



OFFICIAL REPORT
AITHISG OIFIGEIL

Local Government and Communities Committee

Wednesday 3 March 2021

Session 5



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LOCAL GOVERNMENT AND COMMUNITIES COMMITTEE

10th Meeting 2021, Session 5

CONVENER

*James Dornan (Glasgow Cathcart) (SNP)

DEPUTY CONVENER

*Sarah Boyack (Lothian) (Lab)

COMMITTEE MEMBERS

*Keith Brown (Clackmannanshire and Dunblane) (SNP)

*Gordon MacDonald (Edinburgh Pentlands) (SNP)

*Alexander Stewart (Mid Scotland and Fife) (Con)

*Annie Wells (Glasgow) (Con)

Andy Wightman (Lothian) (Ind)

*attended

THE FOLLOWING ALSO PARTICIPATED:

Mike Dailly (Govan Law Centre)

Yvonne Gavan (Scottish Government)

Pauline McNeill (Glasgow) (Lab)

Kate Spence (Scottish Labour Party)

Kevin Stewart (Minister for Local Government, Housing and Planning)

CLERK TO THE COMMITTEE

Peter McGrath

LOCATION

Virtual Meeting

Scottish Parliament
Local Government and
Communities Committee

Wednesday 3 March 2021

[The Convener opened the meeting at 09:00]

Decision on Taking Business in
Private

The Convener (James Dornan): Good morning, and welcome to the 10th meeting in 2021 of the Local Government and Communities Committee. Please ensure that all mobile phones are on silent. I remind everyone that broadcasting staff will operate your cameras and microphones as usual; please allow a short pause after being called on to speak to allow them to do so. I have received apologies from Andy Wightman.

Agenda item 1 is consideration of whether to take in private item 3, which is consideration of the evidence heard on the Fair Rents (Scotland) Bill. For the record, the agenda also says that the committee will consider whether to take agenda item 4 in private. In fact, the committee took that decision on 3 February, so there is no need to repeat it.

As we are meeting remotely, rather than asking whether everyone agrees, I will ask whether anyone objects. If there is silence, I will assume that you are content. Does anyone object to taking item 3 in private? I take that silence as acquiescence, so we are agreed that item 3 will be taken in private.

Fair Rents (Scotland) Bill:
Stage 1

09:01

The Convener: At agenda item 2, the committee will take concluding evidence on the Fair Rents (Scotland) Bill at stage 1 from two panels. I welcome our first panel: Kevin Stewart, Minister for Local Government, Housing and Planning; and, from the Scottish Government, Amanda Callaghan, head of the private housing services unit, housing and social justice directorate; Yvonne Gavan, legislation and strategy team leader, housing and social justice directorate; and Craig McGuffie, legal directorate. I thank you all for being here today. For information, we have allocated about an hour for this session and we have a number of issues to discuss with you.

There is some brief technical information before we start. There is a prearranged order of questioning and I will call each member in turn to ask their questions for up to nine minutes. Minister, please state clearly whenever an official is being brought in to answer any question. The member in charge of the bill, Pauline McNeill, is also in attendance for this agenda item, and I will allow her to come in with questions after all committee members have taken part. We might also have a short amount of time for supplementary questions at the end. Please give broadcasting staff a second to operate your microphones before you speak.

I invite the minister to make a short opening statement.

Kevin Stewart (Minister for Local Government, Housing and Planning): *[Inaudible.]* There is much that Pauline McNeill and I, along with other members of the committee, agree on. I share concerns on rent affordability in the private rented sector, and I agree with the policy intention of a fair rent for everyone. However, I am concerned that the bill's drafting and approach will not deliver those intended outcomes. I also think that they could lead to significant unintended consequences, including the increasing of rents.

I have specific concerns about three particular elements. First, the national rent cap approach risks landlords increasing rents annually to the maximum level permitted so that they do not fall behind market rent. At the moment, many landlords do not increase rents for sitting tenants but instead increase between tenancies.

Secondly, national rent controls are likely to act as a deterrent to large-scale institutional

investment in the sector. Increasing supply and choice is vital to managing rent levels and to ensuring that people have choices.

Finally, I believe that the fair rent determination provisions would result in significant financial implications for rent service Scotland and for the First-tier Tribunal for Scotland housing and property chamber. There are similar financial concerns for national and local government in respect of the data collection requirements in the bill. The financial memorandum has not taken those additional costs and implications into account.

I agree that more needs to be done, but it should build on the strong foundations that we have already put in place. A national approach to rent control does not take account of, or respond to, local market realities and nuances.

The significant reforms that we introduced in 2016 provided tenants with greater security, stability and predictability in their rents. They also introduced the principle of localised rent controls to target local areas with problematic rent levels. Such a complex problem, which is impacted by a range of cross-cutting issues, including housing supply and choice, household income and the welfare system, needs a range of tools to tackle it meaningfully. That is why, before the pre-election period begins, the Scottish Government will publish our housing to 2040 strategy—Scotland's first ever long-term national housing strategy—with an ambitious vision and plan for housing that meets people's expectations and needs, is greener and more affordable and brings an end to homelessness.

As part of that, I am in the process of finalising plans for new, robust rental data collection approaches to ensure that rent pressure zones can become a workable and powerful tool for local authorities to tackle unreasonable rents. Reform is needed, and we will set out our plans for that in the strategy.

The position that I have taken on Pauline McNeill's bill has been to listen to the evidence and the scrutiny of the bill. That has been curtailed by our coming to the end of the parliamentary session. However, I noted with interest the views of witnesses at the two evidence sessions last week. The issue needs to be addressed, and it will be for the next session of Parliament and the next Government—whatever shape that takes—to bring forward their plans. Thank you for the opportunity to speak, convener.

The Convener: We now move to questions. I listened to your opening statement, and there is a lot of agreement about the desired outcome, fair rent and fairness in the private rented sector. You have talked about the bill that is coming. Can you

tell us anything now about action that the Scottish Government would be willing to take or is taking to address the imbalance between tenants and landlords?

Kevin Stewart: I will point out a number of things. First, we have already introduced a range of substantial reforms through the Private Housing (Tenancies) (Scotland) Act 2016 to improve the private rented sector. Most notably, the private residential tenancy came into force on 1 December 2017. That brought about the most significant changes in private renting in 30 years and gave tenants a range of new rights and greater security, stability and predictability in their rents, as I mentioned earlier.

Previously, landlords could bring a tenancy to an end for no reason, creating great uncertainty for those folk living in the private rented sector. Under the private residential tenancy, a landlord can now use only 18 grounds for a repossession, and tenants have a range of new rights that they can enforce via the first-tier tribunal. The 2016 act also introduced important measures to tackle increasing rents, including limiting rent increases to once in a 12-month period, with three months' notice required. It also enabled tenants to challenge unfair rent increases for adjudication by the rent officer and introduced rent pressure zones.

I have been clear from the outset that I support the intention behind the Fair Rents (Scotland) Bill. I have also been clear that the bill would have massive unintended consequences, the most crucial one being that a national rent cap could lead to rents increasing, particularly for existing tenants.

There are extensive existing rights for tenants, and I am committed to highlighting awareness of them. Last year I wrote to every private rental tenant in Scotland to make them aware of their rights and of the financial support that is available to them during the on-going pandemic. In our forthcoming housing to 2040 strategy, which we will publish very soon, we will build on the important reforms that the Government has already made.

The Convener: You have talked about issues around data and registration. Written evidence that we got last week suggested that that might be an expensive process. You have said that a system will be coming into place. Why would your system be any less onerous on local authorities than the one that is discussed in the bill?

Kevin Stewart: I made no bones about this earlier: the financial memorandum accompanying Pauline McNeill's bill does not truly reflect the costs of the data collection changes that would be required. We need to ensure that there is robust

data collection so that we get everything right in the future.

