



OFFICIAL REPORT
AITHISG OIFIGEIL

Local Government, Housing and Planning Committee

Tuesday 11 June 2024

Session 6



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LOCAL GOVERNMENT, HOUSING AND PLANNING COMMITTEE
19th 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:

Lyndsay Clelland (Age Scotland)

Joshua Davies (Nationwide Foundation)

Aoife Deery (Citizens Advice Scotland)

Anna Evans (Indigo House Group)

Professor Ken Gibb (University of Glasgow)

Ellie Gomersall (National Union of Students Scotland)

Deborah Hay (Joseph Rowntree Foundation)

Eilidh Keay (Living Rent)

Professor Alex Marsh (University of Bristol)

Emma Saunders (Living Rent)

Dan Wilson Craw (Generation Rent)

CLERK TO THE COMMITTEE

Euan Donald

LOCATION

The David Livingstone Room (CR6)

Scottish Parliament

Local Government, Housing and Planning Committee

Tuesday 11 June 2024

[The Convener opened the meeting at 09:30]

Housing (Scotland) Bill: Stage 1

The Convener (Ariane Burgess): Good morning, and welcome to the 19th meeting in 2024 of the Local Government, Housing and Planning Committee. Please note that apologies have been received from Stephanie Callaghan. I remind all members and witnesses to ensure that their devices are in silent mode.

The first item on our agenda is to take evidence on the Housing (Scotland) Bill from two panels of witnesses. On our first panel, we are joined by Joshua Davies, who is programme manager at Nationwide Foundation; Anna Evans, who is the director of Indigo House Group; Deborah Hay, who is a senior policy adviser at the Joseph Rowntree Foundation; Professor Ken Gibb, who is director at the UK Collaborative Centre for Housing Evidence, which is based at the University of Glasgow; and Professor Alex Marsh, who is a professor of public policy at the University of Bristol.

I welcome the witnesses. There is no need for you to operate your microphones, as we will do that for you; it is one less thing for you to have to think about while you are talking. I will start with a couple of overview questions. Members will direct some questions to specific witnesses, but I would like to hear from all of you on my opening question. We would be interested to hear a brief overview of your research work and key points that might be relevant for the consideration of the Housing (Scotland) Bill. I will start with Deborah Hay.

Deborah Hay (Joseph Rowntree Foundation): Good morning, and thank you for inviting JRF to the meeting. It is a social change organisation that is trying to solve poverty and help us to move to a more just and equitable future. Consequently, we are on the side of solutions that will help people who are experiencing great financial difficulty at the moment. I will speak about specific evidence that is based on a report that we did in 2022 with some colleagues who are here today. In that research, we asked tenants what they wanted from future private rented sector reform. I will be drawing on that research as well as some of the evidence that

JRF has taken during the Covid pandemic and the financial crisis.

The Convener: Is there anything specific that you want to tease out and highlight?

Deborah Hay: Are you asking for general comments on the bill?

The Convener: Yes.

Deborah Hay: JRF is supportive of efforts to improve the situation for low-income renters, because renters have been at the sharpest end of the cost of living crisis as well as the pandemic. We are keen to find solutions that will help them. A third of private rented sector tenants are in poverty and a great many more are experiencing considerable financial stress, so the issues are close to our hearts. Is that enough?

The Convener: That is great. I am sure that more will come out as we ask other questions. I move to Alex Marsh to give an overview of his research work.

Professor Alex Marsh (University of Bristol): Thanks for the invitation to come to the meeting. My research is mostly about social rented and private rented sector housing. I have looked at a range of topics and have worked with Ken Gibb on much of the research, but not all of it. My research has looked at issues such as rent control and price regulation, non-price regulation in the private rented sector and policy transfer between countries.

Under the CaCHE banner, we have had a substantial programme of work that has looked at standards, enforcement and compliance and we have researched landlord behaviour, with a particular focus on small landlords in the private rented sector, which is the work that Deborah Hay referred to on the future of the private rented sector in Scotland. I am also a member of and co-investigator for CaCHE and my role is systems theme lead. Part of the organisation's work is to think about housing systemically as well as about interconnection. That would be one of the things that I would want to highlight.

We can think about the bill in the context of what else is going on legislatively and in the sociopolitical context. I would characterise part of my work as socio-legal or as being about law in context. It is about not only thinking about the legal provisions but understanding how they function in practice and how they interact with the market, social and cultural contexts in which they are embedded. That is important in relation to our thinking on current initiatives and to how we interpret what is going on elsewhere and what we can learn from other contexts and systems. We always need to be mindful of how, and how

strongly, we draw lessons. That is a key part in a lot of what we have been doing.

The Convener: So that we are all on the same page, I point out that CaCHE is the acronym for the Collaborative Centre for Housing Evidence.

Professor Marsh: Yes—I apologise.

The Convener: That is all right. We use a lot of those terms around here—it is a completely different language.

Professor Ken Gibb (University of Glasgow): I will not repeat what Alex Marsh has said, but we have done a lot of work together since 1921—sorry, I mean 2021, although it feels like 1921—and that has been really insightful.

The rent control evidence review, which was the first thing that we did, had a number of important things to say. One was that it is not the case that all economists think exactly the same thing about rent controls, as is the conventional wisdom. The picture is much more nuanced, particularly among housing specialist economists. I am happy to talk more about that as we go along.

Another thing that comes out of all that work is the necessity of focusing on good policy design. The system is complex, with all manner of interactions and feedbacks, and the consequences are not so much unanticipated as difficult to see because of the complexity of the system. That implies that rent control or rent regulation policies must be complemented by parallel policies that help, such as the provision of more affordable social housing. Alongside that, there is the sense that the rental market might be shrinking for different reasons, one of which could be to do with poorly designed rent controls.

Another bit of relevant on-going work that I have been involved in, which is not cash related—I might have raised this before in the committee—is with the Urban Big Data Centre. We are trying to statistically test whether the Private Housing (Tenancies) (Scotland) Act 2016 led to differences in what happened in Scotland compared with what happened in the rest of the United Kingdom.

We have used two different kinds of data and, to boil everything down, that data suggests that the rental market might have, to an extent, taken in its stride the changes in the 2016 act, with the consequences not being particularly damaging in the short term, pre-Covid. We are looking at only two years, but that work is interesting and quite unusual, because it is quite econometrically robust, and not much of that kind of work is going on—excepting Anna Evans's work—because the data can be quite challenging. That is the main thing that I want to say.

On the bill, as we have been saying all along, the rent control aspects still feel underdeveloped,

as there is not enough specific detail. Some of the subsequent regulations will need to do quite a lot of work to fill in the blanks, to an extent, so we can perhaps talk about that, too.

Anna Evans (Indigo House Group): Thanks for asking me to come along. Our work has been funded by the Nationwide Foundation. Since 2019, we have been doing research through large-scale quantitative surveys of tenants and landlords and through large-scale qualitative work with tenants and landlords. The research has come in three waves—we reported in 2020 and in 2022, and we are just about to publish in 2024—so the work is on a very large scale and is insightful. Its purpose was to look at the impact of the private residential tenancy, but there have obviously been changes since then, so we have also looked at the Covid and cost of living legislation.

Our overall conclusion on the impact of the bill is that, although the PRT in particular brings enhanced rights for tenants, what is most important is ensuring that there is awareness of those rights and enabling tenants to assert those rights through enforcement. In other words, legislation in itself is not enough. Given the imbalances that we see at the moment, it is clearly a seller's market. The market is all powerful. If there are not sufficient affordable alternatives, people with less economic power will have less choice, so the legislation has to be implemented alongside other measures.

Joshua Davies (Nationwide Foundation): Good morning, members, and thanks for inviting me to speak to you. I manage the Nationwide Foundation's private rented sector work programme. We are an independent national charity that, since 2013, has been supporting, testing and evidencing solutions to the United Kingdom's housing crisis, particularly from the perspective of people who are most in need. Part of our work funds projects that aim to transform the private rented sector, including, as Anna Evans has mentioned, the longitudinal RentBetter study. I am here with Anna, who has led that research. To be clear, I am here to set out the foundation's views and Anna is here to provide detail and background.

You asked for our overall perspective on the bill. Having a safe and secure home where we can put down roots enriches our lives and supports our health and wellbeing. We believe that a system that works for both tenants and landlords is a healthy one. We know that there are many excellent landlords out there who take providing homes seriously. However, our focus, and what we would most like to talk about today, is on protecting those renters who are most vulnerable and most at risk of being harmed by a poorly functioning PRS. We believe that the bill is a

positive step towards reducing the harm that the system currently inflicts on many such individuals and their families. Although we welcome the bill's introduction, our research shows that much more needs to be done, as Anna has already started to discuss with you.

That all boils down to three key issues that I would like to focus on. First, much more needs to be done to support tenants to know and use their rights, as Anna has mentioned. Secondly, we must address wider challenges in the housing system, and not just those in the PRS. Thirdly, the existing legislation has failings that I think need to be addressed. I could go into those points in a little more detail if that would be helpful.

The Convener: Let us just see whether those come out in our questions, but that is helpful. You have gone into a space that I was going to ask about, so perhaps I could pick that up. You went into quite a bit of detail on the bill. I would be interested to hear from our other witnesses on that. The intention behind the Scottish Government's bill is to introduce a package of reforms to ensure that

"people have a safe, secure, and affordable place to live".

I would be interested to hear to what extent you think the bill delivers on those aims. Perhaps Professor Gibb could start.

Professor Gibb: The bill is a package of measures that attempt to do certain things, so I guess that the intention behind it is to achieve those objectives. One challenge is that, although a large part of the power to make housing policy in Scotland is devolved, other important parts are not. The two most important aspects are the social security system and local housing allowance. Those will always have a bearing on how the system works and how reforms might play out. Until generosity on local housing allowance changes significantly, there will always be constraints. Part of the issue here is trying to sort that out, which is a UK-wide problem.

Similarly, much of the tax system as it affects landlords, their decisions and their intentions does not relate to Scotland. The additional dwelling supplement is certainly higher in Scotland than it is anywhere else. However, many of the other tax changes that have been made in the past 10 years have come from the UK Government and have a compounding effect on the decisions that landlords might make.

I wanted to cover those aspects, which are perhaps not quite on point with what you asked, but those are what I would offer.

The Convener: Thanks for that. It is helpful to understand the context. If we had those powers, I

wonder whether we would be designing a different bill.

09:45

Professor Gibb: That is almost certainly the case. LHA is at the heart of all of this.

The Convener: So, we are in a limiting context and are trying to create something that will meet people's needs for a safe, secure and affordable place within those constraints.

Does anyone else want to respond on the issue of whether the bill delivers on those aims?

Joshua Davies: As I have already suggested, we think that the bill is a good step in the right direction but, overall, we do not think that it delivers on the aim of addressing all the problems in the private rented sector. It is one thing to have rights but another thing to actually use them. The RentBetter research has found that many renters do not know what their rights are. For example, the majority of renters did not know that the tenancy regime had changed or what type of tenancy they were on.

Therefore, we believe that a programme of work needs to be done to promote renters' rights by providing information, advice and support. At the same time, even when renters know their rights, they struggle to access enforcement. One of the striking statistics that jumped out at me from the research was the fact that, of the 1,000 renters who were interviewed, only 10 renters—not 10 per cent, but 10 individual renters—had ever contacted their local authority enforcement teams. There is no access to those teams or even awareness that they exist. In addition, local authorities simply do not have the resources to enforce properly and, without sufficient resources, any changes to tenancy law risk being ineffective, because landlords will have no incentive to operate within the law.

I do not know whether Anna Evans would like to provide more detail on that.

Anna Evans: I do not think that the bill, in itself, can deliver on giving people a safe, secure and affordable place to live. It must be seen in the round, along with other legislation that the Scottish Parliament has passed and the Scottish Government has implemented.

The bill also needs to be seen in the context of the market, which is a private rented market. As I said earlier, the imbalance that currently exists with regard to supply and demand and decreasing affordability really challenges safety, security and affordability, because if tenants do not have choice and know that they cannot get something of the quality, size and type that they need at a similar rent, they will not raise a challenge. We have

found that, since 2019, especially for people with less economic power or less power in the market, it is just not worth it. It is seen as involving too much hassle, time and cost. People perceive that raising a challenge would involve cost, and if there is no alternative, they simply put up with what they have at the moment.

Therefore, as I said at the beginning, the most important thing is that we have strong enforcement measures so that what currently exists can be enforced and people can exercise their rights.

Deborah Hay: I will build on those answers. I happily agree with all of what has just been said, which echoes the research that we did in 2022. We found that low-income tenants, in particular, had less choice and were much more constrained and much more fearful about taking action. Among people at the bottom of the market, there was a certain amount of learned helplessness about what they could do.

We still have a regime that requires tenants to raise concerns about rent increases, and it would be useful, when we get to the further design stage, to think about whether there are ways in which we can put the onus on landlords to ensure compliance, rather than asking tenants to raise individual queries. In other words, if we have a clear idea of the kind of private rented sector we want, let us design it that way, let us be incredibly clear about that for both tenants and landlords, and let us ensure that compliance lies with landlords and that we have the kind of enforcement that Anna Evans talked about, instead of relying on individual, quite fearful tenants to raise concerns, because they simply will not do that.

The Convener: Alex, do you have anything to add?

Professor Marsh: I absolutely endorse that point about switching. We sometimes characterise that as switching from exposed quality control to quality assurance. It is not for the tenant to come in and remediate the problem. The landlord should understand what the expected benchmark is. We should start there, if you see what I mean.

I go back to the point that we are talking about a relationship between landlord and tenant. It is important that we strengthen rights and that we make sure that information is available, but we should also bear in mind the fact that it is a social relationship. We need to engineer a situation in which the tenant can stay even if they have raised a complaint and the landlord has been advised to sort out the problem. Given that they still have to deal with that person on an on-going basis, there is an irreducible social component to that.

It may well be a case that the tenant feels, "I know my rights and I know where to go, but I am

still not going to do it, because I have to live here with this person as my landlord." Therefore, there is a component of that which is integral to this discussion. Those rights are in law, but we also need to understand the dynamics of the relationship, in many cases, particularly for smaller landlords but not so much for corporate landlords, as that may not be where the problems lie in quite the same way for some of the quality issues. I will stop there.

