



OFFICIAL REPORT
AITHISG OIFIGEIL

Local Government, Housing and Planning Committee

Tuesday 25 June 2024

Session 6



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Tuesday 25 June 2024

CONTENTS

	Col.
INTERESTS	1
DECISION ON TAKING BUSINESS IN PRIVATE	2
HOUSING (SCOTLAND) BILL: STAGE 1	3
SUBORDINATE LEGISLATION	41
Civic Government (Scotland) Act 1982 (Licensing of Short-term Lets) Amendment Order 2024 [Draft]...	41

LOCAL GOVERNMENT, HOUSING AND PLANNING COMMITTEE

21st 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)

*Pam Gosal (West Scotland) (Con)

*Mark Griffin (Central Scotland) (Lab)

*Gordon MacDonald (Edinburgh Pentlands) (SNP)

*Emma Roddick (Highlands and Islands) (SNP)

*attended

THE FOLLOWING ALSO PARTICIPATED:

James Calder (Minority Ethnic Carers of People Project)

James Hickman (Dogs Trust)

Lucy Hughes (Engender)

Andy Kinnaird (Scottish Government)

Craig McGuffie (Scottish Government)

Paul McLennan (Minister for Housing)

Gilly Mendes Ferreira (Scottish Society for the Prevention of Cruelty to Animals)

Jessica Niven (Scottish Government)

Kate Thompson (Children and Young People's Commissioner Scotland)

Becky Thwaites (Blue Cross)

Gerry Tierney (Ayr Housing Aid Centre)

Jon Turner (Link Group)

CLERK TO THE COMMITTEE

Euan Donald

LOCATION

The David Livingstone Room (CR6)

Scottish Parliament
**Local Government, Housing and
Planning Committee**

Tuesday 25 June 2024

[The Convener opened the meeting at 09:05]

Interests

The Convener (Ariane Burgess): Good morning, and welcome to the 21st meeting in 2024 of the Local Government, Housing and Planning Committee. I welcome Emma Roddick to her first meeting of the committee. Emma joins us remotely today.

I remind all members and witnesses to ensure that their devices are on silent.

The first item on our agenda is an invitation to Emma Roddick to declare any relevant interests.

Emma Roddick (Highlands and Islands) (SNP): I wish to declare that I was a Highland councillor until 5 May 2022. I no longer receive remuneration for that role.

**Decision on Taking Business in
Private**

09:06

The Convener: The second item on our agenda is a decision on taking agenda items 6 and 7 in private. Do we agree to take those items in private?

Members *indicated agreement.*

Housing (Scotland) Bill: Stage 1

09:06

The Convener: The next item on our agenda is an evidence session on the Housing (Scotland) Bill with two panels of witnesses. On the first panel, we are joined, in the room, by James Calder, who is the national policy and engagement officer for the Minority Ethnic Carers of People Project; Lucy Hughes, who is the policy and parliamentary manager at Engender; Kate Thompson, who is a policy officer for the Children and Young People's Commissioner Scotland; and Jon Turner, who is the chief executive of the Link Group. We are joined online by Gerry Tierney, who is the housing advice team leader at Ayr Housing Aid Centre. I welcome you all to the meeting.

We turn to questions from members. We will try to direct our questions to specific witnesses where possible, but, if you would like to come in, please indicate clearly to me or the clerks. Gerry, you can do that by typing R in the chat box. There is no need to turn your microphones on and off—we will do that for you—so that is one less thing to think about.

I have a couple of general questions on the bill, which are open to you all to answer. Members will then have more specific questions. The Scottish Government has stated:

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

In general, I am interested to hear your thoughts on the extent to which the bill as a whole delivers those aims. I ask Lucy Hughes to come in first.

Lucy Hughes (Engender): First, I thank the committee for inviting Engender to provide evidence today on the Housing (Scotland) Bill.

As a feminist policy and advocacy organisation working to progress intersectional gender equality in Scotland, our submission highlights the fact that women have experienced severe inequalities in access to housing—safe, secure and affordable housing, in particular. Our current housing system, including both the private and social rented sectors, does not meet women's needs and creates active barriers to achieving gender equality in Scotland. That is compounded for groups of women who face other forms of disadvantage, such as disabled women, unpaid carers, black and minority ethnic women and many other minoritised women.