One of the main issues has concerned rent pressure zones, and local authorities have said that they find it difficult to garner the data required. The Government has offered help to a number of local authorities. Unfortunately, our offer has not been taken up.

I recognise that previous witnesses have stated that there must be more robust data collection, and I agree with that, but we need to consider carefully exactly what is required and to work through a plan to garner the data and to develop a system. It will not be cheap, but we need a system that is capable of dealing with the data that we require and with any changes that might be brought to the fore in future.

The Convener: So, you are assuring us that this is not—or that the proposal in terms of the data collection—

Kevin Stewart: As I said, Ms McNeill—*[Inaudible.]*

The Convener: *[Inaudible.]*—financial memorandum—

Kevin Stewart: —does not take account of the true costs.

The Convener: Okay. There seems to be some concern around—

Kevin Stewart: Convener, before we—

The Convener: All right. Go ahead.

Kevin Stewart: I was hearing some feedback there, with some repetition of something that you were saying earlier, and I wonder whether there is a connection problem or whether it is just me.

The Convener: It might just be that you should listen to everything I say twice—but I very much doubt that that is the case.

There is some concern about data protection issues, given the additional data that people are talking about. Do you share those concerns? If so, is there anything that you think you can do to resolve that issue?

Kevin Stewart: That needs to be considered in the round. Data protection issues can be overcome, but we must get that absolutely right, so this piece of work needs a fairly intensive project plan in order to deliver it properly, and so that we do not fall foul of anything like data protection issues.

The Convener: Thank you, minister. I will now bring in the deputy convener, Sarah Boyack.

Sarah Boyack (Lothian) (Lab): Minister, it was good to hear that you are reflecting on the 2016

act. Do you agree that, under that legislation, it is quite difficult for tenants to enforce their rights via the housing tribunal? That has been one of the common themes that the committee has heard about from tenants organisations and organisations that deal with the reality of day-to-day life for tenants in the private rented sector.

09:15

Kevin Stewart: The Government has implemented a monitoring and evaluation framework that is examining the impact and outcomes of the private residential tenancy on tenants and landlords. The Nationwide Foundation is also carrying out research over a three-year period, looking at both landlords' and tenants' experience of the new tenancy regime. That work will be independent of the Scottish Government's monitoring. Furthermore, during the passage of the 2016 act through Parliament, we committed to undertaking a full review of the grounds for repossession after the tenancy had been in force for five years. If it becomes evident that tenants or landlords are experiencing specific problems, consideration will be given to amending the legislation, if required.

Sarah Boyack: In the evidence that the committee has had on Pauline McNeill's bill, concerns have been raised about rising rent levels. The other issue that has been raised is the quality of the properties that people are renting. Are rising rent levels contributing to increased poverty levels or unacceptable rent levels for private rents? We heard pretty shocking evidence last week from some research that some people are paying 50 per cent of their income for rent, that the system really is not working at the moment and that we need change.

Kevin Stewart: I agree that high rent levels can lead to increased poverty. I do not think that anyone can deny the evidence that was presented by the Joseph Rowntree Foundation recently, which showed that child poverty in Scotland is at a lower level than elsewhere in the United Kingdom because of lower rents and the amount of social housing that we have. Therefore, I do not dispute the fact that high rents can lead to increased poverty. That is why I share the ambition of ensuring that we put in place the right system to create fairer rents for all. However, I disagree that a national rent-capping policy is the way to do that. The best way to do that is to allow for local flexibilities, as I have said previously.

The rent pressure zones, which were put in place in the 2016 act, have not been tested. Many of the conversations that I have had across the piece have taken place because local authorities think that the way that the 2016 act was established was too onerous with regard to data

collection and that it would be difficult to collect that data. We can overcome that, and that is the best way to deal with this situation, rather than facing the unintended consequences of a national system, which might unfairly impact folks in many localities.

Sarah Boyack: Some of the evidence was about different rent levels in different parts of the country and the fact that we have significant rises in rents. However, the 2016 act was passed five years ago.

One point that has come across in the evidence on the bill is that tenants are not able to use the existing mechanisms, through the housing tribunal, because they feel powerless. Not only are they up against lawyers; if they take their landlord to such a tribunal they could lose out and end up in a worse situation, so they are not using such mechanisms. How do you respond to that and also to the issue, which I have just mentioned, about the quality of people's homes? They are paying high rents for poor-quality homes, which surely cannot be right. Is not the principle in the bill that that needs to be taken into account?

Kevin Stewart: Let me start with the quality issue. We have been driving up quality in all tenures in Scotland in recent times. I feel that we should go much further, and we are doing so. For example, more regulation on energy efficiency performance will come into play in the near future, to drive all of that up.

I want to ensure that no matter which tenure folks in Scotland live under, they are in high-quality homes. We will continue to consider what improvements need to be made. As members will be aware, one thing that I am keen to do is to start adopting an all-tenure approach rather than a social housing, private rented tenancy or owner-occupier one. That is where we need to go, particularly when it comes to dealing with carbon reduction and tackling the climate emergency.

As for tenants' rights and their access to those, as I pointed out earlier, I recently wrote to every tenant under private rented tenure about those. I want folk to exercise such rights. In the discussions that I have had with Pauline McNeill, we have had a conversation about that. We could do more to publicise such rights. For example, we could do more to get landlords themselves to highlight them at the initial stages of folks' tenancies. I am more than happy to try to improve on the information that is made available to tenants so that they can exercise such rights.

Sarah Boyack: That is a useful answer. I go back to your opening comments, in which you talked about the unintended consequences of having controls over the private rented sector. I should declare an interest, given my former

employment with the Scottish Federation of Housing Associations, which is noted in my entry in the register of members' interests.

You said that Ms McNeill's bill would potentially put off large-scale investors, yet in our discussion last week it was said that the private rented sector is a last resort for many people who need to rent a property or who want to buy but are stuck on an expensive rent because they have no alternative. Does the bill not need to fit into the wider context of having a proper set of controls over the private rented sector? If that were to rebalance the market in different parts of the country, would that be a bad thing?

Kevin Stewart: Although I agree that for some folks the private rented sector is not the right fit—which is one reason that the Government has done all that it can to increase the amounts of social and affordable housing in Scotland—it is the right choice for many. In particular, we are seeing an increase in folk looking at properties in the build-to-rent sector. I have to say that I was quite sceptical about that sector myself. That is why I spent some time going south of the border to see what has been going on there. I did that not only to talk to the institutions and developers that are building those places, but to talk to folk who are living in those settings. I have to say that the build-to-rent sector was the right fit for many people.

What we can see in Scotland is the beginning of the development of the build-to-rent sector, and I am quite sure that all members of the committee want to see an increased level of housing and to give people choices. Although it might not be the belief of some, many people have made the choice to live in that kind of development.

The Convener: Minister, I ask that you keep your answers a bit shorter. We have a lot to get through this morning and a limited amount of time to do it in.

Alexander Stewart (Mid Scotland and Fife) (Con): Good morning, minister. Last week, we heard from some witnesses who said that a cap of the consumer prices index plus 1 per cent would be too high. Do you agree that the CPI is a suitable index to use for a fair rent cap?

Kevin Stewart: The CPI is used extensively across Government and in the private sector, as it is considered the most robust measure of inflation. However, I believe that it is a blunt tool that does not take account of local variations in rent levels. There is a huge difference between dealing with the issue locally and dealing with it nationally. We all know that issues that affect certain parts of the country are very different from those in other areas. The other thing about Ms McNeill's bill is that the power for ministers to adjust the number to anything they like—including a negative

number—could be used to undermine the minimum increase that the CPI element provides. In that sense, the use of any inflation indication would be meaningless.

I have made my position clear: the way to deal with the matter is at local level, not at national level. We can improve rent pressure zones so that local authorities can do the right thing for their area. I am pleased that a number of local authorities have agreed to be part of the future working group that will examine the data collection that is required and rent pressure zones as a whole.

