given the committee a commitment to move to regular reporting on the progress of the cladding remediation programme. These amendments all go further, however, and would require ministers to prepare an annual report on the progress and impact of the legislation and the cladding remediation programme itself.

Amendments 4 and 80 focus specifically on the impact on industry. Amendment 4 focuses on the construction industry, and amendment 80 on industries that are affected by the legislation in relation to an economic analysis of the programme. Although I support the amendments' aims in principle and am actively working to ensure that a developer's ability to pay is factored into the separate development work that we are undertaking through the Scottish safer buildings developer remediation contract, I cannot support amendment 4's requirement to produce an annual report that focuses solely on the impact of the construction industry.

Similarly, I cannot support amendment 80, which would require annual consultation and economic analysis. That would be burdensome and would require specialist input in terms of economic analysis at a cost to the Government. We are already working with developers to consider the ability to pay as part of the development of the Scottish safer buildings developer remediation contract, and I have committed to consult on any responsible developer scheme ahead of secondary legislation. As such, we can demonstrate an active commitment to work collaboratively with the industry.

The reporting requirements do not take into account home owners and residents, who are at the heart of our approach to cladding remediation, and in considering both progress and impact they must remain first and foremost in our minds. I therefore ask Miles Briggs not to move amendments 4 and 80 and to instead work with me ahead of stage 3 to develop an amendment that reflects not only the interests of industry but those of the constituents whom we seek to serve.

I make the same offer to Graham Simpson in relation to amendments 6 and 9. Again, I am supportive of the principle, but we must ensure that the focus and detail of any such report is correct. As drafted, amendment 6 does not align with the meaning of the single building assessment at section 25 and it would therefore be undeliverable without a significant shift in the scope of the bill.

I say to Miles Briggs and Graham Simpson that we should work together and get this right ahead of stage 3.

I ask Miles Briggs to withdraw amendment 1 and ask that other amendments in the group not be moved. If the amendments are pressed or moved, I ask members to vote against them.

**The Convener:** Miles, please wind up and indicate whether you wish to press or seek to withdraw amendment 1.

**Miles Briggs:** I listened to what the minister had to say, and I am happy to work with him at stage 3. I feel that there will be a black hole at the end of the bill if we are not able to take stock of how effective it has been. I hope that we can work to create a useful amendment at stage 3, especially with regard to amendment 80.

The minister has outlined this, and I welcome the fact that the committee can do annual health checks in the future, but that will fall within the committee's work timetable. The time that we might have to do an annual piece of work might be limited, so the burden is on the Government to provide Parliament with updated information on how we are progressing with assessments and remedial work being commissioned, so that residents and the wider public in Scotland can see when the issue is being assessed and we get to an end point at which we can say that buildings in Scotland are safe and that the cladding problems have been rectified. That needs annual reporting back to Parliament beyond the committee.

With that said, I am happy to work with the minister ahead of stage 3 on what I hope will be a proper workable amendment to bring the three amendments together. There are issues, but all three amendments could be brought together in an amendment at stage 3. In that case, I will not press amendment 1.

*Amendment 1, by agreement, withdrawn.*

*Amendment 4 not moved.*

**The Convener:** Amendment 6, in the name of Graham Simpson, was already debated with amendment 1.

**Graham Simpson:** On the basis that the minister is prepared to spread some of his success at stage 3, I will not move amendment 6.

*Amendment 6 not moved.*

*Amendment 80 not moved.*

### **Section 25—Meaning of single-building assessment**

*Amendments 81 to 84 not moved.*

*Amendments 41 and 42 moved—[Paul McLennan]—and agreed to.*

*Section 25, as amended, agreed to.*

### **Section 26—Power to modify meaning of single-building assessment**

*Amendment 85 not moved.*

*Section 26 agreed to.*

*Section 27 agreed to.*

### **Section 28—Interpretation of other words and expressions**

*Amendment 43 moved—[Paul McLennan]—and agreed to.*

*Section 28, as amended, agreed to.*

*Sections 29 and 30 agreed to*

### **Section 31—Commencement**

*Amendments 9 and 86 not moved.*

*Section 31 agreed to.*

*Section 32 agreed to.*

*Long title agreed to.*

**The Convener:** That ends stage 2 consideration of the bill. Thank you.

The committee previously agreed to take the next item in private so, as that was the final public item on today's agenda, I close the public part of the meeting.

12:30

*Meeting continued in private until 12:32.*

This is the final edition of the *Official Report* of this meeting. It is part of the Scottish Parliament *Official Report* archive and has been sent for legal deposit.

---

Published in Edinburgh by the Scottish Parliamentary Corporate Body, the Scottish Parliament, Edinburgh, EH99 1SP

---

All documents are available on  
the Scottish Parliament website at:

[www.parliament.scot](http://www.parliament.scot)

Information on non-endorsed print suppliers  
is available here:

[www.parliament.scot/documents](http://www.parliament.scot/documents)

For information on the Scottish Parliament contact  
Public Information on:

Telephone: 0131 348 5000

Textphone: 0800 092 7100

Email: [sp.info@parliament.scot](mailto:sp.info@parliament.scot)

---



The Scottish Parliament  
Pàrlamaid na h-Alba