On the bill's intentions, we are broadly supportive of what the bill tries to do in a number of ways, especially with regard to improving

protections for tenants and bringing in mechanisms to control rents. We have heard extensively from tenants organisations and those who work with tenants on the front line that rents are hugely unaffordable. There is a lot of evidence for that, which I will not cover today. However, that situation hits women the hardest because women experience income inequality compared with men, earn less than average, have lower levels of savings, are more likely to get into debt, spend a higher proportion of their income on rent, are much less likely to own property and, therefore, are much more likely to rent in the social sector or, now, in the private rented sector, based on the limited data that we have.

My key message for the committee is that, when we consider the bill's intentions, we need to think about whether it would progress gender equality and other forms of equality in the way that its provisions have been developed. We think that the bill has made a good start in looking at aspects such as rent control, which have been designed to curb the high rents that people are facing and are pushing many, including women, into hardship. More work can be done more broadly as well as through the bill to make sure that rent control measures are as strong as possible and that tenants feel the impact of them on the ground.

I want to make it clear to the committee that we think that much more could be done to take an equalities approach to how the housing bill, as well as housing policy in general, is developed across the Scottish Government. “Housing to 2040” gave a clear commitment to an equalities-led approach to addressing the current gaps in housing options for people with protected characteristics. We are not sure that the bill fully addresses those gaps, partly because there is a huge social housing crisis, which the bill does not address, and partly because we need to consider how implementable some of the provisions in the bill would be and whether tenants would feel its impact in the here and now, bearing in mind the cost of living crisis.

I will keep my comments brief, and I am happy to speak further to any of the points that I have raised.

The Convener: Thank you for that overview. I will go to James Calder and then Gerry Tierney, who is online, as online witnesses often get forgotten about. I will then come back to Jon Turner and Kate Thompson.

James, what is your organisation's sense of the bill's approach?

James Calder (Minority Ethnic Carers of People Project): Thank you for allowing MECOPP the opportunity to speak in the debate. We support carers and unpaid carers from minority ethnic communities and provide

significant support for the Gypsy Traveller community across Scotland.

Fundamentally, there are important proposals in the bill, and we are supportive of it. Our main concern, which echoes some of what Lucy Hughes has said, is about the equality impacts of the bill on people with protected characteristics, which should be given paramount importance. Many people from black and minority ethnic communities face significant barriers in relation to finances, employment and health, all of which have an impact on their access to housing. The equality impact assessment documentation that was published last week noted issues that minority ethnic communities face, such as challenges when looking for new housing or with employment, as well as their experiences of racial harassment. They face language barriers, and there are also poverty-related issues.

I am concerned that, although the bill has laudable and positive aims, a little bit more time needs to be taken to look at its equalities impact and to investigate how we can support people with protected characteristics, whether they are from minority ethnic communities or have other protected characteristics, in order to ensure that the bill fulfils the equalities needs of the communities that we support.

The Convener: I have a supplementary question. You said that a bit more time needs to be taken to look at the equalities impact. What do you think that the Government needs to do in that area?

James Calder: It needs to look at the issues that communities face and understand them. We support carers and unpaid carers from minority ethnic communities, and they have a lot of specific needs, whether relating to financial challenges or health impacts. The specific needs of the communities that we represent can increase their challenges and the barriers that they face to accessing housing.

The Convener: Are you saying that there is a level of nuance in that?

James Calder: Yes.

The Convener: I will keep going, but I might come back to Lucy Hughes. Gerry Tierney, do you want to give us a sense of the extent to which the bill delivers the aims of providing a safe, secure and affordable place? As the issue of equalities has come up and that is the focus of this evidence session, please bring those points in as well.

09:15

Gerry Tierney (Ayr Housing Aid Centre): Thank you for inviting me to attend this morning to give our views. We are a housing advice and

representation centre. We provide advocacy for people in respect of private accommodation and evictions. We provide representation at the First-tier Tribunal for Scotland housing and property chamber, as well as other housing support. We also provide assistance for prisoners who are leaving custody in order that they can be reintegrated and provided with housing in the community. We have been active in this area since 1986.

Generally, we take the view that the bill's aims are positive, and we support its overarching principles. We have a particular concern in relation to the funding of housing advice agencies. In the past year, our budget has been cut by 10 per cent while the number of cases after Covid and since the cost of living crisis has increased by 100 per cent. We are now dealing with double the case load with 10 per cent less budget. I know that this must sound like a regular request to the Government, but resources are an issue.