Alexander Stewart: Restricting annual rent increases to the CPI plus 1 per cent would have an impact and would create an opportunity to deal with the supply and quality of private houses in Scotland. That index, as you rightly identified, is relatively complex. However, at the same time, it gives us a gauge of how things will sit. Do you think that that would have an impact on the supply and quality of private housing in Scotland?

Kevin Stewart: My great fear in all this is that, if the CPI plus 1 per cent rule were applied nationally, there would be annual rent increases, which would impact on tenants. As I said, many landlords do not apply annual increases but tend to raise rents between tenancies.

09:30

I will give you an example from my corner of the world. As folk are aware, rents in the private rented sector in Aberdeen were once very high. However, because of the oil downturn, Brexit and numerous other things, rents have dropped fairly dramatically in Aberdeen. Another factor that might come into play is that, in a situation in which rents drop, landlords might choose not to lower rents but to keep their properties empty because, given the gap that would be caused by the proposed rule on CPI plus 1 per cent, lowering rents might mean that they would not get the rent back up when the market picked up again.

We have to look at all the unintended consequences. I am sure that, by working together—because we all want fair rents—we can come up with a proposition at the local level that will work to the benefit of tenants in local areas instead of using the blunt instrument of national policy, which could cause real problems for tenants in the future.

Alexander Stewart: Would the Scottish ministers' power to vary the fair rent CPI cap address your concerns? In what circumstances should that power be used?

Kevin Stewart: As I have explained, I do not think that any minister should be doing that at

national level. We should be improving rent pressure zones and allowing the folk in the know at a local level to deal with the situation. As has been set out, there is some ministerial oversight in these situations, but no minister would be in a particularly good position if they were lording it over people through a national policy.

Gordon MacDonald (Edinburgh Pentlands) (SNP): Last week, we talked a lot about data, and I want to continue that discussion. Section 3 refers to additional information that could be entered into the Scottish landlord register, such as the monthly rent charged, the number of occupiers and the number of bedrooms and living apartments, and so on. What benefit would collecting that additional information be to the system of identifying fair rent levels?

Kevin Stewart: We could do better on data collection. However, we do not have the system set up to manage everything that is required by the bill. Setting up data systems does not come cheap and, beyond that, as has been pointed out, there is often the possibility of data protection issues.

In the bill, there are a number of drafting issues that relate to the data collection proposals. Although the additional rental information that the bill proposes collecting would go some way towards improving information on the PRS rental data, further information would be required to make it meaningful for statistical purposes. Indeed, the additional information would be necessary to complete the proposed fair rent determination, because, if any tenant with a PRT in Scotland could apply, the rent officer would require sufficient comparable evidence to inform their decision.

Also, there does not seem to be a mechanism in the bill to allow local authorities to share the resulting data with others, such as the Scottish Government and rent service Scotland. Section 3(2) specifies access to register information, but only in relation to enabling the public to request details of a "particular" property—similar to current legislation—rather than sharing the full data.

The bill has a number of flaws in that area, but we do require to be much more adept at the collection of data, and that will be part of the proposals that we will set out. As it stands, there are difficulties in that part of the bill.

Gordon MacDonald: What will the method of collection be? Will it be through the landlord registration scheme or the tenancy deposit scheme? Last week, we heard concerns about rent levels, particularly in Edinburgh. We were told that there was no real data on rent levels, as the data was based on the asking price rather than the rent that is charged. Given the concerns about the

situation in Edinburgh, how can we create a policy without live data that highlights exactly where the problem is and its extent?

Kevin Stewart: I will not be specific about how we will do that, because we need to look at a number of things. However, I completely and utterly agree with Gordon MacDonald about data. Our goal is to ensure that we have live data, which is exactly what we need in order to have an accurate picture of the issues and challenges that the sector faces. The bill does not go far enough in that regard. We need to work through it methodically and appropriately to get it right. Gordon MacDonald is spot-on correct in saying that we require live data.

Gordon MacDonald: I appreciate that you do not want to say anything about the proposal that will be set out in the housing to 2040 strategy. Is there any other data that could be useful but that is not currently made available to the public?

Kevin Stewart: I will defer to one of my officials, as I am unaware of the answer. Perhaps Yvonne Gavan could reply.

Yvonne Gavan (Scottish Government): All the data that is collected by the Scottish Government is published and in the public domain.

Gordon MacDonald: Thank you.

Keith Brown (Clackmannanshire and Dunblane) (SNP): Minister, you said that you looked into the use of the private rented sector—you said that you went down to England to look at it—and that it represented the right fit for many people. However, the evidence that we heard last week was that, even at the bottom end of affordability, it is not the right fit for people who struggle.

Would you agree that that sector—which I agree is very important and serves a purpose—does not serve particularly well those who might otherwise choose to live in social or affordable housing? Do you agree that the issue is really one of supply? If people had the choice to use other options, they would do so—and I say that while acknowledging the huge steps that the Scottish Government has taken to increase supply. Is that an issue, or do you think that the sector offers the right fit for all those people who are currently using it?

Kevin Stewart: First, I should say that I went south of the border to look at the build-to-rent sector, not the private rented sector—I should make that clear. I think that the build-to-rent sector is the right fit for some folk.

Is the private rented sector the right fit for everyone? The answer is no, and we know that that is the case. Many of our constituents are happy in the private rented sector, but many of them want a social or affordable rent. One of the

reasons why the Government has invested so heavily in social and affordable housing over the piece, including when Mr Brown was housing minister, is that we recognise that that is the case.

In delivering those social and affordable homes, we are plugging a massive gap that was created through the right to buy and other daft policies, which reduced the amount of social and affordable housing here, in Scotland. We will continue to invest heavily in the social sector, recognising that many folk who are currently in the private rented sector would much prefer a council or housing association house. That is fair to say.

Keith Brown: On the point that you just made—which the witnesses made last week—about rents and the proposed mechanism for rental increases having unintended consequences, my recollection is that the only place where restricting increases would actually bite is a small part of Edinburgh. People in large parts of Scotland probably get a bit fed up when legislation that is intended to address issues in Edinburgh or Glasgow—I am well aware of the balance of interests on the committee—is imposed on the rest of Scotland, where it is not appropriate. The proposals would actually result in substantial increases above those that have happened before now.

I do not know whether you agree with that or whether you think that there is a wider benefit to the rental mechanism that has been proposed.

Kevin Stewart: I agree with Mr Brown. Where I have been involved in all this, I have tried to localise solutions, so that local authorities should have a say in how things are handled in their areas. That is what I have striven to achieve on short-term lets—giving local authorities powers, because they know their own places—and that is what I would want to do here. A national cap such as is proposed would be a blunt instrument. Mr Brown is right to point out that, although there are difficulties in Edinburgh and in parts of the Lothians, there are not the same difficulties in Ayrshire or even in Aberdeen at the moment. We should allow local authorities a say, taking cognisance of what is going on in their areas in order to get the policy right for people.

Keith Brown: My final question is about data, which we have touched on already. The biggest effect of the bill so far has been to shine a light on the inadequacy of the data that we have. There is general support for improving that—and I note the minister's previous comments.

I asked a question last week that I think still stands: what is the big obstacle to having real, live data along the lines of that mentioned by Gordon MacDonald? The information technology solution for that must be there. If that were to be backed up by legislation, we could have pretty ready access

to actual rent levels across the whole country quite straightforwardly. I know that the minister has said that the Government will consider proposals and respond, but is there any practical reason why we could not have a far more meaningful data set on which to base decisions?

09:45

Kevin Stewart: I am not an IT expert, and would never claim to be. I do not think that all that is necessarily quite as easy as we non-IT folk might think. It would also be costly.

We need to consider how all that could be achieved within the law, to ensure that none of the data protection issues that were mentioned earlier could get to the point of the live data feed. That is not impossible; the difficulties could be overcome. However, it will not necessarily be as easy as some of us who are not so IT literate might think. We would need time to get that absolutely right. However, I agree with Mr Brown and Mr MacDonald that that is the ideal place that we should be in and that it is what we need to aspire to.