The Convener: You have inspired a supplementary question. The committee is keeping an eye on petition PE1778, which is about the landlords register scheme. The petitioner has stated that the scheme is "not fit for purpose" and that there is no scrutiny of whether an applicant is a "fit and proper person". The petitioner explains that

"there are no checks carried out by any relevant Authority"

on, for example, whether the landlord is in possession of an up-to-date gas safety certificate for the property, unless a lack of proper documentation is brought to the attention of the local authority.

Would it be helpful to address the "fit and proper person" aspect in the bill? Deborah Hay, you are nodding, so I will go to you.

Deborah Hay: In our study, tenants were clear that they wanted much greater focus on landlords coming forward with that kind of information. Although this might not be how we might design the policy, tenants wanted the equivalent of a home report for a tenancy. The idea is that tenants would be able to look online to discover whether the certifications were up to date and the landlord had been vetted, and they would be able to find out what the rent was. They wanted a much more open and transparent system of information, which I thought was interesting.

To span out a bit, having read the submissions and having spoken to colleagues, I think that one of the themes is about local authorities having the capacity to do that work. At the risk of teaching grannies to suck eggs—forgive me—I note that simply giving people a duty to do something does not make it happen. Local authorities have a huge number of asks of them at the moment, as you will all be very well aware. We have to find a way of resourcing what tenants have asked for. It would be useful for local authorities to consider a whole set of data, enforcement measures and duties in the round—they should not just look at one little bit—so that they have all the levers that they need in order to design a local housing system that works for people. That might be slightly outwith the scope of today's discussions, but it is important.

A heap of things are running—short-term lets legislation, private rented sector reform, the

affordable housing supply programme, standards and so on—and the bill would add to that by setting out that local authorities should do all the groundwork to understand what rents are being charged in their local area and what is happening. There would be enormous value in gathering that data in some way—I will leave it to my research colleagues to tell us the best way to do that—but local authorities will need the capacity to do that if we are to make progress.

The Convener: We have a couple of questions about data, so we will discuss that issue in more detail later.

Professor Marsh: On the point about registration and licensing, the information challenge is difficult for tenants and, equally, for landlords. I will give a small example of things that can make a difference. When we swapped from a system in which landlords self-certified as being compliant with a single ticked box to one in which the various dimensions of compliance were itemised, local authorities told us that, suddenly, landlords who had previously been compliant were identifying themselves as not being fully compliant. Simply raising awareness through the box that had to be ticked made a difference to landlords, who then thought, “Oh, that’s what I’m supposed to be doing.” It is possible to pick up on the dimensions of compliance in that way, through awareness raising.

I realise that there is a system to professionalise landlords generally. Sometimes, we assume from the aggregate answer that the message is getting across, but if we probe the detail we see that there is a bit more learning that needs to be done. That is not the case for everyone, but some landlords think that they are compliant when they are not. Increasing the visibility of the requirements made a difference to understanding on the supply side, as much as on the demand side.

We have done research on whether systems that do not require a pre-licence inspection, or when there is registration without that inspection, could be characterised as giving false assurance. A tenant might look for a licensed or registered landlord and say, “Oh, here they are,” but that might not mean anything because the landlord has not had to go through any form of vetting in advance. That gives tenants almost a false reassurance that everything is okay if the inspection comes later or only when there is a complaint. There is an issue about what signal that sends to the rest of the market.

Pam Gosal (West Scotland) (Con): Good morning. I thank the witnesses for their opening statements.

A common criticism of the emergency rent cap that was enacted in October 2022 was that it was

not adequately consulted on and that it placed an undue burden on landlords. What lessons can be learned from that experiment? How well does the bill balance the rights of tenants with the rights of landlords?

Professor Gibb: The rent cap aimed to protect existing tenants, but there is definitely a sense that the consequences were not thought through, in that it almost created a mandate for landlords to raise rents when they had a new tenancy to let. The affordability consequences were pretty severe.

It seems to me that the general evidence from adverts across the UK shows that, for a period during the rent cap, our cities had the highest rent increases in the UK. I am not saying that that was necessarily caused only by the rent cap, but it was clearly a factor. From a quality standpoint, it is widely known that the rent cap led to the pausing and, in some cases, the withdrawal of build-to-rent investment in Scotland, as the political risks and uncertainties of the policy emerged.

There is definitely some evidence that the consequences of hard rent controls are not necessarily thought through. In essence, the policy was saying that what was important was addressing the needs of existing tenants who were facing the cost of living crisis, not the needs of other potential tenants, as things such as the mobility of the housing system were affected. It might have been felt that that was an acceptable trade-off in the short term, because of the cost of living crisis, but the policy definitely appears to have had wider effects, too.

The Convener: We are keen to get a sense of whether the bill strikes the right balance between the rights of tenants and those of landlords. That is the key point that we want to be clear on.

Professor Marsh: In relation to the rent control provisions specifically, part of the answer depends on detail that is yet to be filled in, such as how the system is calibrated. There are detailed design questions about exceptions and cost pass-throughs—all sorts of things can be put in a rent control system to determine what the rights of landlords look like and where the balance is struck. Rent control systems in and of themselves cover a multitude of possibilities in relation to where that balance sits. For example, we can think about a landlord’s right to a return from their asset. It is therefore a bit hard to answer that question, particularly in relation to rent control.

Other provisions in the bill, such as those on personalisation, seem to me to be an interesting recognition of some of the issues that tenants have raised and the representations that they have made about what makes a home, what the quiet enjoyment of a home means and what things

will make them feel more settled. Elements of the bill certainly address long-standing concerns or issues for tenants, such as a sense of precarity and the question of how they can feel settled in a particular location.

Components of the bill move the balance positively towards residents in relation to their sense of wellbeing. Whether the bill infringes too much on the rights of landlords will depend on the answers to detailed questions, such as who carries the risks in relation to the personalisation provisions, for example, what that implies for deposits and what sorts of behaviours the bill will encourage.

The Convener: There are measures in the bill that address such risks, such as the tenant having to ask whether they can do something and the landlord having the right to refuse it.

10:00

Professor Marsh: Absolutely. It goes back to the issue of how a tenant anticipates their landlord's reaction. There is a background set of presumptions about rights and what is appropriate. The bill will shift the law, but will it shift some of those understandings about what a tenant's rights are? If it does not, it will not change the experience on the ground, as much as we might like it to. Those sorts of issues are in play, but the bill is moving things in the right direction by allowing people to feel more settled in the private rented sector, which is important, given that they often spend a lot of time there.

Deborah Hay: From the JRF's point of view, the bill's intention is very welcome. It points to a bit of a culture shift. There is something quite specific about a home as an asset, which means that it needs to be treated differently from other things. I have not really seen any pushback from landlords in any of the written submissions. I think that there is an acceptance now that, if a property is made available for rent, the tenant should be able to live in it and not just exist in it like some kind of long-term Airbnb where you are not allowed to touch anything and you do not cook anything. We want people to feel settled.

In the middle of a cost of living crisis, it might seem less important to talk about decorations or pets, but tenants tell us how important those things are to them—they make them feel at home and help them to live a normal and dignified life. We all need warm, safe and secure accommodation that feels like ours. The bill is part of how we will achieve that. To the extent that the bill starts putting some of those things much more explicitly on the books, it is great.

On the balance between tenants and landlords, we might need another look at some of the

grounds for eviction. It is quite difficult to disaggregate one element from the others, but I think that one of the reasons why tenants are so keen on rent controls is that they need predictability and certainty. They also need to know that landlords cannot use unaffordable rent rises to evict them, kind of by default, if they raise concerns about repairs or are unhappy about how quickly landlords get back to them or whatever. Finding that balance in real life will be tricky.

Anna Evans: On Pam Gosal's question about the rent control that was brought in through the cost of living legislation, if we think about that in relation to the rights of tenants and landlords, it is important to state that we knew in 2020 that most rent increases occur when there is a change of tenancy. The cost of living legislation affected only in-tenancy rent increases. We know from our work that, as a result, landlords hike up rents when there is a change of tenancy. There has also been an increase in the frequency of in-tenancy rent increases. The probable unintended consequences for rent increases, as well as more frequent rent increases, have created even more imbalance for tenants.

The Convener: What sense do you have of the balance between the rights of tenants and those of landlords in the bill?

Anna Evans: Any provisions on rent control must be very carefully designed to ensure that the rights of tenants and landlords are balanced. Based on what we know about how rents are increased, I am not sure that what was implemented was designed in the best way, so whatever is implemented in the future must be very carefully designed.

The Convener: Joshua Davies, do you have any comments on the balance between the rights of tenants and the rights of landlords?

Joshua Davies: Do you mean in terms of rent control specifically?

The Convener: I am talking about the overall picture.

Joshua Davies: As I have said, our primary focus is on vulnerable renters at the bottom of the system. We know that the system is not working for them at the moment and that the balance is not right.

I can give the example of a renter called Tony, who has engaged with the RentBetter research since 2021. When he first engaged, he was unemployed and his partner was working part time, which meant that they struggled to afford their rent and got into debt. Their home was in a poor state of repair, with damp and a broken boiler, and Tony had mental health problems, which meant that he struggled to deal with that.

When he first spoke to the researchers, he had just been served a notice to quit because his landlord was selling the property.

Two years later, when Tony spoke to the researchers again, he told them about the immense stress of finding another place. He almost became homeless, only managing to find a new place in the final hour. He described the stress as being like a bucket of cold water and said that he was frozen in shock. Although Tony and his partner are now in full-time employment, they are still living with disrepair that they cannot get addressed, including mould and damp. He wants to buy his own place but is finding it impossible to get out of debt.

Tony's story gives us an insight that there is not yet the right balance for people in that situation. Notwithstanding what I have said about many landlords doing a good job and providing good homes, the balance is not right for too many renters.

The Convener: Willie Coffey has some questions on the theme of rent.

Willie Coffey (Kilmarnock and Irvine Valley) (SNP): Good morning, everybody. I invite you to say a few words about rent levels in the private rented sector. Traditionally, they are higher—perhaps much higher—than those for social housing.

Deborah Hay has made a few important comments. According to your research, a third of renters live in poverty. They are folk who are at the sharpest end of the cost of living crisis. Can you say a word or two about rent levels, which are, I presume, driving the Government towards this legislation?

Deborah Hay: Yes. One in three renters in the private rented sector lives in poverty. I think that I also said that a good chunk of people are just above the poverty line. In the long term, an expensive and unpredictable private rented sector is probably not the right place for them.

I think that average rents for a two-bedroom property in Scotland have gone up to £925 a month—I might have to correct that for the record, but the figure is in that ballpark. As Ken Gibb said, rents have gone up quite significantly. Back in 2019, the average rent was £730 a month. That gives some idea of the ramping up that we have seen.

It would be remiss of me not to mention that what is happening in the rest of the UK is pretty horrifying as well. There are no rent controls, and the private sector has been allowed to continue untrammelled by any of the regulation that is now in place in Scotland or that is being discussed as a result of the bill. There is rising homelessness, and

the figures for people in temporary accommodation are shockingly high.

The rest of the UK is wrestling with all the things that we are wrestling with. That is for slightly different reasons, but the structural drivers that underpin the housing system are the same. Whether our rent increases are a bit ahead of those in England but are not quite as much as those in London is neither here nor there, because individual households face significant gaps.

Ken Gibb mentioned the local housing allowance, which is set by the UK Government. That has just been reset, which is very welcome, but it applies to the bottom 30 per cent of rents, and it is out of date as soon as it is published. We must get that right.

The Scottish Government has levers at its disposal to top up the LHA, and it has put some welcome additional moneys into discretionary housing payments. However, there are people, including renters in the PRS, who are not eligible for such payments. We must think about who is most affected by those gaps and what support we can put in place for them, because we cannot let them be fully exposed to the kind of increases that we are talking about.

Willie Coffey: Are there any other messages?

Anna Evans: I endorse that data. Advertised rents now average around £1,000 a month. Obviously, some areas, such as Edinburgh, are more expensive, and some markets are relatively affordable—for example, there are private rents in the Ayrshires that are similar to social rents. Average rents therefore have to be taken with a bit of caution, but the average is around £1,000. That is a rise from around £750 in 2017.

One intention of the private residential tenancy was to manage excessive rent increases, but we have concluded that that has not been achieved.

We have also found that many tenants say that they pay over a third of their income on housing costs and that more than a quarter pay over 40 per cent of their income on housing costs. There seems to be a bit of a disconnect between the amount that tenants pay on rents and what they believe is affordable and, because those high rents are now the norm, that has been normalised, and people believe that they must pay a lot of their income on rent. That is an important point.

Willie Coffey: Okay. Thanks very much for that.

I have a couple of questions for Ken Gibb and Alex Marsh. Your research urges some caution about making international comparisons in respect of rent controls. You also suggest that we need to challenge and interpret a bit more thoroughly the evidence that is coming forward on rent controls.

Will you tell us a little bit about those two issues, please?

Professor Gibb: Sure. We make the point that, with the exception of rent pressure zones, which were never introduced, we have been in a non-rent-control world since the late 1980s in the UK. Therefore, we do not have direct evidence from the UK, and we are drawn to other places.

Our point is that, among other things, local markets and their context are really important in working out the effects of rent control, as are the institutional processes around how the housing system works in those places. Taking a specific policy design, simply translating it and expecting the same effects needs to be filtered through such issues. That is not easy, and it should make us a bit cautious.

In the grey literature in particular, we have seen a number of evidence reviews that ignore all of that and just assume that what happens in Washington state or Northern California can be directly applied to the whole of the UK. We are understandably very cautious about that.

The corollary is that, in thinking about interventions in markets in the UK and Scotland, we need to take proper account of how the local market works, how it interacts with social housing in the owner-occupied sector, and the ways in which our social security system, for example, has an effect that you would not otherwise see because there is not the same system in Sweden or the Netherlands or wherever you are looking at. Is that reasonable, Alex?

Professor Marsh: Absolutely—that is the point. Another component is the role that the private rented sector plays in the overall housing system. One of the recent episodes of rent control internationally that has attracted a lot of attention is what happened in Berlin. Berlin is one of the places that has experimented along with others, including Catalonia. In Berlin, 83 per cent of people live in the private rented sector. Therefore, a rent freeze, which is what was introduced after the rent brake, has a huge and predictable impact on the whole system.