Equalities are certainly an issue. I am aware that, in our area, we have a number of Ukrainian families who have been resettled. They have faced significant difficulties in integrating with the community locally and challenges in being allocated housing in the private and public sector. During the summer, in particular, we also have a large influx of the Traveller community; we are aware of that, and the bill addresses some issues in that regard that are important and that will be of benefit.

However, my principal concern, and what I have been asked to talk to the committee about this morning, is representation and advocacy. I have some thoughts on that if I am asked about the tribunal later. I see that that is one of the points that the committee will cover today. There are significant issues in Ayrshire generally, and there is certainly inequality of representation in East and North Ayrshire. The framework is not fit for purpose, so I have some views to share on that.

The Convener: That is great. Yes—we will come to questions on the tribunal.

Jon Turner (Link Group): Good morning. Thank you for inviting the Link Group to give evidence. It is probably best to start by acknowledging that this is a framework bill, so it is broadly drafted, and rightly so. In that context, there are significant areas in which we are completely supportive of what the bill is trying to do. Good examples include the clamp down on illegal evictions, the ability to personalise homes in a sensible way and the keeping of pets. Things that actually make a house a home are really important to us and come through very strongly in the way that the bill has been drafted.

Lucy Hughes said something that was probably a better articulation of what I was thinking, which is that the bill does not address the core housing emergency that exists at the moment. As you will know, housing waiting lists are far longer than they ever have been before, and anything that we do here that could potentially constrain new supply in the mid-market rent and social housing arenas must be resisted at all costs. My concern is that the way that the rent control legislation is drafted—the uncertainty that that is bringing—is directly pulling against the supply channel.

When I look at the overarching framework of the bill—even in its broadest context—my concern is that it is structured to provide secure, safe and affordable homes for everyone but does not do enough for those who are not tenants at the moment and are on waiting lists. Potentially, it shortens the supply and, as a result, I struggle to be confident that that does not undermine the very purpose of the bill, to some degree. I accept that that is one aspect of the bill, but we feel that it is very important that the rent control structure is looked at and improved to ensure that the supply is not damaged as a consequence.

Kate Thompson (Children and Young People's Commissioner Scotland): Good morning. The commissioner is responsible for protecting and safeguarding the rights of all children and young people in Scotland, giving particular attention to the United Nations Convention on the Rights of the Child. We are supportive of the policy intentions behind the bill and broadly supportive of the bill's contents. We think that it will go some way towards meeting the aims of providing safe, secure and affordable housing for some people, but that will only be the case if the legislation is properly implemented and part of a wider package of reforms.

We have concerns that the bill does not properly address already unaffordable housing rates and rents that currently exist, and those for people who will be in that position, and that it does not address the quality of current housing. In particular, we have concerns about dampness and mould issues and their effect on children and young people.

Outside the question whether the bill meets its aims, I am mostly concerned about whether it will ensure that the rights of children and young people, particularly those who are experiencing poverty, are met. I am sure that all of you are aware of the figures. One in four children experiences poverty in Scotland today. That is a very high number. Under article 27 of the UNCRC, children and young people have a right to adequate housing. That is not just a right to a house; it is a right to a house that is sufficient to meet their needs. That right underpins all the other rights, of course, and the rights are

interdependent. Without fulfilling the right to adequate housing, we are failing to uphold rights to health. People's health is severely and detrimentally affected by a lack of proper housing. That also affects rights to education.

We have to think about that in the context of the bill's ability to work towards ending child poverty. In the private rented sector, there are disproportionate numbers of families with children—in particular, families with disabled children—and single-parent households, and there are very long social housing waiting lists. That often means that families are forced into the private rented sector, where rates are much higher and are seen as being unaffordable. They have to spend significantly more of their income on those rates. If they are in receipt of housing allowance, that will often not cover them.

We have particular concerns about the challenges that are faced by care-experienced children, disabled children and those who live in rural areas. The bill has to come with other reforms that are focused on ending child poverty.

I will finish by echoing something that has been said in our evidence and in the evidence of others. There must be a focus on increasing the social housing stock, especially social housing that is suitable for care leavers and disabled children.

The Convener: Thank you very much.

I think that Lucy Hughes indicated that she wanted to say more about equalities.