Annie Wells (Glasgow) (Con): Good morning, minister. [*Inaudible.*—to what extent would the fair open market rent proposal result in improved conditions in private rented housing, given that existing legislation governs conditions and enforcement mechanisms for such tenancies?

Kevin Stewart: I had a wee bit of difficulty in hearing Ms Wells, but I think that her question was basically about quality. Is that right?

Annie Wells: Yes, minister.

Kevin Stewart: No matter what, we need to continue to drive up quality in all sectors. We must ensure that, as we move forward, we have housing in all tenures that is fit for the future. As members will be well aware, the Government has continued to drive up quality in all sectors. We have had the energy efficiency standard for social housing, and now EESSH2, and we are now moving towards improving energy efficiency in the private rented sector to an even greater degree. Obviously, we will have to have more interventions in the owner-occupied sector than we have had previously.

Over decades—indeed, over generations—we have tended to put in place legislation that covers one sector, in response to an issue that has arisen at that point in time. We need to take an all-tenure approach as we move forward. That has been my aspiration, and that is why the fire and smoke alarm legislation, for example, covers all tenures.

We will continue to improve quality in the private rented sector, as we will undoubtedly have to do if we are to reduce fuel poverty and carbon

emissions. I want to see that happening across all tenures as much as possible in the future. Quality needs to be driven up. We need to do so given the massive changes that we require if we are to reduce carbon emissions and fuel poverty.

Annie Wells: Are the factors that a rent officer or a tribunal would have to consider in setting a fair open market rent sufficiently clear and transparent?

Kevin Stewart: I am having some difficulty in hearing you, Ms Wells.

Annie Wells: I think that it is my broadband connection. Are the factors that a rent officer or a tribunal would have to consider in setting a fair open market rent clear and transparent enough?

Kevin Stewart: Are you asking about rent officers, tribunals and their roles?

Annie Wells: Yes.

Kevin Stewart: I will pass over to Yvonne Gavan, who might have heard what you said a little bit better than me, and then I will try to pick it up.

Yvonne Gavan: We believe that, over time, rental caps will start to distort true open market rental values, so further clarity and transparency on the two roles is required, and what the bill sets out to achieve on that requires further examination.

Kevin Stewart: Has that covered Annie Wells's question?

Annie Wells: I will quit while I am ahead. My broadband is not very good.

The Convener: Perhaps Pauline McNeill, the member who introduced the bill, would like to ask a couple of questions.

Pauline McNeill (Glasgow) (Lab): Thank you, convener. Good morning, minister, and thank you for the engagement that you have had with me on the bill so far.

You said that the Fair Rents (Scotland) Bill would risk increasing rents. Why would that not be a risk in rent pressure zones? As you know—[*Inaudible.*—CPI plus 1 per cent, which could be in any part of Scotland. You are saying that the bill would risk rents being higher, but surely the risk is there, albeit on a regional basis, under your legislation.

Kevin Stewart: That is a possibility, but the risk would be localised. My great fear with this proposal, which would apply nationally, is that landlords around Scotland would take the opportunity every year to increase rents by CPI plus 1 per cent. That is unlike what many landlords do at the moment, which is to make rental

changes between tenancies. The all-Scotland approach could have severe unintended consequences and could drive up rents dramatically in some places, causing difficulties and distortions.

Pauline McNeill: Do you accept that what I just mentioned could happen? Rent pressure zones, which ministers agreed to, are used in Glasgow. Your legislation surely results in the same problem of unintended consequences with CPI plus 1 per cent in Glasgow.

Kevin Stewart: If so, those would be localised situations and rents in those areas would eventually stabilise. As I have previously said, I am in favour of fair rents, but what you are suggesting in the bill could be a problem. An annual increase of rents right around Scotland would create a huge number of unintended consequences and distortions. As Keith Brown rightly pointed out, at the moment there are difficulties with rent in certain places, but there are rent decreases in other places. Decreases would be less likely to happen if there were a national policy, so I would worry about that.

Pauline McNeill: In Fife last year, rents rose by six times the rate of inflation for all property sizes except for three-bedroom properties. In Argyll and Bute, there were rent increases of 13 to 16 per cent, so it is not just Glasgow that has been affected. Why have those local authorities not acted? Those are Scottish Government statistics for advertised rents. Do you not think that there has been a huge failure under the current legislation? Those local authorities are not using existing powers, yet tenants are experiencing rent increases of more than the rate of inflation.

Kevin Stewart: I have been trying to encourage local authorities to consider RPZs; indeed, I have actively encouraged a number of them. We have offered local authorities help with the information that is required to put an RPZ in place. Unfortunately, no local authority has taken us up on that.

I recognise that some of what is in play at the moment is onerous, and I have therefore said that we will reform that and make things much easier. However, localising the arrangements and allowing local authorities to put RPZs in play—which may cover part of a local authority area, not the entire area—is the right thing to do.

You have just given me some statistics about Argyll and Bute. I am making some assumptions, so nobody should hold me to this, but there may be a problem with rents in Oban, for instance, which is not the same as the situation in Rothesay. Your bill, Ms McNeill, would provide a Scotland-wide approach whereas, under our proposals, I would give Argyll and Bute Council the opportunity

to do something in Oban but not necessarily do the same thing in Rothesay. That is where the main difference lies here. The more you grow the proposals, in particular into the national scheme that the bill proposes, the more unintended consequences there will be.

Pauline McNeill: This question follows on from the question by Annie Wells—which I know you could not hear too clearly. Under the bill, there is a right for a fair open market rent to be determined on the basis of the general condition of the property. Factors to be considered include

“the general poor condition of the property ... any failure to meet the repairing standard”

or

“poor energy efficiency”.

Would that be a useful provision? Either it would improve the condition of the property—we know that there are big issues with the condition of properties across Scotland—or the tribunal would have the power to reduce the rent to match the fact that the property was not meeting the proper requirements. I am not talking about legal standards; I am talking about the general poor condition of the property. Would it be useful to have—

Kevin Stewart: Convener—

Pauline McNeill: [*Inaudible.*]

Kevin Stewart: Sorry, I cut off Ms McNeill there—I do not know whether she had finished, but I apologise.

Pauline McNeill: Do you think that that provision would be useful for tenants? Do you agree with me that there is a need to balance the rights of tenants and landlords? Would the provision for a fair open market rent to be determined on those various grounds be useful? That does not exist in the 2016 act, specifically.

Kevin Stewart: As Ms McNeill knows from the conversations that I have had with her on the matter, I am determined to ensure that we balance the rights of tenants and landlords. I want to ensure that those tenants who are currently in poor-quality homes know their current rights, and that is one of the reasons why I have recently written to everyone in the private rented sector about their situations. I reiterate that I support the principle that all tenants should have a fair rent.

Let me go into specifics on some aspects of the bill. First, the bill sets out that initial rents should be set by the market. However, the fair open market rent provisions mean that a tenant could in effect challenge their rent as soon as they moved into the property. That would be fine should a tenant receive notification from their landlord that they intended to increase their rent, but I am not

so sure that that would be okay if that were not the case.

Secondly, the bill would enable all the 340,000 tenants in Scotland who currently have a private residential tenancy to make an annual application for a fair rent determination, as the bill removes the provision that only those receiving a rent increase notice from their landlord could refer that to rent service Scotland. As adjudications could only either maintain or reduce rents, there would be a clear incentive for lots of tenants to take up that opportunity.

I think that more could be done to improve rights on rent adjudication, and that is one of the reasons why I have had the conversations that I have had with Ms McNeill. I do not think that the bill is helpful in that regard, and there would be a huge amount of unintended consequences.

I emphasise to the committee and to Ms McNeill in particular that I am more than happy to continue to have conversations to improve the lot of tenants in the private rented sector.