On the point about how we should challenge the evidence or interpret the data, both Berlin and Catalonia are recent examples of that. In Catalonia, there is a bit of evidence that suggests that its rent control did not have significant negative effects on housing supply. One of the interesting things about both those international examples, before we embrace them with enthusiasm, is that, in both cases, from the start, there was a constitutional question over whether the laws would stand—whether those were lawful interventions. In both Berlin and Catalonia, the

constitutional court concluded that they were not lawful.

The evidence that we are trying to explore now is on the extent to which landlords have held off and waited for the judgment. Landlords are saying, “Okay, the rent control has come in. We will live with it for a little bit and see what the constitutional court decides. If it decides that it is unconstitutional, we are fine, and we will carry on as we were.” On the other hand, if the constitutional court says that the law stands, we will see the behavioural response of landlords.

We are getting studies of the short-term effects of some of those international interventions, but we need to be a bit cautious about how we read what they say. That is what we mean by saying that we are willing to challenge some of the evidence.

In terms of accumulation, the best that we can say about almost everywhere where there has been a rent freeze, in whatever system and whatever institutional context, is that it does not have a strongly negative effect. That is the best that we can say, but typically we say that, over time, if the rent freeze sticks, it will have a negative effect.

10:15

Willie Coffey: How do we avoid grafting on to the Scottish legislation the experience of the downtown Washington legislation, for example, and avoid the situations that you described earlier? What are the safety mechanisms and the flexibilities that we need to push into the system to make sure that we do not do that?

Professor Gibb: There are two levels. First, a lot of due diligence is involved in thinking about the design and locating it in real markets. Secondly, alongside that—I am sure that we will come back to this when we talk about data—we simply need a consistent level of rigorous market analysis that feeds into those things. That is a really big ask, but I have always felt that that is a really important and necessary condition of having any hope of working with the grain of markets and trying to understand what is happening and what the consequences of controls might be.

Professor Marsh: To follow up on that point, one of the useful things that has come out of the Californian literature is the broad finding that the profile of the supply side makes a difference. What types of landlords are operating in your local market—whether they are corporate landlords or small-scale individuals—makes a difference to how it will respond to a particular rent control regime. The characteristics of their business models and what they are looking for from their business will affect the way in which the

intervention plays out in terms of people exiting the market or not. For example, are they looking for long-term return or short-term income maximisation?

The headline message is that we need to understand the market and the motivation of the actors, and then think about what sorts of designs would work, ignoring what was found in relation to what happened in San Francisco.

Willie Coffey: I presume that, if councils have the data that enables them to come to those decisions, that local flexibility will help them to adapt the policy to local needs.

We have talked about unintended consequences. Anna Evans mentioned possible effects of rent controls. Could you flesh out a bit more what unintended consequences we could face if we introduce rent controls as proposed in the bill?

Professor Gibb: The literature repeatedly says that there are things that we should take account of in the design. That includes the notion of insiders and outsiders. People who are already in the system and benefit from rent control, depending on the design, may get advantages that future tenants may not get because there will be a shortage of property. If that is the case, that is an empirical question. The insiders would benefit relative to the outsiders. That might also restrict and reduce the mobility of the insiders, because they will have less incentive to leave.

A few weeks ago, a colleague told me a story about living in a house in multiple occupation in Glasgow—this was before the rent cap ended—and having no intention to move because that protected them, even though they were not particularly happy with all the aspects of their tenancy. There was a trade-off between those two things. The design had a direct impact on the decisions that people were collectively making. That is a concern.

It is clear that the big question that people argue about most is the supply-side response, which is not straightforward and is not binary in the sense that this will definitely happen or that will definitely happen. We want to think hard before the introduction of the policy about those consequences and how they match up with the vision or the strategic purpose that the rental market has within the broader housing strategy.

Willie Coffey: Anna Evans specifically mentioned unintended consequences.

Anna Evans: Yes. I am not sure that we can isolate the impacts of the rent control with the cost of living and what the bill proposes, but I think that there is a cumulative effect of the scale and pace of regulation that has happened in Scotland in the

PRS combined with the constrained market and significant changes for landlords and tenants due to a volatile financial market.

Relatively recently, there has been a reduction in the amount of stock in the private rented sector. There has been a reduction in the number of lets, and many landlords have increased rents significantly at change of tenancy to reflect the increased risks. As I have said previously, others have increased rents more frequently, and long-term renters have experienced rent increases that they had not experienced before. As I have said, the norm is to increase rents at change of tenancy, but some long-term renters are experiencing rent increases more frequently. In addition, letting agents are definitely more inclined to increase rents more regularly and at a steeper rate than individual landlords would do.

Taking all those things in the round, with the lack of movement that Ken Gibb has spoken about, if people know that it is much more expensive elsewhere in the market, they will simply sit tight. That lack of movement is a problem. To meet needs and demands, movement in the whole housing system is needed. We cannot isolate issues; we have to look at the whole system and all the different impacts. There have been some negative impacts.

Joshua Davies: I will add a couple of points to Anna Evans's excellent summary.

One additional thing to note is that, obviously, a lot of landlords and landlord representative groups say that they plan to exit the market if some of the regulations are put in place. However, it is interesting to note that, in 2019, at the start of our research, we asked landlords about their future plans to leave following the introduction of the PRT. Since then, landlords have, of course, seen far greater challenges than they would have anticipated in 2019, given mortgage rates issues and the pandemic. However, the evidence strongly suggests that, nevertheless, they have not left the market in anything like the numbers that said they would. Basically, there is a history of landlords overestimating their likelihood of leaving the sector following the introduction of legislation.

I will make one broader point about the rent control measures. As I have intimated, the key point is that we cannot see rent control in isolation. We need to take a holistic approach to the whole housing sector and look at why the demand is so high and the imbalance with supply. That means expanding other avenues for renters—in particular, renters who are most vulnerable—to find a home. That is about expanding the social rented sector and other options for genuinely affordable housing.

Willie Coffey: I have a final question about capacity. Somebody said that it is one thing to have legislation but another thing to have the capacity to put it into force. That might have been you again, Deborah Hay—forgive me if it was not. Will you tell us a little more about that? What do you mean by that? East Ayrshire Council, for example, has private sector liaison officers who do a lot of work in exchanging with the private rented sector. Would an additional duty fall on them? Do we need to have other resource to deliver that?

Deborah Hay: I am not sure what the bill drafters have in mind about how that might be done. I am just reflecting conversations that I have had with colleagues in local authorities and in the wider housing sector, who tell me that local authority departments are under incredible pressure—that is related partly to the housing emergency and the homelessness statistics—and that adding another duty to their long list of things to do will not make it happen. We need to have a proper look at the data that we need not just for the purposes of the bill but more broadly in the housing sector.

Willie Coffey: Does Anna Evans want to come in on capacity?

Anna Evans: Yes. We also need to remember independent information and advice providers. For example, if tenants need some advice, they will typically mention first the citizens advice bureau. Citizens advice bureaux' funding, like that of many other third sector organisations, is under pressure, so we should think about capacity in the broader sense—not just that of the local authority PRS advisers, but that of the independent sector, to which tenants are more inclined to go.

The Convener: Gordon MacDonald, you indicated that you wanted to ask a brief supplementary.

Gordon MacDonald (Edinburgh Pentlands) (SNP): Yes—I have an additional question.

Alex, you spoke about international comparisons. In your written evidence, you highlighted that, in Germany, landlords have to advertise their proposed rent offer as well as the relevant ceiling for the rent control area. Could you say whether that has any impact on the market?

Professor Marsh: With those types of mechanisms and in some systems where there is a constitutional question, landlords almost advertise two rents at the same time. First, there is the rent if rent regulation sticks, and then there is the rent if the constitutional court declares the regulation to be unconstitutional. In some cases, there is a significant gap between the two.

In Catalonia, landlords are obliged to make the rents visible on adverts, which I think is to

overcome information asymmetry. In other places, where there is a register somewhere of what the regulated rent is and the tenant has to go and find it, the systems tend to get swamped with people who need somewhere to live and who will pay whatever the rent is. That might well not be the regulated rent, but people will overlook that, because they need somewhere to live. The requirement to display both rent levels is an attempt to dissuade such practices.

As far as we can tell, the evidence is that the downward pressure on rents is greater when the regulated rent is visible at that stage. Landlords have to make it visible up front, and the tenants are aware of that, which means that landlords have a stronger disincentive to push the rent above that level or to argue against it. That relates to formal rent; I do not think that we have much research on side payments, key money or whatever else might be going on. However, for posted rents and rents being paid, compliance with a regime is greater where it is more visible.

Professor Gibb: I will make two quick points that follow on from Willie Coffey's question, one of which is about capacity and enforcement. In a sense, there is a case for pushing some of the work in this area back to the Scottish Government. There is a very good example of effective learning from market analysis, which flowed from the local housing systems analysis work. That provided the evidence base for strategies before we had the housing need and demand assessment tool. The key thing there was that the Scottish Government provided a lot of data and monitored the quality of the market analysis that was done by each local authority partnership.

That was a very good incentive-compatible way of doing things. We will need to have something like that if we are to have confidence and a baseline consistency in the market analysis that will be required to assess what rental data means in local places. Some of that work can be done at the centre, by the Scottish Government, through the housing market analysis team and various other people.

While I agree with what has been said about the likelihood of supply decline, one factor that we have not yet discussed is a demographic one. Alex Marsh and I have previously discussed the sense that there is probably a cohort of buy-to-let landlords who are reaching retirement age and are considering getting rid of, or liquidating, their assets. To that extent, there is a force that goes beyond the strong incentives, but which will, in a sense, be magnified by them. We do not really know what the magnitudes of those things are, but the fact is that a lot of people became buy-to-let landlords about 15 or 20 years ago, and they

might feel that they are coming to the end of their term.

The Convener: I want to ask Ken Gibb something before I bring in Anna Evans. Ken, you spoke about pushing things back to the Scottish Government with regard to the market analysis. Do you think that putting a duty on ministers to decide whether or not to propose to designate a rent control area, informed by local authorities, will protect those authorities from pressure and, indeed, from legal risk? That is the difference between control areas and pressure zones, is it not?

Professor Gibb: It all goes back to the quality of decisions, the evidence that those decisions are based on and having confidence in the decisions. They have to be consistent across the whole nation, otherwise the policy is not really a national one. There will always be a concern about different abilities to do the job, for capacity reasons.

Equally, there is a sense that the Government must take a really consistent view. We still do not know what kind of caps will apply, and such things need to be carefully worked out. If the Scottish Government went some way towards providing the data and the framework within which people did that analysis, that would be a considerable help. There would then be opportunities for people to get consistent training in how to undertake that, which does not exist any more on a consistent basis.

10:30

The Convener: Anna Evans, you indicated that you want to come in, and I get the sense that Deborah Hay does, too.

Anna Evans: I just want to confirm Ken Gibb's point about the tenure of landlords. We know from the quantitative surveys that we have done, with the five-year difference between 2019 and 2024, that there is an increase in longevity of landlords and a decreasing proportion of younger landlords who have had stock for less time. That profile is increasing towards those who have been landlords for longer, who are probably the older landlords—we did not ask them their age—and that will have an impact on the age and stage of landlords.

The Convener: From your research, do you have a sense of where the younger landlords are going? Are they just selling their properties?

Anna Evans: They are just not coming into the market.

Deborah Hay: I will go back to the point about the kind of private rented sector and the kind of landlords that you might want to have. JRF is quite clear that we want to see a smaller, more

professionally managed private rented sector that meets the needs of tenants and landlords, which probably means moving the people who are in the most vulnerable circumstances out of that sector as a long-term option—that is not necessarily a short-term option. If I remember correctly, even Ken Gibb's own research showed that the build-to-rent sector was not opposed to rent controls of some sort, provided that it was a stable environment and provided that it was something on which it could make a return.

I understand why the Government undertook the rent controls in the manner that it did. It was an emergency and it did not want to scare the market. It made some deliberate design decisions about trying to allow landlords to reset rents between tenancies. The Government did that deliberately to try to give landlords a bit of leeway, and you have heard from the panel about the impact that that has had. It is great for existing tenants, but it has caused an acceleration in rent rises elsewhere.

In fact, you could design a process that has a sort of long-term drumbeat of rent control that provides certainty for tenants—that is what tenants tell us that they want; they want a predictable sense of how much their rent is going to be when they stay in their property—and a certain amount of predictability and certainty for the build-to-rent sector.

However, the thing that was missing—because it was an emergency situation—was the idea of taking landlords along with us. As part of the process of really thinking through the design, we need to take people with us, and it would be good to do that in an open, transparent and quite open-minded way, because there are some win-wins. There are some landlords who will want to exit, and there are some landlords who will want to purchase and socialise private rented properties, but we are not bringing people along with us. That would be my very general point.

Pam Gosal: Analysis of figures by the Office for National Statistics has shown that average rents in Scotland have increased by 16.5 per cent since the introduction of the rent cap in October 2022. That is faster than the increase elsewhere in the United Kingdom. Do you have any evidence on how the cap impacted on the experience of tenants and landlords, as well as on the supply of private rented accommodation?

The Convener: Who wants to pick that up?

Professor Gibb: I will have a go. We have given some examples of where such effects seem to have occurred, and I re-emphasise what Deborah Hay just said. We spoke to a Swedish investor who invested across Europe within rent control systems and free market systems, and their point was that, if there is political

predictability—if political risk and uncertainty are low and stable—it is perfectly possible to make rent control rents work in a diversified portfolio.

The sense that one gets from investors who are potentially investing or starting to invest in build-to-rent properties, particularly in Glasgow and Edinburgh, is that it is not a predictable environment and that they feel unsure about what might happen in the future. They will need to be reassured in some way, if people view it as significant and important that build-to-rent developments continue.

The consultation before the bill was introduced explicitly said that there could be some exemptions from rent control—it said, “build to rent?” in brackets—and that is in the bill as a possibility. That might be one of the bits of thinking that is going on behind the bill—it might be one of the lessons learned, in a sense, from what has happened in the past two years. As Deborah Hay said, it would be interesting to know what build-to-rent investors make of that and whether they feel that it is sufficient to create an environment in which they would invest.

Pam Gosal: I think that you are absolutely right. We have heard the evidence about certainty and what the market brings. Supply is a big issue, obviously, because we need more of that. You mentioned that people are leaving the sector, given the age of the people who rent out properties, but we need to ensure that that supply continues.