Lucy Hughes: Yes. The question of what else the Government can do on the equalities aspect of improving housing is obviously quite a broad area to speak about, and some of that will not be covered in the bill. However, addressing the current severity of people's situations in the cost of living crisis—especially those of women, who are bearing the brunt as shock absorbers of poverty in households—is an issue. Almost 50 per cent of some people's incomes go on rent. It is about long-term change. That is why we support rent controls as a concept. We need that structural change in the longer term. We need something to replace the emergency legislation on rent caps, which provided some support. I know that rents overall were increasing at that time, but we know anecdotally from women that that helped them to keep their tenancies and to keep them in their homes.

On longer-term work, we do not know enough about women's and other equality groups' experiences of the housing sector as a whole. We have statistics that show that women are overrepresented in social housing, for example, but we do not know anything about their experiences of the private rented sector as an equality group or about other equality groups.

The intersectionality of those experiences makes things more complex. James Calder spoke really well about the unpaid carers aspect and BME communities facing specific discrimination. The majority of unpaid carers are women. I am talking about individuals who face multiple aspects of inequality that are stacking up against them in the cost of living crisis.

There is an issue around how we collect data and ensure that the public sector equality duty is at the heart of how we develop any further work, whether that be on rent controls, how they are implemented and how effective they are, or other aspects of housing reform outside the bill as we continue with the housing to 2040 strategy and other aspects of Scottish Government policy.

Finally, on top of long-term structural reform, we urgently need funds to be provided for those communities that are hardest hit. Funding has been provided for the fund to leave, which helps survivors of domestic abuse to relocate to a new property or supports them to stay in their home. Scottish Women's Aid has given evidence to the Social Justice and Social Security Committee on parts of that work. We need to increase the ability to create specific funds to help women—especially young women and disabled women—who are threatened with homelessness and losing their tenancies. We are talking about people who think that they might lose their home in the next year, the next six months or the next six weeks because they cannot afford the current price of rent. The provision of targeted funds for equality groups is absolutely essential, and the committee should push for that urgently. I wanted to raise that point.

The Convener: Thank you very much. We will go into a bit more detail with our next set of questions, which will be asked by Gordon MacDonald.

Gordon MacDonald (Edinburgh Pentlands) (SNP): Good morning. Lucy, I will put this question to you, as you touched on the issue first. Do you think that the introduction of rent control areas is part of the solution when it comes to alleviating poverty?

Lucy Hughes: I think that that is absolutely the intention behind the measure. We know that the market-led setting of rents does not take into account whether people at the poorest end are able to afford those rents, so we need there to be other mechanisms in place to address how high rents are and the fact that they are outstripping the ability of groups such as people who are living in poverty, women and unpaid carers to meet them.

I will be completely honest: we are not experts in how rent controls work. The committee has heard from panels that have looked at the detail of that, the international evidence and how such

controls should be developed, but I make the point that we need to be led by the experience of tenants, especially the most marginalised tenants, for whom the threat of homelessness is very real. The cost of living crisis is not going anywhere. There is a need for long-term structural change. The private rented sector needs to be reformed in such a way that we can help people to stay in their homes and keep their tenancies.

Gordon MacDonald: Kate, do you have anything to add?

Kate Thompson: I have only a brief point to make. As Lucy Hughes pointed out, the committee has taken evidence from experts on the subject. I am certainly not an expert on how rent control areas would work, but we have heard about the experiences of people for whom rent controls have worked. We have heard about the fact that rent controls have offered protection to quite a lot of tenants in Scotland.

Since those rent controls ended, I believe that there has been an increase in rents. I think that the provisions to do with tying the rent to the property and not the tenancy are very important. That will address the loophole that was identified.

The only other concerns that we have about rent controls are about implementation and how local authorities will apply them in practice. Will there be inconsistencies across local authorities? Will they have the ability to collect proper data and will funding be provided for that? Concern has been raised in a previous evidence session that decisions on that could be made on a political basis rather than on the basis of analysis of data on the situation in an area. Should consideration be given to ministers being able to impose rent control areas? Should tenants groups have the ability to advocate for that?

Jon Turner: Rent controls have a place to play in relation to how we as a society choose to place caps on house prices. For us, the key is that they must be designed and developed in a way that meets the needs not only of tenants but of the market that delivers the supply chain. In itself, the bill creates a degree of uncertainty in relation to how rent control might be implemented. Will it be done at a regional level or at a local level? How local a level will it be done at?