The Convener: That completes our questions to the first panel. I thank the minister and his officials for taking part.

10:01

Meeting suspended.

10:03

On resuming—

The Convener: Welcome back, everyone. I am pleased to welcome our second panel of witnesses. Pauline McNeill is the member in charge of the bill. She is accompanied by Mike Dailly, who is principal solicitor and solicitor advocate at the Govan Law Centre, and by Kate Spence, who is an MSP staff researcher with the Scottish Labour Party. I thank them for attending.

We have allocated around an hour for this evidence session. Members will, again, ask their questions in a pre-arranged order. There will be supplementary questions at the end, if time allows. If Pauline McNeill would state clearly when one of her supporting colleagues is being brought in to answer a question, that would be very helpful. I ask everyone to give broadcasting staff a second to operate their microphones before they speak.

I invite Pauline McNeill to make a short opening statement.

Pauline McNeill: I thank the committee for making time to consider the Fair Rents (Scotland) Bill.

Despite reforms, the private rented sector is marked by a lack of consumer power, especially

for tenants at the bottom end of the market, and by varying property standards and affordability issues. The number of children in private rented housing who live in severe poverty has more than doubled in a decade, to 50,000, and the Joseph Rowntree Foundation has reported that almost half of renters who have experienced a drop in income since last March are worried about their ability to pay rent.

The bill seeks to fundamentally even up the power relationship between tenants and landlords, and to create fairness by capping rent increases at CPI plus 1 per cent and adding the right for tenants to have a determination of a fair market rent. It also requires collection of data on rents to give a complete picture of rents across the country.

The bill has widespread support, and it has been a catalyst for bigger and more radical change and thought about change in the private rented sector.

I have spent the past three years working out how I can make a difference for tenants, who should, I believe, have greater protection in law. Thanks to Mike Dailly, we were able to write the Fair Rents (Scotland) Bill.

There is a consensus that we need greater supply of genuinely affordable homes, especially in social housing. However, until we can achieve that, the Scottish Parliament must use its powers for change.

I want to go through some examples of rent figures in recent times. In 2019, greater Glasgow saw an increase of 5.3 per cent in average two-bedroom private property rent levels. That increase compared with CPI inflation of 1.7 per cent in the same year. With the Fair Rents (Scotland) Bill, that rent rise of 5.3 per cent would have been capped at around 2.7 per cent.

It has been suggested that high rents are an Edinburgh and Glasgow problem only. I want to illustrate that that is not true. The latest Scottish Government rent statistics show us that, between 2010 and 2020, Forth Valley and Fife saw average rents rise above the rate of inflation for all property sizes except one-bedroom properties. Last year, between September 2019 and September 2020, rental costs for three-bedroom and four-bedroom properties in Argyll and Bute rose by over 13 per cent—26 times the rate of inflation. In Forth Valley last year, rents for three-bedroom and four-bedroom properties rose by 11 per cent. In Fife, rental costs rose by more than six times the rate of inflation for all property sizes except one.

A recent nationwide survey entitled “RentBetter”, which I think the committee has looked at, noted that the most common reason that was given by tenants for being in the private

rented sector is that they are saving to buy in the next few years. However, with rents rising above the rate of inflation in many parts of Scotland, it is proving to be increasingly difficult for people to save a deposit. How will this generation be able to do that if rents are high and rent pressure zones have not been enacted by most local authorities?

There is a clear link between poverty and high housing costs. The survey that I mentioned highlighted that over half of tenants reported that their housing costs were over 30 per cent of their income. Single parents are a group that is most likely to be struggling in the private rented sector.

At present, the cost for a person of keeping a roof over their head continues to rise in most parts of Scotland, and the eye-watering rents in greater Glasgow and Lothian have risen at double the rate of inflation over the past decade. It is time for meaningful reform, with a cap on rent increases and a shift in the balance of power to make renting in the private sector more equitable. Give this generation a chance in life by capping rent increases. Rent pressure zones surely carry the same risk.

I thank the committee for its time. I am accompanied by Mike Dailly, who wrote the bill, and Kate Spence, who is our researcher.

The Convener: Thank you very much.

You will have heard the witnesses last week and the minister today talk about one of the fears about the national rent rise being CPI plus 1 per cent—that landlords might not reduce their rent in certain circumstances because of the fear of inability to revert to their previous rent. How do you respond to that? I accept what you have said about the problem not being solely a Glasgow and Edinburgh one, but it is a regional problem. Both of us represent parts of Glasgow. There are areas in Glasgow that have high rents and areas that have less high rents. How do you square that circle?

Pauline McNeill: I accept that that is the central question that is levelled at the bill. However, as you heard me say to the minister, rent pressure zones have also used CPI plus 1 per cent.

Surely if that was true, you would risk the same consequences in the Government's legislation, because if you applied that to any part of Scotland, landlords would say, "Well, if I have to cap my rent increase at CPI plus 1, I want to use that every year," so that does not seem to apply to the minister's judgment around the legislation. Of course, landlords do not need to increase rents and often they do not.

Lastly, I make the point that there is a provision in the bill to allow ministers to modify that, which I know the minister criticised, but I will ask Mike

Dailly to address that question. We specifically put that in the bill so that ministers could, under delegated legislation, modify the provisions if they so wished. Can I call Mike Dailly to answer that point?

The Convener: Yes, of course.

Mike Dailly (Govan Law Centre): Thank you, convener. You have raised a really important point. I welcome what the minister said about his support for the intention of the bill, and he is right to highlight unintended consequences. If one looks at section 1(2) of the bill, which would introduce a new section 22(10) to the Private Housing (Tenancies) (Scotland) Act 2016, there is, Pauline has said, the intention to allow ministers to make modifications and different provisions for different circumstances. It is fair to say that in light of the evidence that has come to the committee, it is clear that there needs to be more agility and flexibility in that regard.

I know that Pauline is actively considering how proposed new section 22(10) could be beefed up. For example—briefly—it would allow for variable rent caps in different local authority areas. That is the type of flexibility that the housing minister, Kevin Stewart, has talked about, and rightly so. We need that flexibility; it would also allow the Scottish ministers to get flexibility for people whose landlords do not impose rent increases for a few years, so that they are treated separately. Ultimately, part of the way forward is to have live real-time reporting of data.

The Convener: Pauline, I accept what you said and that you are thinking about amendments at stage 2 and trying to be—*[Inaudible.]*—and so on, but the minister highlighted some of the concerns about CPI plus 1 being okay in particular zones and whether there is flexibility on that. Why have you not waited to see what the Government's policy is on the issue, because it seems that some of your aims, certainly on fair rents, are shared by, I think, everybody on the committee. Why did you not wait to see the Scottish Government bill that you knew was coming down the track to see, at that stage, whether amendments to it would be required or there was a case for you to introduce a member's bill, if you are re-elected, as members who are standing again hope to be.

Pauline McNeill: I was elected in 2016; around 2017 I put my mind to looking at the matter. I was housing spokesperson and many people wrote to me about high rents. What concerns me about rent pressure zones is that we know that there is an issue about the data and we know that Edinburgh has tried to use the legislation but it has proved to be difficult.

One of my concerns about the current legislation is that it is important that tenants have

rights. There is agreement that balance is needed, but I do not think that rent pressure zones provide that. I put my mind to how we can balance the rights of tenants. It is the local authority's decision whether to apply to establish a rent pressure zone, but a tenant or group of tenants cannot ask the local authority to do so—they have no rights to ask the local authority or Government to use the legislation. Where are tenants' rights in the current legislation?

The provision that is before you might be imperfect, but at least it would provide some certainty for tenants across the country. It seems that with some modifications, such as those that Mike Dailly talked about, my bill would be more workable and would better balance the rights of tenants. Would Mike Dailly like to add to that?

Mike Dailly: I agree with that. On the minister's point about unintended consequences, it is important for everyone to be conscious that if we do nothing the consequence is that we will fail another generation.