I think that Deborah wants to comment.

Deborah Hay: I am slightly fearful about making this point in case the academics shoot me down, but my understanding is that the ONS figures for Scotland are not directly comparable with those for the rest of the UK. There is a note in the technical blurb that says that the bank of rents in relation to which the rapid increase has been identified largely comprises asking rents in Scotland, whereas there is a better mix in the figures on the other countries. I do not doubt for a moment that we have had those rapid increases, but I urge a little caution about having too much certainty about those figures at the moment.

Professor Gibb: Deborah Hay is absolutely right. It is only recently that the ONS data has not been described as experimental. It has a weighting for existing rents, but the underlying quality of the data is not as good in Scotland as it is elsewhere. For example, the broad rental market area data is much better in Wales than it is in Scotland. We rely heavily on advertised rents, and the data on broad rental market areas is also heavily weighted towards new lets. As someone said to me recently, advertised rents are not particularly representative of the market as a

whole, and they are also the rents that disadvantaged low-income people face when they try to get a new tenancy.

Joshua Davies: To be really clear, it is worth making a point about the positives for renters of the recent in-tenancy rent cap period. During that period, rent rises did not go above 3 per cent, but our research shows that, before that, when tenants experienced rent increases during their tenancies, they were more often than not above 3 per cent, and sometimes they were as high as 10 per cent, 20 per cent or more. Although advertised rents have risen dramatically, as my colleagues have said, that is because nothing has been done to limit those rises between tenancies. Within tenancies, the cap was a really impactful thing for tenants, as it gave them certainty and the restriction on their rents made things more affordable for them. If we are to take action on rents, something has to be done to address that gap and the rise in advertised rents.

The Convener: We will move on, because of the time, and unleash the questions on data. I think that everybody is keen to get more detail on that.

Mark Griffin (Central Scotland) (Lab): Good morning. We have talked about the ONS data, but do you have any comments on the availability of data beyond that? Is there sufficient data out there to inform the policy decisions that we are making?

Professor Gibb: In principle, that data can be collected. A central part of what the bill seeks to do is to find a mechanism by which all rental data will be collected systematically. If we look back to the 2021-22 consultation, we can see that there was a hope running through the data section that the landlord registration process would provide that by adding property characteristics, rents and suchlike to the data collection.

We kind of moved away from that, but the bill seems to have come back to it, although it does that in a specific way, with the notion of local authorities asking for that data and there being fines for non-compliance. Over a period of time, we hope that that will generate a much more balanced set of data that gets rid of the advertised rents problem or bias.

However, it will take time. It is absolutely not clear how well such a model will work in practice. It seems to me that we could try to use some of the things that we talked about earlier with regard to the safe, secure nature of the property. There are data issues in that regard that landlord registration could also work with. For a long time, I think that people thought that that was the natural way to collect such data. I do not really see any other obvious way to collect the volumes of data that are required, particularly for existing

tenancies, without using that mechanism, which is there—it is there to be applied.

However, we are a long way from getting that to actually work, and it will take time before there is enough data to use. That begs questions about the three-year lag in landlord registration data. We really need annual data at the least.

Anna Evans: I do not have anything to add to that.

The Convener: Could we change that three-year lag in the bill?

Anna Evans: I think that that would require a change to the landlord registration regulations. I presume that that could be done, but, yes—at the moment, landlords have to reregister only every three years, so there is an inbuilt lag of three years in the register.

Mark Griffin: Specifically on that proposal to give local authorities the power to request information on rent, to what extent will that information be necessary to make decisions about whether to implement a rent control area? How long will it take from the point of having the power to collect that data to be in a position to make a decision on whether to implement a rent control area?

Deborah Hay: That is the inherent problem. It is certainly part of JRF's concern that, if we have a mechanism that we want to use and a crisis that we want to use it against, it will take three or four years before we are at the point where we could design something.

There is a first-order question to answer first as part of the design process between now and then, which is whether the better system is a local system or a national system. Earlier in the evidence session, we talked about the fact that, whether it is unintended or otherwise, part of the design of the current rent controls has supported existing tenants and created behavioural responses elsewhere.

Scotland is quite a small place. You could see a situation in which there could be rent control areas but quite sharp rises for areas that are outwith that control. We have to decide whether that is the way that we want to do it. The issue is partly about whether we want rent controls to be a permanent part of the landscape or whether we want them to sort out very specific issues.

However, your concerns about the timescale are right. Back in 2019, the Fair Rents (Scotland) Bill came before Parliament. We said at the time that we needed to collect the data first in order to inform the design of the rent controls. In some ways, we have gone the other way, because we have done an experiment and now we need to learn the lessons from that and use those in the

design process for anything that we want to take forward.

Anna Evans: I agree with Ken Gibb and Deborah Hay. The key issue is the quality assurance around the data, and I tend to conclude that it might be better to have a centralised approach because, as many of us will know, there is variability of capacity, skills and resources in local government. As a result, you will get very different responses with regard to the ability to collect that data and its robustness at local level. Therefore, my inclination is that, for example, the centre for housing market analysis might be a good conduit for that data collection and the quality assurance around it. Local authorities could then be given that data and could decide what to do with it in relation to a potential rent control area.

10:45

Mark Griffin: On the publication of that data, any tenant or prospective tenant can go to the national website, put in an address and check the landlord registration. Should the data that is collected on rent be published in the same way?

Professor Gibb: Yes.

Anna Evans: Yes.

The Convener: On data collection—we touched on this earlier when we spoke about the landlord register, but I would like a bit more information—at the moment, landlords have to meet basic safety and environmental standards, with the gas safety check, electrical safety documents and the energy performance certificate. What advantages would there be and how feasible would it be to require landlords to provide that information to local authorities—and provide it proactively, rather than local authorities having to request it? Could that be a useful approach? Last week, the committee talked with the bill team about the purpose of the bill and about that being related to the experience of somebody who is renting accommodation.

Deborah Hay: It is important that all properties that are rented out are rented out to a very high standard and that anybody who moves into those properties can have some assurance that those checks have been made. I guess that the answer depends on whether that is best done through information that is given between landlords and tenants or whether it should be between landlords and local authorities as part of the quality assurance process.

From the work that we have done with tenants, we know that they can feel a bit overwhelmed by huge amounts of information at the point of starting a tenancy. What we want is for them to be assured that their property is of a high standard. There is probably a simpler way to achieve that,

which is by landlords making that information available and keeping it up to date as part of a beefed-up process of landlord registration, which you are describing.

The Convener: That is very helpful.

Gordon MacDonald: I will ask about rent adjudication and your views on how we can improve it. However, first, I want to ask Deborah Hay a quick follow-up question. When you sell a property, you have to produce a home report. Should there be something similar for landlords when they put a property on the market for rent?

Deborah Hay: I think that there is value in that, and it is an idea that came out of the project that Alex Marsh and some of his colleagues did with us. That is what tenants wanted; they wanted a summary—a home report—that provided the assurance that we have just been talking about, rather than a 40-page inventory with lots of photos detailing the state of the windowsill, for example. Tenants want to know that the boiler is working, that it is high quality, that there are windows and so on. Yes, I think that there would be value in that.

You would have to balance that value with the cost of producing the report. Obviously, in a house sale, some of those costs can be defrayed by any profit that you might make. There are some questions about who pays for that, how detailed the report would be and so on. However, again, as per my answer to the last question, there is a relatively straightforward technological answer to some of how you might do that, which could potentially keep the costs down for landlords.

Gordon MacDonald: We have talked a lot this morning about the importance of the tenant-landlord relationship and the fact that that might have an impact on the low numbers of people who go through the rent adjudication process. There are also vulnerable tenants who might not have the knowledge of how they can appeal. I think that it might have been Anna Evans who said that, if there is no alternative home, people are not going to complain. What needs to be done to improve the take-up of rent adjudication, given that minefield?

Anna Evans: At the basic level, that goes back to my previous points about information and advice. It is not just vulnerable tenants who do not know how to appeal. I think that the majority of tenants do not have that knowledge or know what the process is. From the rent officer data that the Scottish Government has provided us with, we know that only 227 cases have been raised since 2017. We estimate that to be under 1 per cent of all PRTs.

Because the incidence is low, we have only done one longitudinal interview with a tenant who

has experienced adjudication. His general description of the process was that it was difficult and bureaucratic. He said that there was lots of paperwork and legal jargon and that he did not understand the process. He also appealed and went to the First-tier Tribunal for Scotland housing and property chamber as well, so he was obviously quite motivated and exercised about the whole thing. However, even with that, it was a difficult process.

I think that there needs to be more information and advice, and that the process needs to be simplified for tenants in order to encourage them to take up that option.

Deborah Hay: I am sorry to keep using the D word, but there is a data problem here as well, because the rent data bank that a rent officer would use in order to understand whether any given rent is reasonable is also not very good. We keep going back to that point.

In the longer term, you could have something that was a little bit more straightforward. With the current process, there is a really great calculator on the Scottish Government's website, which is helpful. The actual calculation is a little bit complicated, but the calculator itself is simple, which shows that that can be done. If there were a straightforward system where rents were assumed to rise only in line with inflation or with earnings growth, for example, once we are at a steady state, that would be a much easier process to manage. At the moment, we are trying to compare apples and asparagus and hoping that tenants will take that all the way through the process so that we have some sense of the situation. However, as I said, the current process involves a very clunky mechanism and uses a data bank that is not terribly reliable.

I offer one final anecdote. A friend of mine was given a rent increase and asked me, "What is this?" Tenants are not able to ascertain whether their rent rises are reasonable or unreasonable, because they do not have access to the data, so I had to go and look on the at the published data set. I found that, depending on how widely I defined the local area in which my friend lived, I got wildly different responses, so I had to say to him that he should not bother pursuing the issue, because, although the rent increase looks bad, it is actually defensible. That is part of the challenge.

Gordon MacDonald: Some of the evidence that we have heard concerned the fact that rent service Scotland had the ability to increase rents more than was being asked for, and the bill proposes to remove that power. What impact do you think that that will have? Will it increase the numbers, or does the issue come back to the long-term tenant-landlord relationship?

Anna Evans: There has been only one case in which the rent officer has increased the rent, and I do not know to what extent people know about that, so I do not think that the removal of that power would necessarily encourage tenants to go through the process. Tenants need to know that they have that option. Perhaps they should be told that the majority of rents that were considered by the rent officer were reduced. That has happened in about 63 per cent of cases, while there has only been one case since 2017 in which there was an increase.

Joshua Davies: Having advised renters in a previous job, I would just say that it is worth noting that, when you are advising someone about going through that process and you forewarn them of the risk that their rent might go up, the possibility that their rent might end up being higher than is proposed dramatically decreases the likelihood that they will attempt to engage with the process, given how difficult it is anyway.

Gordon MacDonald: My last question is for Joshua Davies and Anna Evans. The research by Indigo House has found that low-income tenants in particular do not feel secure in their privately rented homes and continue to fear eviction if they complain or challenge landlord activity. Can you say a bit more about that?

Anna Evans: It comes back to the earlier point about the fact that there is a lack of choice. Tenants feel secure not because of their legal security but because of affordability, their financial circumstances and their relationship with the landlord. If a dispute emerges and the tenant looks at the alternatives, they find that there are very few affordable alternatives, which creates a position of less power and less inclination to challenge, because they would not be able to afford the alternative—or the alternative is not there at all.

Gordon MacDonald: Is there anything that we can do to address that?

Anna Evans: There needs to be more affordable rented housing supply for people on low incomes and those who are vulnerable to harm for whom the private rented sector is not the best option.

Joshua Davies: There is one quite specific thing that could be done about tenants feeling insecure, which is around the abuse of the current no-fault eviction grounds. The evidence that the RentBetter study has produced shows that, in 20 per cent of cases in which a landlord sought to evict a renter and said that they were going to sell the property, the property was not sold. Therefore, in one in five of those cases, the landlord acted unlawfully. Tenants are somewhat aware of that and know that that is a risk and that their landlord could abuse those grounds for eviction.

I will give an example. We spoke to Luke, who is a renter who lived in a property with rats and maggots falling through the kitchen ceiling. The landlord refused to address those issues, so, eventually, Luke took his landlord to the First-tier Tribunal for Scotland housing and property chamber, which made the landlord do the repairs. That sounds great, obviously, but, shortly afterwards, Luke was evicted using the sale ground. His landlord said that he was going to sell the property, but Luke later saw the property back on the market to be let. That is just one example of the abuse of that ground, which obviously creates a feeling of insecurity among renters from their knowing that that could happen.

Gordon MacDonald: Is there anything that can be done to enforce the situation with landlords? Should there be a series of fines on landlords if they do not follow through on what they originally proposed?

Joshua Davies: The first thing to do is to increase the evidential requirements on landlords to prove what they are doing, and, potentially, then introduce a point at which they have to return and prove that they have actually carried out the sale or give evidence as to why the sale has fallen through, or something like that. The other thing that could be done is to prohibit landlords from re-letting the property for an extended period and include fines or other sanctions if they do that.

The Convener: We move to our final area of questioning. I bring in Miles Briggs on implementation.

Miles Briggs (Lothian) (Con): Good morning, panel members. Thanks for joining us today. I want to ask two questions on implementation. From the research that you have been doing, what lessons do you think that the Scottish Government could learn about how any new legislative change will be implemented?

On the emergency legislation that the Parliament passed and then had to reconsider, the social rented sector had specific concerns about the rent freeze, which was taken out of the legislation by the Government in the end. Mid-market rent still sits within that, and there are concerns over the impact that that is having, especially in my area of Edinburgh, where the building of MMR homes has completely dried up. I have put forward two lessons, and I wonder whether there are other things that you would like to tell us about. I do not know who wants to start on that.

The Convener: Does anybody want to pick that up? I will go to Anna Evans and then to Deborah Hay.

Miles Briggs: You have picked the short straw, Anna.

Anna Evans: I agree that, if there is to be rent control, it all comes back to the prospective design. Mid-market rent is an important part of the system to supply for good-quality affordable rented housing. Obviously, it is more expensive than social rent, but it is in a more regulated sector and typically subsidiary of housing associations, so it is, by its nature, more professional. It comes back to the design question of getting the balance between not disincentivising and making sure that supply follows through. I do not have anything more to add to that.