In addition, at the moment, the bill does not recognise that inflation is a reality for the people who provide the homes. A degree of protection needs to be provided to ensure that, as costs naturally go up, the people who provide the homes are able to reflect that in the rents. Without that, there is a risk that the commercial marketplace will stop providing rental accommodation at a time when it is extremely important that that is maintained.

Members on the panel will be far closer to this than I am, but I absolutely agree with what has been said: restricting the supply chain will disadvantage the groups of people in society who need properties the most. That is my concern, and we need to look at whether we can sculpt rent controls in a way that removes the uncertainty, because if we can do so, the commercial marketplace can function and can continue to supply the properties that we need.

09:30

Gordon MacDonald: Before I bring in Lucy Hughes, I want to come back on that. Last week, Hearthstone Investments told us:

“This is a very delicate ecosystem, but if rent controls are implemented with that in mind, where they protect against inflation, the system works.”—[*Official Report, Local Government, Housing and Planning Committee*, 18 June 2024; c 6.]

Do you agree with that?

Jon Turner: I do. I think that that is the design that we need to get to, because we need to recognise that, on the one hand, there are costs and, on the other, there is income, and that is the case not just for organisations such as Hearthstone but for broader commercial organisations. If we can get that balance right, it will really help. After all, the key thing that stifles supply is uncertainty, and once businesses, organisations and funders are clear about the mechanics, they will design solutions to fit.

Gordon MacDonald: However, according to the latest figures on private sector rent, the number of registered properties has increased from 340,000 to 345,000. The direction of travel, therefore, is towards there being more registered properties and landlords, rather than fewer.

Jon Turner: I cannot comment on those figures, as I am not aware of them, but that increase could be due in part to the new requirements to register properties—for example, Airbnbs—which were not in place a couple of years ago. However, I am not familiar with that particular data set.

Gordon MacDonald: Lucy, you indicated that you wanted to come in, and then I will bring in James Calder.

Lucy Hughes: Obviously, there is expertise that can be drawn on, and we are not here to talk to supply-side arguments, but I would just point out that, as costs go up for property owners, those costs are impacting tenants, too. Just as we are seeing a lack of financial support for tenants who might be at risk of losing their tenancy, we are also seeing those costs being passed on, with rents being increased perhaps to meet what are very legitimate landlord costs, and it will be the most

marginalised tenants who will be taking on that risk and burden.

For example, women make up 60 per cent of those who access local housing benefit to meet housing costs, but that benefit has not risen with inflation or with the cost of living, and when we look at the income that women have to meet landlords' rising costs, we can see that those extra costs are completely unaffordable and that it is just unrealistic to expect tenants to take them on. I am not saying that that is what is being proposed, but we need to look at the wider ecosystem and see that our social security system cannot support the most marginalised people in society to meet housing costs.

James Calder: We do not have particular expertise in rent control areas, but we know that unpaid carers have been facing significant costs as a result of the cost of living crisis. According to the latest “State of Caring” report from Carers Scotland, 28 per cent of unpaid carers reported struggling to make ends meet, and that figure, which is an increase on the previous year's, has been going up. Fundamentally, unpaid carers, most of whom are female and many of whom have protected characteristics, are struggling financially, and they are having to choose between paying for heating, paying their rent and buying food. Rent control areas could be a solution that helps with some of these rising costs.

Gordon MacDonald: I can talk only about the Edinburgh area that I represent, but I note that, in Edinburgh, a two-bedroom property is about £400 or £450 in the social rented sector but can be up to £1,200 in the private rented sector. Could rent control areas provide an element of stability with regard to rents?

James Calder: I certainly hope that it could be a tool in that respect, but a lot of intervention probably needs to take place, too. Many of the people whom we support are struggling to make ends meet, and that includes paying their rent. I hope that for those in the private rented sector—and there is evidence to suggest that people in minority ethnic communities are more likely to be in that sector than in the social rented sector—rent control areas will help rectify some of the inequalities that exist.

Gordon MacDonald: I have a couple of specific questions for Jon Turner. The Link Group was awarded a contract for private sector leasing management in Edinburgh in 2020. At the time, there were 1,410 private sector leasing properties and the company had a target to hit. Where are you on the target?

Jon Turner: I will have to come back to you with the exact numbers, but I think that it is in the region of about 1,600 properties now.