10:15

I watched the committee's evidence session last week, which I thought was very good. The supply-side economic problems in Scotland are incredible; we just do not have enough social housing for folk here, which is why so many vulnerable Scots go into the private rented sector. I am deeply concerned that if we do not take action speedily we will fail another generation.

The Convener: I think that there would be general agreement about that, if it were not for the fact that the Government has already done a lot of work on the issue and is progressing more.

I will leave that there, although I might come back in later.

Sarah Boyack: In our session last week several witnesses made the point that many people in the private rented sector would prefer to be elsewhere. In your opening remarks you also said that they would prefer either to be in social rented housing or to be able to buy their own homes. Do you share the minister's concerns that your bill would mean that big institutional investors might not invest in significant expansion of new private rental properties?

Pauline McNeill: You are quite correct that, for many people, being in the private rented sector is not a choice. I note that the minister said that for some it is, which I accept. However, for many people it is not. As we know from the "RentBetter" study and others, people are in the sector either because they would really like to get into the social sector, where they would prefer to be, or because they want to save up to buy a property. If rents are

too high we can see that, as Mike Dailly said, there will be intergenerational issues, which the Parliament will have to consider in relation to our public policy on housing.

I do not accept the point about investment, although I am alive to it. I would not want to put in front of any committee proposals for legislation that would give me concern that we could not invest in housing. I have thought carefully about that aspect, and have discussed my proposals with John Blackwood of the Scottish Association of Landlords. We have a good relationship; we disagree on only a few points.

I thought about the matter carefully, because I was concerned about it at the beginning of the process. I have come out the other side believing that, overall, we could get round that through sensible amendments at stages 2 and 3. However, I realise that we might run out of time for that.

I think that we could make the bill workable, however, and not scare everyone about the consequences for investment in the sector. At the same time, we could cap high rents, which are a live issue across the country and not just in Glasgow or Edinburgh, and show that the Parliament has added to the existing protections in the 2016 act.

Mike Dailly might want to add to that.

The Convener: Excuse me, Pauline. Unless there is a specific reason to do otherwise, I ask you not to continue to bring other speakers in. There is a lot to get through, but there is time. I am not preventing Mr Dailly from coming in if you think that it is important, but I ask you not always to refer questions to others unless you need to.

Pauline McNeill: Okay. Thank you.

The Convener: You are welcome to come in, Mr Dailly.

Mike Dailly: I am sorry, convener. Point taken.

Sarah Boyack is absolutely right to ask that question. I will try to be as brief as I can. The difficulty with the private rented sector is that it represents a tale of two cities. There are those who have real choice—upwardly mobile people who are moving around the country for work reasons and so forth—and people like those whom we see at Govan Law Centre, who are in the private rented sector either because they want to get into the social rented sector or because they want to get a mortgage but cannot. There is therefore a supply-side problem.

The private rented sector in Scotland is not a market that is working properly; it is dysfunctional. When we have dysfunctional markets, we have interventions. For example, Ofgem was empowered with economic regulatory powers on

utilities prices, the Financial Conduct Authority intervened when we discovered that payday loans were running amok, and we have a minimum wage floor.

Sarah Boyack: I have a couple of questions about rebalancing the relationship between tenants in the private rented sector and their landlords. An issue that has come up in evidence is the imbalance in power when cases get to the tribunal and the extent to which tenants are able to put their case and have an impact on whether they pay a fair rent. In relation to fairness, the idea that somebody could go to the tribunal and end up having to pay an even higher rent could, I presume, put people off putting their case. How would the section of the bill on implementing fair open market rents work in practice?

We talked about data earlier. What impact would the bill have in that regard?

Pauline McNeill: Professor Douglas Robertson, who was a witness at last week's meeting, brought to my attention that, under the 2016 act, if a tenant brings a challenge to the tribunal and says that they are not paying a fair rent, they risk the tribunal imposing a higher rent. That is not the right incentive to apply, so I thought that I would deal with the matter in part 1 of the bill, on an open market rent. I think that doing that in that part of the bill would be useful. I might need to have more discussion, if it is worth it, with the minister, because I do not know whether he fully understands the intention behind having that provision in the bill. It would be an important addition, because it would mean that the tribunal could not increase rent, although it could reduce it.

There seems to be consensus on the question of data. I take on board the minister's point that improvements could definitely be made to data collection. Everyone seems to agree on that. One of the difficulties in putting together the case for the bill related to the use of Government statistics on advertised rent. We will need to look at the costs that the minister levels at the bill, but it would be useful to everyone to have data on rents across Scotland.

Sarah Boyack: Okay. Do I have time for another question, convener?

The Convener: Yes—if it is short.

Sarah Boyack: Thank you.

What powers in the bill would be more effective than those in the 2016 act? It was quite interesting to hear the minister talk about new changes that he intends to make in relation to data, because rent pressure zones have not worked. What issues that are not covered in the 2016 act is the bill attempting to address? That question is for Pauline McNeill or Mike Dailly.

Pauline McNeill: Mike, would you like to answer that?

Mike Dailly: Yes. Ultimately, the bill is trying to address fair rents. Do not get me wrong—the 2016 act has done a lot of good things. However, it just brought in the fair rent regime from the Rent (Scotland) Act 1984, which originally came from the Rent Act 1965, which was never about fair rents; it was about only the market rent.

I have worked on behalf of tenants on cases that have gone either to the old rent assessment committee or the First-tier Tribunal—in fact, I have argued cases before the inner house on this very issue—and the difficulty is that the law at present means that the pendulum is swung completely in favour of the landlord, because they are able to put up rent. The 2016 act was good, because landlords were limited to doing that only once per annum. However, what is a fair rent under the 2016 act? It is an open market rent. Whenever prices go up or a landlord thinks, “Oh my goodness—I need to make more money”, the tenant is at the end of the queue in that relationship. The bill tries to introduce the concept of fairness, which has never happened before in Scotland.

Annie Wells: Thanks for coming today, Pauline. Has consideration been given to the danger that landlords might front load the rent for a property, which would restrict certain groups' ability to access that accommodation in the first place?

Pauline McNeill: Landlords raised with us the issue that if they were allowed to increase rents by CPI plus 1 per cent, in many cases they would not have increased the rent at all, and therefore they would just front load it and use that formula every year. We have discussed the issue with the Scottish Association of Landlords. In response, during the consultation, we said that the bill could be amended at stage 2 to insert a provision that would allow landlords who, for whatever reason, wanted to freeze the rent and who could show that they had done that to then recoup some of that.

I am alive to that issue, and I have given it quite a bit of thought, because we do not want the legislation to result in unnecessary increases for tenants. By the same token, we want landlords who want to invest in their properties to be able to do so. Therefore, I have already said to the Scottish Association of Landlords that that is something that I would be prepared to look at if the bill ever got to stage 2. I ask Mike to contribute on that question briefly.

Mike Dailly: [*Inaudible.*]—I am sorry. I do not have anything further to add. Pauline McNeill has summed up the position.

Annie Wells: Professor Douglas Robertson argued that evidence on rent controls from other

countries showed that their impact could be limited. For example, landlords in high-pressure areas can choose to ignore rent restrictions, and tenants who are keen to secure or retain a tenancy will choose not to enforce their rights, whether old or new. What evidence do you have of other countries that have implemented effective rent controls, and how applicable are those models to Scotland, given the different policy frameworks?

Pauline McNeill: I listened to that evidence and I tried to follow what was being said. I do not know that I agreed with all of it. There are some countries where rent controls have been successful. I have looked at Ireland and Denmark. Some countries do full-scale rent controls, whereas my bill contains some rent control provisions—the right to a fair open market rent and a cap on the increase in rent. I said in my original proposal that I would be in favour of grandfather rights, so that a new tenant who takes on a tenancy would be able to enjoy the same rent and have that protection. That was the experience in Ireland. We did not model it on one specific country—we took what we could see, which was mostly from Ireland, but we also took examples from other countries. Obviously, this is a member's bill; a Government bill would go much wider and have more rent controls. However, as that would require much more investment in the concept, we narrowed our focus to a cap on increases, with the special provision of a determination on an open market rent.