The Convener: Deborah Hay, do you have anything to add?

Deborah Hay: I was going to say some of that and repeat the point that I made earlier about bringing stakeholders along with us through the design process, instead of just unveiling it at the end. Their business models have to work. I think that Anna Evans is right; there is a good case for MMR. It is already a sub-market rent that is pegged to other incomes, so it seems crazy to subject it to the same rent control as would apply to the private rented sector if open markets were being set.

11:00

Professor Gibb: One of the lessons that must arise from 2022 is the fact that if you do not design the contract or the policy well in the first place, you will have to spend a lot of time enforcing and revising it. I am sure that the Scottish Government and civil servants spent a lot of time working with the social rented sector, the Scottish Federation of Housing Associations and others. The issue might have been avoided if that work had been done earlier, but the nature of the bill meant that it was introduced very quickly. There is an obvious important lesson in that.

It seems to me that we are stuck in a set of trade-offs. Doing the thing right is really important. Obviously, any intervention of this kind needs to be sustainable and resilient, but we need to learn how to do that, so things will take time.

In some of our early research, we talked to stakeholders about how they would like to see such legislation implemented, before we knew the detail of what it was. Some people talked about running pilots and drawing lessons from them, but that just adds years, which is exactly what Deborah was talking about. Doing things well sometimes means taking longer. However, that might not be an acceptable trade-off.

Miles Briggs: Alex Marsh, did you want to come in on that?

Professor Marsh: I just want to reinforce that point, which loops back to the issues of

uncertainty and predictability of the environment. For business planning and institutional investment, it is about getting it right the first time and recognising that the regime will be in place for an extended period, rather than rushing it and having to change it again in a couple of years' time, which continues to generate uncertainty as a consequence.

Miles Briggs: I will bring Joshua Davies in, because the Nationwide Foundation's submission states that a

"a wider scheme of tenant support and enforcement is needed."

Could you outline what that might look like? Other panel members might have something to add, too. We have already heard some information on a home report for tenants, which is an interesting concept. What would that look like? I go back to your point, Alex, about the sector needing to have certainty over what is needed and who will do that work, both in local government and in the housing sector. I will bring you in, Joshua, as I was looking specifically at your submission.

Joshua Davies: I return to some of the points that have already been made around the need for a variety of measures to allow tenants to know and use their rights. Those measures can be taken at both the national Government and local government levels, and involved not only information but, particularly, advice and support for tenants. As we have already referred to, local authorities also need proper resourcing for enforcement. Alongside that, best practice needs to be shared, data needs to be improved and shared, so that local authorities can know what is going on in their areas, and skills gaps need to be addressed, so that local authorities can recruit effective staff.

Renters' ability to access justice through the tribunal could be dramatically improved, too, as a lot of our research has shown that the tribunal is difficult to access for renters, and it is worth noting that landlords also find the tribunal difficult to deal with.

I do not know whether you wanted to add anything on what the evidence has shown, Anna.

Anna Evans: I will just repeat what I have said previously: it is about enabling tenants to assert their rights. They need knowledge to do that, so, at the basic level, there needs to be a public campaign that informs tenants about their rights. During our interviews with tenants in our 2024 wave of research—this was actually the subject of a recommendation from a previous wave—one tenant said that their letting agent had given them a verbal walk-through on their rights and responsibilities and those of the landlord at the beginning of the tenancy, which you see a lot of in

the social rented sector. They found that really valuable, and other tenants who we spoke to said that having such a walk-through that would be a really good thing.

You cannot just produce a huge wad of paper and expect people to read through and understand it. A verbal walk-through would help people to understand their rights and responsibilities and to give information and knowledge right from the start. Resources would also be available so that people could access support, information and advice if they needed to—the likes of Citizens Advice Scotland and other independent bodies, to which people can go without fear of recrimination and which enable them to assert their rights.

Again, the market is a powerful backdrop to everything. Even if people have that knowledge and know what their rights are, they also know that there is no affordable alternative, so the focus still needs to be on increasing the supply of affordable rented housing.

Deborah Hay: If we look, for example, at the success of the guy—I have forgotten his name—who has been showing up terrible conditions in social housing down south, or at the success of Living Rent, we see that bringing really bad practice out into the open can help to protect tenants. That is one lesson that I have learned over the past couple of years. They have been phenomenally successful at walking alongside people in the way that Anna Evans is talking about individual landlords doing. That is really important, and it is part of the culture shift that we talked about at the beginning of the evidence session: those properties are people's homes and they have a right to expect things.

The Chartered Institute of Housing Scotland talked about the need for a private rented sector charter, in the same way that we have one for social housing. That sets out the rights and responsibilities of both parties in a clear way, and that would also be a useful step forward.

Professor Marsh: I echo that point about a charter and clarity and adjustability.

I have one point to add, which touches on something that Deborah Hay said earlier. CaCHE did a bit of work a while ago about alternative dispute resolution—ADR—in the private rented sector. Quite a lot of interesting things are going on in the digital space about how to streamline some of those processes, how to make them more accessible and how to make engagement with the system less of a burden. There might be some things in that area that are worth looking at in relation to adjudication or tribunal access. In order to, at least, reduce barriers, if not get people to fully engage, we need to pay more attention not

only to making the information simpler but to the customer journey through the system.

The Convener: That brings our questions to a conclusion. It has been very helpful to hear from the witnesses this morning. Before I suspend the meeting, I invite Mark Griffin to declare his interest.

Mark Griffin: I apologise, convener. Before my contribution, I should have declared an interest to let members know that, until July last year, I owned a private rented property in the North Lanarkshire Council area.

The Convener: Thank you, Mark. I will briefly suspend the meeting to allow for a change of witnesses.

11:07

Meeting suspended.

11:11

On resuming—

The Convener: I welcome our second panel of witnesses: Lyndsay Clelland is a policy officer at Age Scotland; Dan Wilson Craw is the deputy chief executive of Generation Rent; Aoife Deery is a senior social justice policy officer at Citizens Advice Scotland; Ellie Gomersall is the president of the National Union of Students Scotland; Eilidh Keay is a tenant of a rented property; and Emma Saunders is the national organiser of Living Rent.

We turn to questions. There is no need for you to operate your microphones. We will do that for you. I have a couple of general opening questions. The first is about your thoughts on the Scottish Government's statement that the bill

“contains a package of reforms which will help ensure people have a safe, secure, and affordable place to live.”

I would be interested to hear your thoughts in general on the extent to which the bill will deliver those aims. Who would like to go first, or shall I pick on someone? I will call Eilidh Keay then Aoife Deery.

Eilidh Keay (Living Rent): Good morning. Thank you again for inviting Living Rent to give evidence. Obviously, we—especially tenants across Scotland, who have campaigned for it for the past 10 years—welcome the bill. We believe that it is an entirely proportionate and necessary response to Scotland's recently declared housing emergency and the Scottish Government's need to meet its vision in “Housing to 2040”, its child poverty reduction targets and its ambitious human rights vision.

It is important to clarify that tenants bear the brunt of the emergency. In the past decade, or

since 2010, rents have increased by 51.99 per cent. Obviously, there are local specificities. The increase is far above consumer prices index inflation in Greater Glasgow and Lothian, where rents have increased by 80 per cent on average. All the while, that is against the backdrop of stagnating wages and increasing energy bills, childcare costs and fuel costs.

Back in 1980, when we had rent controls, private tenants were spending about 10 per cent of their income on rent. Now, the figure is, on average, 30 per cent, and it is more for lower-income earners. As a comparison, home owners spend roughly 8 per cent of their income on their mortgage.

Specifically since the cost of living crisis, and despite the emergency protections, landlords have used every possible loophole to increase rents. When we speak about the bill, therefore, it is important not only to speak about its intent but to learn lessons from the emergency legislation and to close those loopholes.

I watched the previous session, in which there was some really valuable discussion about data and implementation. However, it is concerning that we have not talked about the human cost of an unregulated PRS. We have a quote from one of our members that is important to read out. Actually, there were almost too many quotes to choose from. That should not be the case.

“Over the last few years, I have faced three successive rent increases, bringing my rent up to £1,400 a month, which is well over 50% of my income. I am unable to afford this. Despite writing a personal plea to the landlord, he has stated that he’s not willing to negotiate another increase. I’m a single parent with full-time care of my child. For the last four years, this house has been our home. We take care of it, we love it, and we’ve built a community here. My child is currently awaiting the final stages of an assessment for both autism and ADHD, and uprooting them at this time would be incredibly difficult. We’d lose our support network we’ve built here. I’m petrified of being forced out of our home because we simply cannot meet the requested yearly rent increases.”

11:15

As I have said, there are loopholes to work through and I hope we can address them in our discussion. However, we welcome many aspects of the bill, such as the provisions on rent control relating to the property rather than the tenancy, and on the ability of rent control areas to cover a whole local authority area, which is a point that has been learned from rent pressure zones. We welcome the potential zero per cent cap, because rents need to go down; they cannot just be stabilised.

We also would like to mention our concern, which stems from what we have seen from our members, that the bill does not go far enough to

cover rent increases for social and council tenancies, particularly for such increases on top of service charges. Just this year, one of our members faced a 16 per cent total increase year through a combination of social tenancy increases and service charges.

It is also disappointing to see that the bill fails to include any measures to address the extensive disrepair and quality issues that tenants face, such as mould and damp, energy inefficiency and general disrepair.

Finally, the bill fails to review the grounds for eviction and any improvement to the eviction process. That is entirely necessary to prevent the growing culture of de facto no-fault evictions.

Despite those reservations, we reiterate that the bill will be absolutely essential to addressing the housing emergency. The bill is very welcome, and we look forward to discussing it with a view to improving it.

The Convener: Thanks very much for that. Aoife Deery will come in shortly, but first I would like to ask you all for your comments on the extent to which the bill delivers the Government’s stated aim of people having

“a safe, secure, and affordable place to live”.

My second question is on an aspect that Eilidh Keay started to touch on. I will put that into the mix so that you can pick it up, too. It is about how well you think the bill balances the rights of tenants and those of landlords.

Aoife Deery (Citizens Advice Scotland): Thank you for having us along to share our evidence with the committee. Citizens Advice Scotland welcomes the introduction of the bill. We believe that it goes some way towards improving the housing experience and outcomes for renters in particular. As the earlier panel said, however, there is a need to take landlords along in the process. I will come back to provide detail on that aspect later in the session.

We believe that the bill is needed, because everyone in Scotland should have a safe, secure and sustainable home. Research has consistently confirmed the foundational importance of a home to people’s wellbeing, building communities, reducing health inequalities and—as “Housing to 2040” highlighted—improving overall life chances. Our evidence shows that rents in some areas are simply too high, so Government intervention is justified. Increasingly, people are struggling to access having their own homes, especially those who are on low incomes. We need to help them to access and remain in their homes by developing proportionate evidence-based policies to limit high rent increases. I would say that the bill seeks to do that in quite a careful way.

There is also a strong need for better data, enforcement against poor practice and additional resources, which other witnesses have spoken about. For CAS, those are the golden threads that are woven throughout the bill that really need to be examined, because they will be critical to getting things right and delivering outcomes for both renters and landlords.

I will wrap up my comments by emphasising that the bill is important because the cost of living crisis is not over. People are still feeling its effects. In quarter 4 of this year, compared with the same period last year, we saw a 23 per cent increase in people seeking housing-related cost of living advice on rents, rent increases and mortgage arrears for landlords. The bill's aims should help with some of that.

The Convener: Ellie Gomersall can go next.

Ellie Gomersall (National Union of Students Scotland): Thank you for having us along to give evidence on behalf of the National Union of Students Scotland. Naturally, most of my evidence will relate specifically to the student experience of housing. With regard to the stated aim of people having a safe, secure and affordable place to live, we believe that that is essential for all tenants, but, unfortunately, there are parts of the bill that do not cover many students.

We welcome the bill overall, in particular with regard to bringing in rent controls for those in the private rented sector. However, we have a real concern that, among the student population, a lot of students live not in the private rented sector but in purpose-built student accommodation, and the bill does not touch on PBSA at all. The bill will, therefore, create a disparity between students and other tenants. Students are a population who desperately need support with housing and safe, secure and affordable places to live.

Research from NUS Scotland from the end of 2022 found that 12 per cent of students in Scotland have been homeless at some point during their studies. That is a horrifying statistic. A lot of that involves students struggling to find somewhere that they can afford to live at the start of term. In addition, 35 per cent of students have been unable to pay their rent in full. When we speak to students on the ground about their challenges in finding somewhere to live that is safe, secure and affordable, it is often the case that the places that are on the market are at a rate that it is simply outwith a student's financial ability to pay.

From 2018 to 2021, the average annual rent for purpose-built student accommodation in Scotland increased by 34 per cent. For the average student who is receiving the average amount of cost of living support through the Student Awards Agency

Scotland and paying the average rent in purpose-built student accommodation, 84 per cent of their income will be going on rent.

I will not repeat the excellent points that were made by other panellists about the reasons why we welcome the bill and some of our concerns about the private rented sector, but it is critical that the bill goes further to ensure that all tenants are protected. In the previous session, I heard some chats about the importance of people knowing what their rights are. That is a particular challenge for students, it will be the first time that many of them have ever lived independently. When we add to the mix the fact that different students might be living in different housing sectors with very different sets of rights—one of which, PBSA, gives significantly fewer rights than the private rented sector—that also becomes a challenge.

With regard to the second part of your question, about balancing the rights of tenants with the rights of landlords, NUS Scotland naturally represents students, and we have seen the scourge of homelessness. As I said, 12 per cent of students have experienced homelessness during their studies. When a landlord is unable to make their mortgage payments, for instance, or their business is failing, the worst-case scenario for them is that they lose part of their property portfolio. For a student or a tenant who is unable to afford the rent, the worst-case scenario is homelessness. It is important for us to bear that in mind when we are talking about balancing those rights.

The Convener: Thank you for bringing in the NUS Scotland perspective, and highlighting the fact that student accommodation is not covered in the bill at present. Dan Wilson Craw is next.

Dan Wilson Craw (Generation Rent): Our homes are the foundations of our lives. Having a stable, secure, safe and affordable home is a basic need, and it is essential to all our lives. It should not be making us ill, or poorer. In fact, having control over your home means that you have control over your life. We see a lot of problems throughout the UK. The situation is better in Scotland, as Scotland is far ahead of the UK in policy terms, but we still see a lot of barriers to tenants feeling that they have control over their home. Renters do not currently have protection from being priced out of their home by landlords who are seeking to maximise rent.