Gordon MacDonald: Your target was to reach 1,850 by March 2025.

Jon Turner: We are on the way to reaching the target. The challenge that we have is that, in the private sector leasing scheme, there is a cap on how much a landlord can be paid for each individual property. As you have rightly articulated, it is better for landlords to rent their properties out privately than it is for them to rent them out through the private sector leasing scheme, so we are challenged with the same dynamic in that external rent rises are compromising the scheme. As an organisation, Link has been buying houses to put into the scheme to help with the volume of properties. We have in excess of 250 houses now. We think that the scheme is a key part of the City of Edinburgh Council's homelessness provision. It is a brilliant scheme, which we will continue to support.

Gordon MacDonald: You have not hit your target. Previous panels have spoken about landlord costs. Your company's management fee is £55 per week per property, which was recently increased. What do tenants get for that money?

Jon Turner: Tenants who are renting through the private sector leasing scheme are council tenants. We are just the managing agent and we provide management services to those tenants. They get a home for as long as they want it through a mid-market rent PRS tenancy, rather than a social housing tenancy. They receive a lot of protection through that in the same way that they would had they been renting from us through a mid-market rent contract. The fee that we are paid is linked to the management of the scheme; we are not the landlord.

Gordon MacDonald: Do you manage the property on behalf of the landlord?

Jon Turner: We provide management services, such as letting, repairs management and co-ordination.

The Convener: We will have to come back to the theme. Gerry Tierney indicated that he wanted to respond to Gordon MacDonald's initial question.

Gerry Tierney: It was more in response to what Jon Turner said about the balance between the supply of private sector properties and social tenancies. From our experience in Ayrshire over the past couple of years since the introduction of the cost of living provisions, which came to an end on 1 April, our sense of things is that private landlords are voting with their feet—a significant number of them are leaving the sector. That will create a serious issue down the line in that there will not be a mix of property types available for tenants. A number of the notices to leave that people have been served with post 1 April note that the landlord wishes to sell the property.

Locally, the rent deposit guarantee scheme, which has worked well for a number of years, has closed, which means that the availability of properties for people who are looking to move into a private tenancy has been compromised by the increase in rent, as well as a lack of support and help to fund the deposit.

Our sense of things is that the general direction of travel with landlords is that they are voting with their feet.

Willie Coffey (Kilmarnock and Irvine Valley) (SNP): Good morning, everyone. My question is for Lucy Hughes and Kate Thompson. How do people challenge proposed rent increases, and are people generally aware that they can do that? What barriers do people face and can we improve that?

Lucy Hughes: From an equalities perspective, it is difficult to comment on that. The committee has previously heard from organisations that are supporting tenants directly that it is extremely difficult for people to challenge rents, because their time, knowledge, support and potential resources are limited, especially in the case of those who are the most marginalised in our society.

The EQIA that the Scottish Government published on Friday showed that absolutely no equalities data is collected about who is going through the First-tier Tribunal for Scotland process. We do not have an equalities perspective on which tenants are accessing the system. It would be interesting to know that, and I question why that data is not collected. It would probably show whether tenants who have the support of a tenants union or a tenants' rights organisation are able to go through that process.

From what we know about women's structural inequality—for example, having caring responsibilities and being more likely to be in part-time precarious work—they are very time poor, so they may not be able to do the legwork that is needed to present a case and access a First-tier Tribunal process. We have some excellent housing advice organisations, but it is still a lot of work for the tenant; going through that process is a huge burden on them. We cannot add any more than what has been said by tenants organisations about how inaccessible that is at the moment, but I know that stats have been shared that show how low the number of tenants going through the rent increase challenge process is. We question why we do not collect equalities data about the tribunal process. As we look to reform tribunals and access to redress, we need to understand which communities are able to follow through and access those rights.

We have very strong rights around housing and homelessness on paper without this bill, and we already have a set of rights protections for tenants, but organisations including Shelter and others consistently make the point that, although tenants have those rights in law, their ability to access those rights and follow through is hugely impacted by circumstances. From an equalities perspective, there are many barriers to going through that process for women in terms of time, resources and access to support.

If you are worrying about how to feed your family and how to keep the lights on, what time do you have to understand your rights to housing, access the right services and follow that process through? It could be long and arduous, and there could be worries about backlash or repercussions. I just raise that point about the lack of data and knowledge on women's experience.