Keith Brown: Mr Dailly said that this is a tale of two cities. I do not live in a city, and none of my constituents lives in a city.

Pauline, you mentioned that rents had gone up quite substantially in Forth Valley. As you will know, Forth Valley comprises three different local authorities, and it is quite possible to have substantial rents in Stirling, but that not being the case in Clackmannanshire. Can you give any detail about the rises in Clackmannanshire? Are there actual rises, or are rents just what the market is asking for?

In asking that question, I am seeking to make the point that you are making about the lack of data. I just want to see how relevant the issue is to my local area. Do you have any idea what the rental position is in Clackmannanshire?

10:30

Pauline McNeill: No, I do not have a breakdown of that. One of the issues concerns the collation of rent statistics, which is why I put the data provisions in the bill. I take your point that Forth Valley covers a number of local authorities. You can see that there is a trend. However, I take

the point that that is a big area to cover, and that things might look completely different in different areas.

Kate Spence has crawled over and checked all the statistics. Perhaps she might wish to add something.

Kate Spence (Scottish Labour Party): The Scottish Government stats do not break rent down to the level of Clackmannanshire; they refer to Forth Valley, but they do not break it down to Clackmannanshire or any further. That is one of the issues: better data on rents is needed. The Scottish Government statistics are based on advertised rents, and the issue is noted in the document every year. That gives even greater motivation for improved data collection.

Keith Brown: Thanks for that. For the avoidance of doubt, I emphasise that I completely agree with that. Live information is extremely important for what we want to do.

Mr Dailly's points related to the supply side, and I agree that that is the most important part. In two respects, however, the bill does not necessarily seek to address the supply side. It relates to the effect, not the cause, of the problem, which is a lack of suitable supply, especially for those at the bottom end of what is affordable. The bill does not seem to address that; it just addresses the issue of fair rents.

I am a bit confused about this. The idea that people use the private rented sector so that they can save up for a deposit to buy their own house does not sit with the evidence that we heard last week, according to which some people spend more than 50 per cent of their income on their rent. I am not sure how someone can spend more than 50 per cent of their income on rent alone and save money to buy a house.

My point is that the issues concern those down the bottom end—the people who feel obliged to use the market. Is there not a better way to address that issue in terms of supply?

Pauline McNeill: I completely agree with you that the issue is housing supply. We know that from the statistics, which show that a high percentage of people are in the sector because, although they would prefer to be on the waiting list for social housing, they cannot get on it, so they have no choice but to go into the private rented sector. Some of them may wish to save for a deposit. As you probably know, the sector has tripled in size since 1999. Last week, John Blackwood said that, in his view, many of those people should not be there. However, you can see how the sector has grown, perhaps by necessity.

When I have spoken about the bill, I have always talked about it in the wider context of

increasing housing supply, particularly in the social sector.

On the figures, there is a level of complexity, and things do not always fit easily together. As you say, more than half of tenants who were surveyed said that they spent 30 per cent of their income on rent. About 21 per cent pay up to 40 or 50 per cent as rent.

My point is that the 21 per cent who spend almost 50 per cent of their income on rent will not be able to move out of that situation unless supply increases. We should surely be protecting them in some way while they are there. The figures supplied by the Joseph Rowntree Foundation show that those people are struggling to pay their rent, and they certainly cannot save for either a pension or a deposit.

I do not object to the legislation having a time limit on it, but there is some urgency around the issue, because the pandemic might have made the situation more acute and, perhaps, the sector might get smaller in the future. The balance is not right. If we do not come up with some changes—either through the bill or through some other means in the next session of Parliament—we will run into more difficulties. We need to give people more choices.

Of course, there is an issue around people who want to get on to the property ladder—we are talking about the generation who suffered from the crash of 2008 and are far more remote from property ownership. The age group affected is quite wide, as it takes in people from their 20s to their 40s. That is quite important if we are interested in how wealth has moved away from younger people.

There is a sense of urgency around the issue. We need to do something in the next five or 10 years, until we can grow the housing supply. I hope that that answers your question.

Keith Brown: I have a final question. It concerns something that is not quite central to your bill, but I would like to know whether you or others are keeping this element under consideration.

Last week, we heard that the greatest level of investment in housing comes from rent payers, whether they are paying rent to councils—which goes to the housing revenue account or the capital account—or to housing associations. The bulk of investment comes from people on relatively low incomes—they are the ones who are contributing to rental surpluses and investment. Did you think of finding a way in the bill to tie private rented sector rents into driving up standards, or is that not possible?

Pauline McNeill: That is a key question. In any consultation that we have had on the bill, the issue of quality comes across. Throughout the development of the bill, Kate Spence and I regularly asked tenants what the quality of their accommodation was like and what their rent was. Last year, in Lothian, a two-bedroom property was £972 while, in West Lothian, it was £630. You can draw your own conclusions about whether those rents are high, but you could argue that it would be fair if the rent money was used to invest in the property.

Part 1 of the bill, which deals with open market rent, tries drive at that issue. If there was a risk that the tenant might go to the tribunal to say that their rent was not fair because the property was in a poor state of repair, that might act as a catalyst for the landlord to make sure that improvements were made to the property. However, I recognise that that is not enough in itself, and that the question that you ask is an essential one.

I have to say that I was shocked at the high rents and the poor quality of accommodation in Glasgow, which is my patch. I do not know anyone who has moved into a property in the private rented sector or the social rented sector who has not had to get their family in to help to do the place up to a reasonable standard.

This is only a member's bill, but I am trying to do as much as I can with it. To be honest with you, if it were not for Mike Dailly, I would not have got this far. I hope that the convener does not mind if I put on record something that I will also state in response to the survey about members' bills. The bill team was not keen on me doing this bill, because it had three or four specifics in it. As you probably know, there is a tendency to favour smaller bills. I recognise the point that you are making, but we tried to do more than is usual with this sort of bill, and I valued Mike Dailly's contribution in that regard.

I would like some assurance that, even if my bill is not taken forward, there will be, in the next session of Parliament, some recognition that something much bigger has to happen to balance tenants' rights in order to deliver better quality accommodation, rather than legislation that ensures that we get only investment properties.

The Convener: To be fair to the non-Government bills unit, I suspect that, at this stage in the session, it would find it easier to deal with small bills than one as complex as this one.

Gordon MacDonald: I want to ask about data. However, before I do that, I have a question about the point that was made earlier about investment in the private rented sector. I do not apologise for going on about Edinburgh, because it is a major issue here. The City of Edinburgh Council has an

ambitious programme to build 20,000 affordable homes over a 10-year period. We have seen the population of the city grow by 13 per cent over the last 10 years, and there will be a dependence on the private rented sector until all those homes are built. Is there a danger that, because of the rise of short-term lets, we could make the situation of people who are trying to get a home in Edinburgh more difficult as landlords pull out of the private rented sector and move into short-term lets, Airbnb and so on?

Pauline McNeill: There are dangers that we have to be alive to if we are going to legislate in this way. I think that it is possible to legislate in such a way that we give comfort to landlords and investors. I totally recognise the situation with high rents in Edinburgh and Glasgow. I suppose that that is where I started, and then I discovered that the issues go beyond that.

I know that the committee has done a lot of work on the regulation of short-term lets to try to balance the housing needs in cities, and I believe that that work has gone in the right direction. I guess that the issue is something that we can draw out at stage 2, although I realise that we might not get there, so that the weight of the legislation does not fall on investment and that we strike the right balance.