In Scotland, we have had the rent cap, and we now have the new transitional arrangements, so we will see how that plays out. It is important that the bill has a system of regulating rents on which tenants can rely, and which provides a bit of certainty for the wider housing system, so that is very welcome.

Renters also need to be able to move easily, if they need to, in order to be able to stay in their communities. I think that the bill goes a long way towards making sure that rents in the wider market are also stable.

We support a lot of the other measures in the bill, but there are some areas where we think that security and safety in private rented homes could be improved. In cases in which a landlord is selling up or moving back in, tenants need more protection and a greater ability to stay in their home if possible or, if they move, they need to be able to find a new place easily. We need to make sure that landlords cannot easily misuse grounds, which we think is very common.

There are other areas that could be addressed in the bill, such as improving the deposit protection system and the way in which laws around safety and the quality of homes can be enforced. Tenants need to have better awareness of what their rights are, but they also need to have the ability to exercise those rights.

The Convener: Thank you. We will definitely go into detail on aspects such as deposits.

Lyndsay Clelland wants to come in.

Lyndsay Clelland (Age Scotland): I thank the committee for having us along today. Age Scotland is the national charity for over-50s in Scotland, and we very much welcome the overall aims of the bill of making sure that the private rented sector is safe, secure and accessible, and that it represents a suitable tenure for all, particularly for people in later life.

Our research has noted that an increasing number of people who are over 50 are moving into the private rented sector. Our most recent housing research shows that that number has doubled to 12 per cent in the past two years alone, and that figure will only increase, given that younger people in the private rented sector tend to remain there for longer and might never move on to the property market and own their own property.

Given that we have an ageing population—Scotland's population is ageing faster than that of the rest of the UK—it is very important that we ensure that the private rented sector is suitable for all stages of life.

With regard to rent controls, we know from research by Independent Age that 39 per cent of older renters are living in poverty, and many of them are probably in the 24 per cent of older households that are experiencing extreme fuel poverty. That compounds the levels of financial stress among older households that are renting.

On the issue of awareness of rights, which has been touched on, our own research tells us that, worryingly, 42 per cent of older people who were

in the private rented sector did not know what rights they had. A quarter of them did not even know what tenancy type they had, never mind being able to use their rights and enact them when it comes to matters such as rent adjudication or challenging their landlord over a rent increase.

Because older people will often have been in their home for a certain period of time and will have built up a community—they might have set up access to care or to care at home in their local area, as well as having access to their local GP—that makes moving to somewhere different a lot more challenging and a lot more complex. Therefore, they are often stuck between a rock and a hard place, in the sense that they cannot afford to pay their rent, but because they think that it would be very difficult and complex to move elsewhere, they stay in housing that is unsuitable for their needs.

Another part of the bill that we particularly welcome, which relates to the suitable housing aspect, is the part that deals with changes to let property and the rights of tenants to be able to make such changes. We can discuss it later, but we would like more clarity to be provided around that so that we can ensure that tenants have the right and the ability to make sure that their home is suitable and adaptable for them as they age over time.

The Convener: Do you have a sense of whether the bill balances the rights of tenants with the rights of landlords?

Lyndsay Clelland: I think that we need to look at the bigger context and where the balance is currently. Perhaps the balance is a bit skewed towards landlords at the moment, particularly when it comes to issues such as the ability to make changes to property, to implement energy efficiency measures and so on. The bill seeks to address that situation and to bring it back in to balance.

Moreover, the bill provides a lot of clarity and consistency for landlords and tenants on their rights and responsibilities and what should be expected with regard to your home and your property. Indeed, it does go some way towards managing expectations more clearly for both sides.

Obviously we represent older tenants and landlords. Often, older landlords are unaware of their responsibilities in delivering suitable and affordable housing, and the bill also seeks to address that.

11:30

The Convener: That is great. We will now talk about the subject of rent. Pam Gosal has a couple of questions on that.

Pam Gosal: Good morning to the panel, and thank you very much for coming along.

What are your views on the bill's rent control area provisions? Is the process for declaring a rent control area sufficiently clear? Will it lead to rent stabilisation in the affected areas?

The Convener: Who would like to pick that up first?

Eilidh Keay: I am sorry—can you repeat the question?

Pam Gosal: What are your views on the rent control area provisions in the bill? Is the process for declaring a rent control area sufficiently clear? Do you think that it will lead to rent stabilisation in the affected areas?

Eilidh Keay: That is a great question. The rent control provisions are really important, and we are very glad to see them. The ability to cover a whole local authority area as well as having those localised aspects is hugely important, too. After all, the entirety of Scotland is, as we know, in a housing emergency, but there are local specificities, particularly in the Highlands and Islands, Edinburgh and Glasgow.

As for implementing rent control areas, one of the lessons that might be learned from the rent pressure zones that were introduced under the Private Housing (Tenancies) (Scotland) Act 2016 is the importance of data collection. Therefore, we would like the measures to be introduced with councils being funded properly to collect the data.

Another important point is that the bill is quite political. All tenants in Scotland deserve protection from unsustainable rent increases, and the ability of ministers to designate an RPZ where a local authority does not necessarily agree with it is really important. Any such move should be based on data, not on the politics of the situation.

Emma Saunders (Living Rent): The important thing about the provision—this goes a long way towards addressing some of the loopholes that we have seen in the emergency protection measures—is the focus on rent increases in-between tenancies. That is important in ensuring that we do not have the hikes in new market rents that we and our members have been experiencing, and in ensuring that there is no incentive—or, I should say, perverse incentive—to have evictions. One of the sad unintended consequences of having protections is that landlords try to evict you.

As for whether the process is clear, we need to ensure that tenants have access to the data, too. Right now, under the bill, only local authorities will have access to rents. However, what if landlords lie or do not provide data? In such circumstances, it would be very important for tenants to be able to look at the database and say, “Oh, there’s a mismatch in the information on my rent. I need to report that.” In other words, we need to empower tenants to implement the law, too.

Finally, we need a measure that stabilises and/or brings down rents. At the moment, rents are unaffordable and, if we want to provide affordable rents in Scotland, the ability to stabilise and decrease rents will be necessary, especially in specific areas.

Aoife Deery: Yes, there is a need to change the renting system in Scotland. As I have said, a lot of people approach bureaus for advice, because they are having problems either accessing or sustaining a home for affordability reasons.

Just as an illustration, advice on rents makes up about 10 per cent of all private rented sector advice that we give out—it is our second biggest area of PRS advice. Advice on homelessness due to rent levels or increases rose by 35 per cent in quarter 4 of this year compared with last year, and the Scottish Government’s PRS statistics indicate that rents have grown substantially. There was a reference earlier to the ONS figure of 16 per cent—I think that the Scottish Government says that the figure is about 14 per cent, based on advertised rents. What is clear, though, is that rents are rising at an unsustainable rate. For that reason, our view is that the measures in the bill are necessary, but the approach needs to be proportionate, evidence led and responsive to local circumstances.

It is clear that the process tries to take account of the local experience quite robustly. However, quite a lot more resources need to be provided to local authorities to enable them to carry out the data collection that is needed to create the report that they must send to Scottish ministers for their consideration.

I will not repeat the points that have been made already, but we echo the points about awareness in particular.

You asked about rent stabilisation. Professor Gibb, whom you heard from earlier, has written a paper that includes international evidence that shows that, in countries that have rent control, including Germany and Sweden, there is evidence of rent stabilisation—the proper wording is that the rent market is “not adversely affected”—when there is clarity and stability for landlords and investors. There is international evidence that the

market does not break when rent controls are introduced and that it can be done well.

Lyndsay Clelland: I will not repeat any of the points that have been made already—we fully agree with them.

On the necessity of measures for rent controls and the need for careful design around that, our research showed that, even when there were protections in place during the pandemic, around 37 per cent of older private renters had had a rent increase. That highlights the need to close the loopholes that have led to increases in between tenancies and the need to design the system carefully so that landlords are not incentivised to raise rents at various periods when they can, and to make sure that stakeholder work is done with a range of groups on where protections need to be and where there are likely to be rent increases outwith those periods.

On the need for stabilisation, we agree that it will provide clarity and consistency for landlords on what to expect, which might also stabilise rents.

We had concerns about the ability for local authorities to designate their own rent control areas and how that might add to the complexity and the length of time that it takes for measures to be implemented, as well as increasing housing demand in certain areas at a time when local authorities are already struggling with social housing demand and increasing homelessness applications. We feel that a wider approach could provide better stability for the housing market and rental costs in the area, but that is something that could be discussed in relation to secondary design.

Ellie Gomersall: Like others, I will not repeat anything that has already been said, but we strongly agree with all the points that have been made. I would simply add that we have concerns about the consequences of the fact that the rent control areas will not include purpose-built student accommodation, particularly in areas where, because of the presence of universities, there is a high number of students. The possibility that there will be a massive disparity between the two different types of accommodation, particularly given that students are often all looking for accommodation around the same time of year, could destabilise the entire situation. If a huge number of students are looking for accommodation and the private rented sector rightly has a rent control area implemented but the purpose-built student accommodation does not, students might initially look to move into the private rented sector rather than the purpose-built student accommodation, which will have an impact on all tenants.

Of course, eventually what will happen is that there will still be students who need places to live, so they will be forced into purpose-built student accommodation because there is no other option. One of the really worrying things is that a lot of purpose-built student accommodation providers set their rents in a way that is akin to how airlines or concert promoters sell tickets, with a sort of surge pricing. That is pretty abhorrent in relation to student accommodation, as it could result in a situation in which there are multiple students living in identical rooms in the same building but paying different rates, with a person who booked the room earlier, when there was more availability, getting a cheaper rate and a person who booked it closer to the start of term—perhaps because of late admission or they have simply not been able to find somewhere else to live—being charged significantly more.

As I said, when we have a completely unregulated sector mixed in with the bunch, which includes the private rented sector too, that has a knock-on impact on the wider population. That is one of the reasons why it is important—as others have noted—that those measures apply to all forms of tenancy in a particular area.

Dan Wilson Crow: Everyone has said a lot that I agree with.

I emphasise just how much of a lottery the private rented sector is. As a tenant, when you are looking for a home, you are taking a gamble on whoever owns the property. Sometimes they will be a considerate landlord who values you as a tenant and as a custodian of their property, and they will not raise the rent every year to the maximum possible. Alternatively, you could find yourself with a landlord who cares only about getting the maximum financial return out of the property. People do not need that when it is their home and it is costing them potentially 40 or 50 per cent of their income, and a rent increase would be devastating for their finances.

The emergency rent cap helped with that, as it meant that everyone could expect some basic protection. Clearly, however, that was an emergency piece of legislation, and we need a more sustainable long-term replacement for it. The bill is helpful in doing that, and in setting out the terms on which we can introduce regulation in certain areas. It also recognises that we need stability between tenancies, and it works that into the system.

With regard to what the outcome will be in terms of stability, there is a lot of detail that we will have to wait for in regulations; the discretion of the minister will be important, too. Some things are unclear at this stage. There needs to be a metric for capping rent increases that reflects affordability: what tenants can actually afford. We

would like to see no rent increases that are higher than the rate of wage growth or the consumer prices index, which are both reasonable measures of what tenants can afford. We would like more detail on that in the bill.

Data collection is important, as colleagues on the panel have mentioned, and there is a big question about how transparent that is. For us, one question is how the landlord register can be used and integrated with the system in the bill, so that the public, renters and anyone else who is interested can see whether data is being collected and whether it reflects reality, and whether local authorities are getting the best data that they need to make decisions and recommendations—

The Convener: Dan, I will have to rein you in a little bit there.

Dan Wilson Crow: That is fine, convener—that is all I had.

The Convener: Pam Gosal has another question. We have another 12 questions and an hour left, and there are quite a few of you on the panel. I appeal to us all to do a bit of collective time management. Colleagues—you know what that means.

Pam, do you want to come in? I think that only one person needs to answer the next question, which is on rent control areas.

Pam Gosal: I think that some of you have partly answered this question, but perhaps you can add some detail. How the rent control areas will work in practice has still to be decided. For example, we do not know much about the way in which the rent increase might be limited, which properties might be exempt or the circumstances in which higher rents might be charged. What are your views on that? What approach should be taken on those issues?

The Convener: Does anyone want to come in on that? I do not want to stifle responses.

Dan Wilson Crow: I am happy to come in quickly on exemptions. With regard to the quality of the property and whether a landlord has improved the property, there is a reasonable discussion to be had about what type of exemption is permitted there.

11:45

However, we would be concerned about a tenant who is in a substandard property at the very start, and who is paying a regulated rent that they can barely afford or which their local housing allowance barely covers. There is a question as to whether it is fair that an improvement in the quality of that property would translate into a rent increase that the tenant then cannot afford. It

would be good for that question to be addressed in the bill.

The Convener: I bring in Lyndsay Clelland, and then Emma Saunders.

Lyndsay Clelland: On exemptions, we put some proposals in our written submission such as having flexible caps to take account of the state and quality of the home and the energy efficiency rating and energy efficiency measures that are in place. That could provide a level of flexibility for landlords to recover costs and encourage them to maintain the quality of their home and to implement energy efficiency measures, which would benefit them and the tenant.

However, we have a concern about betterment, and the need for protection in the bill for tenants who make changes to their home that increase its value, so that that cannot be used as a basis on which to increase rents or to exempt the property from rent control zones.

Emma Saunders: I will be brief. It is important to be able to consider quality, whether that is very good or very bad, in deciding the maximum rent increase. Increasingly, Living Rent members are reporting rent increases, despite properties having mould, damp, broken boilers and so on. That feels like a double burden.

With regard to what Dan Wilson Crow said, capping rent in line with wage inflation or the consumer prices index, and having a maximum cap, is important for security. We are really concerned about having exemptions, because that will create loopholes. It will potentially distort the house-building market in favour of purpose-built student accommodation, which might not be the type of housing that we need in a city. It might also distort the existing PRS market, especially in the case of joint tenancies.

With regard to students specifically, what happens if someone is in a tenancy and then goes back to university? That would create a massive nightmare of uncertainty and insecurity. We would be really concerned about that, and would advise a lot of caution around putting in place any exemptions.