Willie Coffey: How do we overcome those types of issues and encourage people to appeal rent increases?

Kate Thompson: I completely agree with everything that Lucy Hughes said, and with some of what the organisations representing tenants' rights said. We know that barriers exist to accessing rights around housing. The systems are complex and off-putting. One important factor is that there should not be a risk of the rent going up as a result of an appeal. We hear that that is a barrier to getting involved in the system; people hear that and do not want to risk it.

People have to know about their rights to be able to advocate for them, so it is important that people can access specialist support services and that there is funding for them.

Support for children and young people is ultimately about supporting their parents and carers, who will be the tenants in the majority of circumstances. If we are talking about single parents, the burden of supporting children is largely on women. If we are not supporting women in that circumstance, we are not supporting children. As Lucy Hughes said, if you are a carer of a disabled child, how do you have the time and the resource to enter into that system and advocate for yourself?

I want to touch on a set of circumstances in which young people are tenants. I am primarily thinking about care-experienced young people leaving care to go into their own housing, which can sometimes end up being in the private rented sector. That group faces particular barriers and has complex needs; it is a vulnerable group of individuals, so specialist support has to be in place. I referred in my written evidence to the Rock Trust, which provides a very good wraparound service. There has to be a lot more

focus on that type of support for that group of young people.

09:45

Gerry Tierney: As a service, we provide access to various channels for tenants to exercise their rights—we have had those for a long time. We are quite often asked to obtain deposits that have not been returned or that have not been adequately protected in a scheme. We do advocacy for people who are facing or have faced illegal eviction as well as in relation to effecting repairs in private tenancies.

We quite often find that people are not aware of their rights and are surprised that we can provide assistance to them. That has all been in South Ayrshire so far, but, with the benefit of funding from East Ayrshire Council, we have recently been able to extend our advocacy in that area at tribunal. However, that is limited to evictions only, so, just now, if a tenant from East Ayrshire is looking for assistance from us to get their deposit back or effect repairs, we cannot do that. It is a limited scheme in East Ayrshire.

That brings me to the point about the patchwork nature of advocacy with regard to representation at tribunal, which I will talk about later if I am asked about it. We can do certain things in certain areas, but not everything, and we would like to be able to do everything. We also provide advice in relation to rent increases and rent controls and advocacy for appeals in respect of any rent increase notice.

We think that people tend not to know what their rights are, and we are of the view that, certainly in the social sector and possibly in the private sector, there should be a way for a landlord to make an early referral if there is any indication that a tenant is getting into difficulties. As it stands, there is an issue in that the general data protection regulation can be a problem because people are not permitted to share their concerns about a tenant. A method such as signing a mandate at the start of a tenancy providing implied consent for a referral to services such as ours would be of benefit.

James Calder: I will follow on from the comments by Lucy Hughes, Kate Thompson and Gerry Tierney. We tend to find that a lot of the communities that we support are not necessarily aware of their rights in general. There are a few points that should be taken into consideration. Is the information available and accessible? Some of the communities that we support have limited English or lower literacy levels, and there is a question about how they can access the information. There is also often a bit of a power dynamic. For minority ethnic communities that

often face issues related to racism, for instance, there might be concerns about raising their heads above the parapet on such issues.

Fundamentally, I suggest that, with regard to challenging rent increases, there needs to be more support to allow minority ethnic communities to know their rights and how they can deal with that issue. One of the projects that we worked on with the Gypsy Traveller community was a “Know your rights” project. It was not on this specific issue—it was on various different rights for the community. We made audiovisual resources and did outreach work to help with that. For instance, we arranged for members of the community to meet their MSPs. Therefore, what is needed is probably an element of working with communities to allow them to know how they can successfully challenge things.

Emma Roddick: James Calder, could you speak a bit more about the issues that surround the lack of rent control for tenants of private Gypsy Traveller sites?

James Calder: There is a significant number of private Gypsy Traveller sites across Scotland. Going back to my previous comments, many members of the community are not necessarily aware of their rights to things. The important thing that we want to consider is rent control areas and making sure that those who are in private Gypsy Traveller sites are included. We need to ensure that there is equality when it comes to that and that the regulations support everybody.

Emma Roddick: Are there any other aspects of the bill that you feel are not as relevant as they could be to the Gypsy Traveller community and that could be expanded? If so, how could they be?