I would still say that it is worth taking some risks in the legislation, however, because if we do not do that, we will end up with another five years of failed rent pressure zones, with no balance and no enhanced rights for tenants. On the grounds for eviction, which the minister talked about, I am sure that you have had similar cases to the ones that I have had and you will know that, under the 18 grounds, people are not really required to provide a lot of evidence to evict somebody. A couple came to me and said, "We've been asked to move out because the landlord's brother wants to move in." No other testimony was needed—that was all the information that had to be provided.

I think that, in the next session of Parliament, it will be worth taking some risks to try to get that balance right, but not such huge risks that we would scare off investors. I suppose that the Government's job is to ensure that, in balancing the creation of more rights for tenants and the regulation of short-term lets, we have a proper housing system that works for everyone.

Gordon MacDonald: In section 3, you propose that we collect a lot more data. I fully understand the need to collect monthly rent data, because that would give us the live data that we are all looking for, but you also suggest the collection of data on numbers of occupiers, numbers of bedrooms and so on. What would be the benefit of collecting that data?

Pauline McNeill: I will ask Mike Dailly to comment on this as well, if that is okay, convener.

Thanks for the questions that you have asked on the subject, Gordon. I followed the committee's evidence session on the bill last week. The provisions on the collection of data might not be perfect. I heard what the minister said about data sharing and I thought that his point was a good one. However, it is clear that we need data so that we know what we are dealing with and we can break the statistics down. Keith Brown asked me to do that and I was unable to do it. There can be cross-referencing with other legislation in relation to data on, for example, numbers of occupants.

Mike Dailly: If the bill progresses to stage 2, I think that the provision on numbers of occupiers could be removed, because the legislation on houses in multiple occupation intersects with that. Pauline McNeill alluded to that.

The minister said in his evidence this morning that he has some concerns about section 3 in relation to data, data protection and so forth. I did not really understand his position, however, because all that section 3 would do is to add some additional data fields to the existing private landlord register under the Antisocial Behaviour etc (Scotland) Act 2004. The 2004 act underpins the landlord registration scheme in Scotland, and it has worked a treat in that respect since 2004.

10:45

As I said at the outset—Pauline McNeill is very sympathetic to this—there is a consensus that we need real-time data. A requirement to provide real-time data would not be that onerous, because the landlord would have to report such data to the local authority only if they changed the rent, which they can do only once per annum. If we had that information, that would be tremendous for the ability of local authorities, the Scottish Government and, indeed, tenants and landlords to know exactly what was going on.

Gordon MacDonald: The collection of that data would happen at the point of registration, or every three years at the point of reregistration. Is there a danger that it would be out of date?

Pauline McNeill: Yes, I think that that is one of the revisions that we would make—it would probably make sense to collect the information on an annual basis so that it would not be out of date. However, I appreciate that we would have to look at the detail of how that could be done efficiently without huge costs being incurred. I believe that that could be done.

I was not clear where the minister was going. I had thought that he was sympathetic to the idea that we should have a system for collecting regular

data on rents; if we do not, none of us will know what policy decisions we would want to make on housing. I think that it would make sense to collect that information every year.

Gordon MacDonald: I agree that we need that level of detail, but how could it be collected without that resulting in an increase in councils' workloads? They might not have the right level of resource. What would be the most efficient way of collecting that data? Should it be done through the registration scheme or, as some people have suggested, through the deposit scheme? What would be the best way of doing that?

Pauline McNeill: In my view, it should be done through the Scottish landlord register. I do not support the view that that would be too onerous; I think that it is the least that we can do. As far as I am concerned, that is the obvious way to do it. However, the committee might want to scrutinise the issue further. I am open to the best way of collecting the evidence. I thought that the Scottish landlord register would be an obvious place to start, albeit that the information for that is collected every three years. We might need to look at how the information could be collected every year. I recognise that that needs to be fixed.

I do not accept that it would be too onerous to collect the data through the landlord register. As I recollect, when the landlord registration provision was brought in, that was opposed by some landlords. We cannot do nothing. According to the critique of the bill, it would be too difficult to collect the data and RPZs are already there, so we fixed the issue in the 2016 act. We might have some differences of opinion on the detail or the practicalities, but we are only at stage 1. With any bill, a lot needs to be done at stage 2.

However, I do not accept that what is proposed would be too onerous. I think that providing for such information to be collected is the least that we can do. I urge the committee to look at the issue. If it can find a more efficient way of collecting the information, I would be fully supportive of that.

Gordon MacDonald: What is your view on the concerns about data protection that have been raised?

Pauline McNeill: Landlords have expressed concern, because they would not want everyone to be able to see what rent they were charging. Initially, my view was that the data should be collected by the local authority, that the specifics of the landlord would not be published and that only the data on rents would be available.

I am no data expert, but a number of people who collect data have been in contact with me. People who collect data on housing allowance for social security purposes are very keen on the

proposal, because they find it extremely difficult to provide the Department for Work and Pensions with that information.

I would not want a whole list of landlords to be published and available in the public domain. I am very alive to why that information should not be published. All that I want to be published is the information on rents relative to the size of the property. That is what I would be looking for from any system.

Alexander Stewart: Many questions have been asked, and I want to ask a couple more at the end of this session. The mechanisms for tenants to apply for a fair rent are clear, but what about the accessibility and user friendliness of it all? How do you see that progressing?

Pauline McNeill: That is a great question. Providing advice to tenants on how they can take forward their rights is a central question. We know that the lack of advice centres has resulted in people not taking up their rights.

Maybe it would be better if Mike Dailly answered that question. One of the great things about having Mike Dailly here is that he is Govan Law Centre's main advocate and sees tenants all the time, so he can advise about that. What you are getting at is that there is a lot of unmet need when it comes to how people can know their rights and how they can access them. Going to a tribunal is scary for a lot of people.

Mike Dailly: Mr Stewart has asked a very important question. I am not sure that we have any research on how well what we have done has worked, but we have made the simple procedure in the sheriff court for lower-value claims an online process. It starts off as an online process. To make things easier for tenants, we should certainly use digital technology to a greater extent, but we should also bear in mind, of course, that many people—particularly very vulnerable people—are digitally excluded.

I am conscious that the number of older people in the private rented sector has doubled over the past 20 years. Last year, Scottish Widows produced a report that showed that it expected retired people in the private rented sector to spend 42 per cent of their pensions on rent.

We need to make things easier for people, and I think that we can do that with technology. We have some experience of that from the Scottish court system. However, we also need to be very mindful of people who are digitally excluded. That is why local advice agencies that can provide free support and advice—whether they are law centres or citizens advice bureaux, for example—are so important.

Alexander Stewart: You identified that the older age group, which does not have the same accessibility or opportunities, requires assistance and support to ensure that it understands what it is entitled to, what its rights are and where it can address any issues that it has. The older age group might not be aware of those things, so people in it might not challenge, or they might not want to seek any more relevant information because they might be unaware of their entitlements. You have identified what needs to be done, but that comes at a cost. How do you see that being progressed?

Mike Dailly: On that coming at a cost, I was certainly encouraged by the earlier evidence from the Minister for Local Government, Housing and Planning. It struck me that Mr Stewart is very sympathetic to tenants in the private sector being made aware of their rights, and I got the impression that the Scottish Government is very keen to do more in that space. Govan Law Centre and many others would certainly be very happy to work with the minister in that regard.

I think that the cost of promoting those rights and providing support should be borne by the public purse. We have a strong network of free advice agencies in Scotland that are funded essentially through the public purse and which are in a good position to help the kind of people Mr Stewart is talking about.

I certainly agree that we need to do much more, and I was encouraged by the minister's willingness to actively look at that.

The Convener: That brings us to the end of this evidence session and concludes the public part of the meeting. No matter what happens to this member's bill, I put on record my thanks to Pauline McNeill and her team for the work that they have done in bringing it forward. It has certainly raised consciousness again of the idea of fair rents, and a lot of good work has gone into it.

Thank you very much for your time. You know how to leave the meeting. As always, you should press the red button and you will then disappear from our screens. The rest of us will go into private session.

10:55

Meeting continued in private until 11:31.

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