Pam Gosal: There would be certain circumstances for charging higher rents. We have heard about the need for balance between landlords and tenants. Landlords have talked about how their insurance is dearer and their mortgage rates are higher. Do you think that that is one of the circumstances in which higher rents could be charged, or not?

Eilidh Keay: That is an interesting question, but it also speaks to the question that Ariane Burgess posed earlier about balancing needs. There is not very good data on that aspect, because it is not

collected, but I would struggle to say that a landlord who has paid off their mortgage and who is facing an increase in insurance payments is the same as a tenant who has faced a rent increase and is struggling to put food on the table. We need to zoom out and find a balance with regard to what the most pressing issue is.

It would be a good exercise for the Scottish Government to collect data on the actual costs that landlords face. Increasingly, however, the discussion about rent controls is ignoring what is also happening to tenants, such as their fuel bills increasing rapidly with no incentive for landlords to make properties more energy efficient. Consideration must be given to the wider problems that are faced by tenants and landlords.

The previous panel spoke about the burden of proof on landlords in relation to evictions. If an exemption from the rent cap were to be considered, it would have to be a very tight mechanism whereby a landlord is required to prove to the tribunal that they can justify the increase. With the current system, we see that landlords are saying that costs have gone up, and they are getting exemptions for evictions or from the rent adjudication process, but that is not true. If an exemption were to be implemented, the burden of proof would have to be on the landlord, and it would have to be a very tight system to ensure that it is not a loophole.

The Convener: I will bring in Willie Coffey, but we are going to continue with this theme, so do not worry—we are still in that space.

Willie Coffey: Hello, everybody. I just want to get a few words from you on the issue of protections. Obviously, the whole bill seeks to protect against excessive rent increases, but it proposes other protections, too—for example, landlords will have to advertise the fact that their property is in a rent control area. Could you offer us a flavour of your thoughts on whether those protections are sufficient? Indeed, are there any further protections that might need to be included?

How about you, Lyndsay?

Lyndsay Clelland: I get the short straw.

The measures in the bill go some way towards providing protections for tenants and letting people make more informed decisions about their housing choices in future, particularly older individuals who might be moving into the private rented sector for the first time. They might have owned their home previously, but due to financial need, downsizing or mobility needs, they are having to look for something else, and the only suitable properties that are available might be in the private rented sector. Information on what the previous rent has been, the rates and the landlord's responsibilities—in other words, a kind of virtual

walk-through of what they might expect and how they can access their rights—would be extremely helpful for older tenants.

Where the bill might fall down slightly—or, perhaps, where it could go further—is in placing responsibility on letting agencies, too. A lot of the bill talks about duties on landlords to provide accurate information and on local authorities to check it, but there is little mention of third parties or letting agencies, which do the majority of the work for landlords who might have multiple properties. Where is the enforcement to ensure that they are giving out accurate information? What is the penalty? If there is no such penalty, what is the process if they do not do that?

Willie Coffey: Thanks for that. Are there any other protections that might enhance the bill?

Ellie Gomersall: I will comment briefly on some protections.

It is important that any protections that are put in place can be enforced effectively. We see a lot of challenges in that respect, even with the existing rights and protections that tenants have. Those rights and protections might exist in law, but their enforcement—and, indeed, any challenge by a tenant—involves a lengthy drawn-out process, and the penalties for landlords are often very low.

An example that we have concerns about is that, under the bill, landlords who increase rent above the cap in a rent control area might face a fine of £1,000. We have been talking about landlords charging significantly higher rents, and the fact is that many landlords might see this as a risk worth taking, given that relatively low penalty. Similarly, we feel that the penalty for landlords who illegally evict tenants should be a ban from the landlord register, because in such cases the penalty should reflect the severity of what they have done. It is important that, when we talk about the protections that tenants have, we talk about enforcement, too.

Anecdotally, I know of students who have made it all the way to the First-tier Tribunal for Scotland for severe problems such as rat and fly infestations in their property, but it was such a drawn-out process. Indeed, even when they were awarded compensation, getting that compensation was a long drawn-out challenge. We have to make sure that protections are enforced.

Willie Coffey: Thank you.

The Convener: Dan Wilson Craw and Emma Saunders have indicated that they want to respond, too.

Dan Wilson Craw: One thing that will remain a risk for tenants in a rent control area is the landlord trying to evict them in order to sell the property. It is potentially a big issue. The fact that

they will not be able to charge a new tenant a much higher rent is a helpful protection, but there needs to be much better support for tenants who are evicted and have to move because their flat is being sold or because the landlord wants to move back in. In such situations, we would like a longer notice period of at least four months, say; at the moment, the notice period is three months—or even one month, if you are unlucky enough to be in the first six months of the tenancy. We would also like to see relocation relief, under which, for example, the last two months' rent would be waived to allow the tenant to find a new place to live and to put down a deposit and the first month's rent.

We also need to ensure that the notices and grounds for eviction are not being misused. In that respect, what we suggest—indeed, what we would love to see—is that landlords should register an eviction notice with the landlord register, and it could then be part of the evidence that would be followed up later. Did the landlord move in? Did they sell the property? That could help authorities understand whether the grounds for eviction are being used properly and go after landlords who are misusing them.

Emma Saunders: I will try to make my points brief and quick. One of the key ways of ensuring that the bill works is to have in-between tenancy rent increase protections. If we do not have them, we will see more evictions—they are key to protecting tenants. The other issue is access to data. I realise that I am repeating this a bit, but if tenants cannot access the data, they will not be able to claim their rights and will have fewer protections.

As for things that could be improved, as Ellie Gomersall said, enforcement and penalties will be really crucial, whether for non-compliance with regard to data or putting in place higher rent increases. There should also be greater protection against revenge evictions. Something that we have seen with rent adjudication is people who contest their rent increase, as is their right, receiving revenge evictions. We therefore need a provision, whether it applies to rent controls or rent adjudication, to ensure that, when you contest a rent increase, you have almost a grace period in which you cannot be evicted. If you do not have that, you will not be able to exercise your rights.

Lastly, we should also look at improving the legislation on compulsory purchase or sales orders and the local authority having first right of refusal. We would suggest that, if a tenant were to be evicted because a landlord wanted to sell, a local authority could purchase that property. Such a move makes a lot of sense, given that new and existing builds cost almost the same at the moment, and it would not only quickly bring back

social and council housing stock but protect tenants from eviction.

Aoife Deery: I want to briefly follow up what colleagues have said and echo the comments that have been made by reinforcing the point that protections are useless without proper enforcement. As we see time and again with clients who come to bureaux for advice, local authorities do not have the resources to enforce their rights, and other forms of redress such as going through the First-tier Tribunal for Scotland involve long and complex processes. Indeed, we have talked about this before—the system is not particularly user friendly.

We have extensive evidence of illegal evictions. Last year, we published a report that explored the depth and scale of the issue and highlighted the experiences of people using our services who had been evicted illegally. It continues to happen at what really is an astonishing rate.

As for rent increases, which have also been mentioned, perhaps I can briefly share with you a case study to illustrate the impact on people when enforcement does not work and protections fail. A bureau in the east of Scotland recently worked with a client whom we will call Michael—it is not his real name—who in February was issued with a rent increase notice amounting to 40 per cent of his current rent, or around £200. That happened during the rent cap period; the landlord stated that, as the Government was not allowing such high increases, they wanted to find a way around that and subsequently texted the client to say that they intended to serve him with a notice to quit, but that if he was willing to pay the proposed increase, they would offer the flat to him under a new agreement. If not, they would ask him to vacate the property with a view to re-advertising it at a higher rate.

The client disagreed with the rent increase and has since received a notice to quit, using the ground of the landlord wishing to sell, which is circumventing the proper procedure. The council has said that, if Michael finds somewhere, it will help with the first month's rent, the deposit and the cost of removals. However, although he has tried, Michael cannot find alternative accommodation in his local area. The local authority has said that social housing would be out of the question, given the very long local waiting lists.

12:00

Willie Coffey: That sounds like blackmail to me, for want of a better word.

I have a question on the data collection issue, which we discussed with the previous witnesses and with yourselves. Is the right amount of data being collected at local authority level? Do we

need more? Do we need less? What will better enable us to shape the policy locally? I think that both Lyndsay Clelland and Emma Saunders said that they were a bit concerned about possible penalties for non-compliance with the collection of data locally, so I would like to hear a bit more about that after we hear a response to the question about data.

Eilidh Keay: Obviously, collecting information about the rent levels is hugely important, not just for this policy, but so that we can all have a greater understanding of how rent levels in Scotland change over time. However, with regard to rent controls, there are other signifiers that we can look to, such as food bank referrals, uptake of advice on the part of various groups and wage stagnation, which is hugely important, because rents are continuing to increase at a time when a lot of workers face real-terms wage cuts. When we look to collect the data, we can seek information on issues beyond the rent levels.

What was the second part of your question?

Willie Coffey: It was about non-compliance with the collection of data.

Eilidh Keay: From my understanding, the non-compliance penalty is £1,000—obviously, it has to be a civil fine. Again, however, as Ellie Gomersall said, that is not going to disincentivise bad practice by landlords, because they can recoup those costs. In our experience of working with a number of members who came to us with unfair or illegal rent increases or illegal evictions, we have seen that, during the period that the relevant provisions of the Cost of Living (Tenant Protection) (Scotland) Act 2022 were in place, we could use the potential for the tribunal to enable the tenant to recoup up to 36 months' rent to get landlords to back down.

It is important that any fine disincentivises bad practice, as that empowers tenants to use their rights properly. If the fine is only £1,000, tenants will not pursue the case, because they know that the landlord will simply recoup that cost. However, if the penalty is of a level that would put landlords off acting unlawfully, that emboldens tenants to uphold their rights.

Dan Wilson Craw: I echo that point. It is helpful to give tenants an incentive to scrutinise their landlord.

One issue with data collection is that I do not know how aware the authorities are about non-compliance with the register. Data collection will take place only where landlords are on the register, which means that landlords who are not on the register will be able to fly under the radar. It is not clear that tenants have the incentive to report landlords who are not on the register. A rent

penalty notice exists, but it is not clear how aware tenants are of that and how effective it is.

It is positive that the bill has provision for the local authority to seek information from tenants, because that could be a really helpful way to check that landlords are providing accurate information. It will be important for councils to use that power to make sure that they make the right decisions.

Lyndsay Clelland: I echo the points that Eilidh Keay and Dan Wilson Craw have made about meaningful penalties for landlords being a way of encouraging tenants to uphold their rights.

On the issue of data collection, Eilidh Keay made a good point about the need to not only look at reported rents and advertised rents, but better use the data that we already have. Consideration should be given to things such as how the area stands in relation to the Scottish index of multiple deprivation; the number of households in the area that are on, for example, the priority services register for their utilities; how many households are receiving certain social security payments; how many people are living in the private rented sector; what the average income is; rent costs and mortgage costs in the area; and other measures that we already have quite a lot of data on in different departments and which could be brought together. That would provide a better overview of people's actual circumstances beyond the average cost of rent, because, as has been mentioned previously, that is not the only thing that affects people's ability to pay.

On penalties and enforcement, the only thing that I would say is that the £1,000 fine is not even as much as the average monthly rent in Glasgow, which is £1,200, so that is not a massive disincentive. However, if a landlord on the register could potentially be ordered to not operate for a certain length of time if they are found to be in breach, that, in addition to fines, might provide a disincentive, as the landlord could not recoup that cost so easily.

The Convener: We are getting tremendous responses, but we are quite tight for time and we have a few more questions to ask on the rent area, as well as questions on the personalisation of homes, joint tenancies and tenancy deposits—that lets you know what is coming.

Gordon MacDonald: I have some quick questions, which I will roll together.

In the first evidence session today, we heard that, since 2017, only just over 200 cases had gone through the rent adjudication process. Why is that, and how do we improve access for tenants?

Aoife Deery: Thank you for that question, as it is an area that we are thinking about at the moment. We also see very low numbers of tenants wishing to use the rent adjudication service. Often, there is low awareness of the system until they use an advice service such as CAS, and, when they find out about it, the process puts them off, as it is too complex and engaging with it is difficult without being given specialist advice and support.

Further, some people just want their bad experiences to be over and do not want to dig up the past, even if they are owed something. I think that I am getting the issue a bit mixed up with the First-tier Tribunal for Scotland and the issue of unlawful damages—that was the point that I was going to make before. I will bring my response back to rent adjudication, but it is the same issue, really: the process is still complex.

The particular issue that I want to raise on the rent adjudication system concerns the 21-day window in which to apply. A lot of our clients find that too short a time in which to apply to the service, especially if they are seeking advice from us or their local authority. It is a very short window, and that makes it difficult for people to engage with the process.

Willie Coffey: How long should it be?

Aoife Deery: That is a bit of a “How long is a piece of string?” question. We should look at other established timeframes and see whether any evaluation has been done of those. I cannot give you a number right now.

Emma Saunders: There are a number of issues with the process, but I think that there is a bit of a culture change happening in Scotland, which is important to highlight. We have been talking about rent controls since 2016, with some degree of success, and tenants are increasingly querying their rent, which shows that the culture has changed. Of course, whether they then feel able to contest a rise in their rent is another question.

I agree that the issue is complex. There is a fear about eviction. We are working with two people who contested their rent increase and have received evictions in the past month. Both of them have families, and the thought that they are going to have to upend their lives is incredibly stressful for them.

We agree that the 21-day window is too short. We also note that there is no penalty for a landlord who decides to chance their arm. If a landlord suggests a 40 per cent or 50 per cent increase, the worst outcome for them is that they will get a 12 per cent increase. There is no penalty for creating a situation that puts a great deal of stress on their tenant, so there is little incentive for the tenant to report it or contest it.

The last point that I would make is around language, which adds to the issue of the complexity of the process, especially for tenants who might not speak English as their first language, or who have different access needs. The process is extremely hard to access.

Lyndsay Clelland: I agree with those points, and I will add a bit on access and the language that is used. As I mentioned, many older people are moving into the sector for the first time. A point was made about increasing awareness for people who are renting for the first time—not just older people—and having available support in person and offline. A lot of the information around what is an affordable rent, rights and how to get support is online, but the most recent Scottish housing condition survey found that around 24 per cent of over-60s have never used the internet. From our research, of those who use the internet, 30 per cent are not confident in using it for anything over and above sending an email or a social media message.

There is a need for resourcing in local authorities and third sector organisations that provide advice so that they can give in-person support with the rent adjudication process to people who require it, including older people and people with additional needs.

The Convener: I bring in Miles Briggs, who will continue on various areas of rent.

Miles Briggs: My three questions have been answered to some extent, specifically my question on evictions and the issues that witnesses wanted to be included in the bill. I will ask a question about what is not in the bill around extra supported living and extra care housing, as it might be known. Lyndsay Clelland, do you think that that should be included in the bill? I know that there are key groups of people in Edinburgh who are not able to hold down a tenancy, and the housing first approach does not necessarily support them. What are witnesses' views on that? The issue also involves some student accommodation issues. I met the University of Edinburgh recently, and we talked about students with additional support needs and the one-size-fits-all model. Do witnesses want to mention anything on that?

Lyndsay Clelland: I am happy to start off on that one. There could be more clarity in the bill around the exemption by type of property. We have talked about purpose-built student accommodation, but what about purpose-built accessible accommodation in various other sectors? The bill does not look at the social housing or registered social landlord sectors, where a lot of accessible housing is built. Although rents in that kind of housing are designed to be more affordable, we have heard from older people who are facing increased service charges—their

rent is not going up, but the providers are making money in other ways. We would like to more protections to be included in that regard, because older people are more likely to need adaptations.

Ellie Gomersall: I will come in on students, particularly disabled students and students with additional support needs. Many of the challenges that those students face are significantly amplified in relation to finding somewhere that is not only affordable but meets their accessibility needs. That is another reason why it is important that purpose-built student accommodation is included in a rent control scheme.

One thing that we see at the moment in a lot of purpose-built student accommodation is that there is an allocation of accessible rooms but with different tiers of rooms. Many purpose-built student accommodation providers operate more like hotels in some ways. You will have bog standard bed-and-a-desk rooms and then you will have more “luxury” rooms—I deliberately use inverted commas around “luxury” there. Often, provision for disabled students in accessible rooms may only be in the “luxury” rooms, which in the provider’s view justifies an increased cost.

I would argue not only that rent control areas should apply to student accommodation, but also that there should be specific provision for the allocation of accessible rooms with particular adaptations.

Emma Saunders: I re-emphasise that there are increased service charges in social housing. One of our members—a person who is retired and on a fixed income—is facing a 400 per cent increase in a service charge this year, which represents a rent and service charge increase of 16 per cent. That is an immense amount per month. There is concern that the bill does not go far enough to provide protections in relation to increases that represent rent increases that are above what people can afford.

The Convener: We will move on to questions on personalisation of homes, which Mark Griffin will ask.

12:15

Mark Griffin: What are your views on the bill’s provision of extra rights for tenants to personalise their homes? What would be the benefits of such rights? Would they be enforceable in practice? Perhaps Lyndsay Clelland could also expand on her organisation’s written submission on how we could link those rights to adaptations.

Lyndsay Clelland: We welcome such rights. In the earlier session, and this one, you have heard how important it is for tenants to feel settled at home and enabled to build a place of community.

Allowing personalisation and the right to keep a pet, for example, are really important in that. From our perspective, adaptations are important as well. The aim of the Scottish housing strategy is to enable people to remain safely and independently in their own homes for as long as possible. That is what we aim to do, too.

We would like the bill to clarify where adaptations would fall into either category 1 or category 2. If an adaptation is a category 2 matter, a tenant must be in the property for six months before they can apply for it. However, some people have urgent needs—for example, having such an adaptation might mean the difference between their being able to get out of bed that day or not—so they do not have six months to wait. We would like to see clarity on that and for there to be consultation with the various stakeholders on ensuring that the needs of older and disabled people who require adaptations to their home for health and safety reasons are able to have them without having to wait for unreasonable periods of time, only to not get a response and then have to take it up with the tribunal.

The same is true of the category 2 example given in the bill’s policy memorandum, which was painting a wall. Although that might seem more like a “nice to have” personalisation factor, for many older people—in particular, those who live with sight impairment or dementia—it is a necessary thing to do in their homes, to help them to navigate safely and effectively and to prevent falls and injuries. The bill needs to have some provisions on landlords considering each tenant’s personal circumstances on the question whether a request can be reasonably refused, and on protection for older and disabled tenants where adaptations are required and are not just personalisations that enable people to feel at home—those are also really important, but the main concern is measures that will promote people’s health and safety and their independence.

Aoife Deery: Lyndsay Clelland has made important points. If it would be helpful, after the meeting, I will provide the committee with supplementary evidence on adaptations and on the queries that we receive, as I do not have that information with me.

CAS is broadly supportive of the measures in that area. We need to start talking less about properties and more about homes and where people can build their lives. We have already discussed the foundational importance of homes to people’s wellbeing. Such measures afford people the opportunity to make houses into homes, which is important.

My only note of caution is that such measures might lead to higher deposits being charged,

which would be a barrier to some people accessing accommodation. Tenancy deposit schemes have a role to play in ensuring that such measures are applied fairly.

Dan Wilson Crow: Generation Rent very much supports that part of the bill. People having control over their homes is an important part of their ability to build a foundation for their lives. Tenants do not have the confidence to do that right now, especially if we are moving into an era where renting is not just for people who will be moving next year, for example, but is for people who want somewhere to raise their families. At the moment, not being able to have a pet is another factor that can make tenants feel like second-class citizens.

There are a couple of things to bear in mind when designing the process. One thing concerns the transparency of the tribunal and ensuring that people who ask their landlords to make changes or for permission to keep a pet are aware of the different reasons that landlords use to deny that permission, and which reasons the tribunal will accept and which it will not. There is also a concern that landlords would be able simply to ignore requests until they time out, leaving tenants without the answer that they want. That should be looked at.

Eilidh Keay: We welcome the provisions. It has been highlighted that tenants are spending longer in the private rented sector—it is not just a transitional place before they buy their first home. People will grow up in the sector and live their entire lives there, so the ability to make a house a home is hugely important for them.

One of Living Rent's concerns is related to something that we see happen all the time when tenants request disrepair changes for stuff that needs done to the property. We are worried that landlords will use the provisions in the bill as a loophole to get out of their requirements and expectations for keeping the property in good repair, in particular as the bill fails to address any quality measures in the private rented sector. A tenant may ask for double glazing, for example, and if the regulation is not laid out extremely clearly, it could be used by landlords under a personalisation case where the costs would have to be met by the tenant. We are quite concerned that it could provide that loophole in relation to the quality of the property.

We would like to see it made explicit in the regulations that the repairing standard should be improved and that, if the tribunal were to deal with a claim from the tenant on something outwith personalisation, it would rightly refuse that and give the tenant advice, which we hope would allow the local authority to pursue the landlord for failing to keep up the property. That is just an idea, as we

are worried that the provision could create a loophole around the quality of properties.

The Convener: Thank you for highlighting the need for a distinction in that regard.

Ellie Gomersall: We echo that important point. For students, as for anyone, the place where we live is our home, and it is important that students also have the right to make where we are living a home. When we are talking about student accommodation, we might not necessarily expect to make significant changes, especially given the short nature of the tenancy, but changes should still be able to be made. For instance, that may include being able to put posters up on the wall—sometimes, such requests are turned down because of the risk of damage from Blu Tack, which can actually be relatively easily fixed.

A few months ago, I saw a TikTok challenge trending in which people were asking, “Is this student accommodation or a Scandinavian prison?”, because that is the quality of a lot of student accommodation. That emphasises the point that, for students who have very severe mental health issues—the rate of poor student mental health is through the roof—simply being able to make the very cramped small space in which they are living just a bit more homely can have a huge impact.

Similarly, although the Scottish Society for the Prevention of Cruelty to Animals would probably have some thoughts if we were to suggest having a dog or a cat in a tiny little student accommodation room, the principle of being able to have pets is important. I will use myself as an example. When I moved to university, I was unable to stay in purpose-built student accommodation and had to find somewhere in the private rented sector that would let me have my python. That is the issue: a lot of pets could reasonably be kept in a student accommodation room, as they require only a little space for an enclosure, for instance, but there is currently a blanket rule that you cannot have pets there at all. That should be looked at, too.

The Convener: Emma, do you want to say something briefly?

Emma Saunders: On the pets element, we heard in the previous session about mobility. If you want to enable greater mobility, people being able to move with a pet would really help. People are staying in tenancies because they cannot find another tenancy that will accept a pet, so that potentially traps them in something that is no longer what they want or need.

The Convener: I will bring in Lyndsay Clelland, but we really need to move on.

Lyndsay Clelland: I will be brief.

On reasonableness, with regard to both changes to the property and pets, it would be useful for the bill to clarify for tenants and landlords what is reasonable, depending on the size and type of property, so that people could manage expectations, choose housing appropriately and understand why something has been reasonably refused.

To come back to the issue of adaptations, it would be useful to tie that into an national adaptations strategy. There is often an assumption that making an adaptation will involve a ramp up to the door or big changes to a home such as installing a lift, when actually it can be a grab rail in the bathroom, which can be easily remedied once the tenant moves out. Having a national approach to adaptations with regard to how accessible they are and how easy they are to get, remove and replace would be really beneficial in supporting tenants and landlords to do those things.

Mark Griffin: I have a question on joint tenancies for Eilidh Keay or Emma Saunders. Your submission welcomes the provision on ending a joint tenancy but you have raised concerns on the impact that that has on the remaining tenants in a joint tenancy and said that they will not see any benefit from the provision. Can you elaborate on that and make any suggestions for improvements on the ending of joint tenancies?

Emma Saunders: Yes. I am going to repeat the same point that I have been making that between-tenancy rent controls will help to provide more security in joint tenancies. The second thing is about the remaining tenant having the right to propose another tenant. Again, it is a terrible comparison, but you should have the right to not be unreasonably refused when proposing another tenant, just as when proposing to have a pet or to redecorate, especially if the proposed tenant meets all the criteria. That will increase the security of the remaining tenants. From an equalities perspective, that will mean that they have a bit more say over who they live with, which might be more important if they are a more vulnerable tenant, for example.

Ellie Gomersall: Students are disproportionately likely to be in joint tenancies. Another important factor for students in particular is that, if one of the joint tenants moves out and the person who moves into that vacancy is not a student—depending on the number of people in the property and the number who are students and who are not students—that can impact on whether, for instance, everyone in the property then has to pay council tax. That is an added factor for students.

The Convener: Thanks for that bit of detail.

Gordon MacDonald: On tenancy deposits, I will come to you first, Dan Wilson Crow, because you were the first person to raise the issue. In previous evidence sessions, the committee has heard that cumulatively, since 2012, there is £4 million of unclaimed deposits in Scotland. Can you say something about the underlying reason for that and what we can do to minimise the situation of that amount of money lying unclaimed?

Dan Wilson Crow: From what I read about that, it seems that a lot of it is seen as being the result of students moving away and out of the country and not claiming their deposits back. However, it is very concerning if there is a much wider issue. Ideally, international students should get their money back, just like every other tenant. There is a real concern that tenants have a lack of understanding or awareness about their rights with regard to getting their deposits back. Some landlords do not make it easy. We hear from tenants—it is one of the most common issues that comes up—about landlords making exaggerated claims at the end of the tenancy and really discouraging tenants from asking for their deposit back or going through the deposit protection schemes, and that might be contributing to that figure of £4 million.

We would like to see more responsibility on landlords with regard to the deposit return process at the end of a tenancy so that there would be a disincentive for landlords to exaggerate claims on the deposit and to make it a much quicker process to go through the deposit protection scheme dispute process. Tenants should be encouraged to go directly to that process if their landlord has not responded or made any indication with regard to giving the money back, so that that process can be speeded up. In those ways, we hope that you will find that tenants will have more trust in the system and more tenants will use it.

Eilidh Keay: Dan covered well the reasons why tenants do not initially claim back their deposits. However, the process is also extremely long. I moved into a new property in March, at the same time as my flatmate. That was three months ago and he has only just got part of his deposit back. He is a member of Living Rent, he lives with me—he knows his rights—and it was a really extensive and arduous process. If you are not equipped or, frankly, if you do not have the patience to meet letting agents and landlords and deal with their legal jargon, you will not get much back. The process really disincentivises people from claiming their deposits back. We have seen that with things such as rent adjudication or claims to tribunal. It is not an easy process for tenants. Equalising the process would be important as would be shortening the period for making a claim to a letting agent or landlord.

12:30

What we should do with the unclaimed money is a really fantastic question. Tenants have paid into that system and it should be tenants who receive the benefit of that money. It could be used for legal aid services to access the tribunal or given to groups—I am not going to name names—that can help tenants in those situations. It should not be used to pay off landlords or something like that. The main two points are—

Gordon MacDonald: So you would be supportive of the bill's proposal to support information services for private let tenants and so on?

Eilidh Keay: Yes, but not just information services. We get caught up in trying to put more and more information out there. There is a lot of that already, but we are talking about actually helping tenants. There is a difference between providing information and helping, and it would be fantastic to see that money go to specific housing legal aid to support tenants who, for example, do not speak English and need a lawyer. We can use that money to provide information but the most effective thing to do with it would be to support tenants through tribunal and legal processes. The first point is to make the process of claiming deposits back easier for tenants and the second point is to support tenants through that process.

Lyndsay Clelland: We totally welcome the idea of using unclaimed deposits for advice and support, and we would echo the point about the need for practical support, such as one-to-one liaison officers, particularly for people who have additional complex needs. However, also, with regard to the process being off-putting, my personal experience is that claiming your deposit back is all done online. It is done through emails and online portals, which many older people just do not know how to navigate or access. Those systems can also be inaccessible because they do not always work with assistive technologies, so a lot of people just physically cannot navigate through the process. In those cases people say, "I'm just going to have to live without that £400 because I don't have the support and I don't know how to get round this", and there is no way of finding out how they would go about that elsewhere because the information is not available. That is where the provision of information comes in, but having practical support would also be extremely helpful for many people.

The Convener: That brings us to the end of the meeting. Thanks so much for the collective management of time—that was good and got us back on schedule. It has been really helpful to hear your perspectives today.

That was the final public item on our agenda so I now close the public part of our meeting.

12:33

Meeting continued in private until 12:46.

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