James Calder: Absolutely. I would be keen to see further consideration of the Gypsy Traveller community in relation to the powers on making changes to property. As you may know, Gypsy Traveller sites have things such as amenity blocks that the community can use for washing, toilet facilities and that kind of thing. In private and local authority sites, there can often be issues with making adaptations and changes to those blocks. I am not saying that this should be a substitute for making necessary adaptations to those blocks, particularly for those who might have disabilities, but there needs to be consideration of including amenity blocks in the bill.

Emma Roddick: I am thinking about people's ability to make those changes if it were allowed within the rules. Is funding for housing improvements and building flexible enough to react to needs in the community as things stand?

James Calder: That is a difficult question to answer. There have been issues. The £20 million fund from the Scottish Government to help with

some of the local authority sites in recent years has been positive but, to be honest, a lot more needs to be done on that front to improve the standards of the sites, which are often in a poor state. Obviously, that does not take into account private sector sites, where there can be other issues.

At the same time, we often find that local authorities take a significant amount of time to make any necessary adaptations. One issue is that some members of the community have felt as though they are being pushed into bricks-and-mortar housing, which is not culturally appropriate and can lead to negative mental health outcomes. We should be making every effort to ensure that people can stay in housing that is culturally appropriate to them and supporting them in living the lives that they would like to live.

The Convener: Thanks very much for that, James. That was really helpful. Miles Briggs will bring in the topic of evictions.

Miles Briggs (Lothian) (Con): Good morning and thanks for joining us today. I have a couple of specific questions.

I will start with the bill's requirement that the courts and the tribunal consider whether to delay an eviction and the bill's changes to the way that damages for illegal evictions will be calculated. What are your views on those provisions as they stand, in the bill? Do you think that they will give greater protection to tenants?

Lucy Hughes: We are very pro any increased rights for tenants to delay evictions because we know that reacting to and dealing with an eviction causes a huge amount of stress, and given that the ban on evictions, which was in principle a good thing in terms of giving tenants more security, has now been lifted. We would welcome that provision in part 2 of the bill.

However, to bring in a perspective from Scottish Women's Aid, which has given evidence on other parts of the bill, we would like the committee to consider whether a decision to delay eviction could be required to include explicit consideration of how a tenancy ending would bring risk to tenants who are experiencing domestic abuse. The committee could work with Women's Aid to develop that requirement. We would support that, given the disproportionate risks that might arise when an eviction happens to a woman who is experiencing domestic abuse.

I would also like to raise again the point around data and understanding of evictions. We have very little evidence on how evictions impact equality groups. I am going to sound a bit like a broken record, but, again, going back to the EQIAs that the Scottish Government published on Friday, there is no available data on the protected

characteristics of those who are serving eviction notices or those who are receiving them. Folk like Gerry Tierney and others who work with tenants who are facing evictions will have anecdotal evidence of that from their own services, but we have no nationally collected data about those experiences. That means that we cannot identify whether there are patterns of racism, sexism or other forms of inequality influencing how evictions are occurring. Maybe we can guess at it from what we know about equality groups' experiences of housing, but we need to be able to collect and understand that information in order to shape the best and most robust regulations around evictions.

Miles Briggs: Thanks. Does anyone else want to comment?

Jon Turner: I completely support the provisions on increased scrutiny of illegal evictions and costs. Anything that could be done to improve the area of evictions is really important.

From a social housing perspective, you will find that organisations such as ours do everything that we can to avoid people getting to that point. That sounds like an obvious point, but tenancy sustainment is very important to us. We are regulated towards maintaining tenancy sustainment, so it is a hugely important part of what we do.

The only concern that we would ever have—and it is right at the outer margins—is that if the eviction process becomes too long, it becomes increasingly costly, because, by definition, rent arrears are building up. That provides a problem for the tenants who have the rent arrears and end up in greater debt, which is a bad thing for them. It is also a problem from our perspective when rent arrears are written off, because we are not private companies with private shareholders; we are a closed-loop company. Any losses that we take from individual tenants are paid for by all the other tenants, because that is the only way that they can be paid for, so arrears make the whole system more costly. That is an issue at the margins, however, because we do everything that we can to get inside that anyway.

James Calder: We agree with Lucy Hughes's comments about consideration for people with experience of domestic abuse. Another aspect is that the bill suggests that health issues could be taken into account, which we would also agree with. If the person who is renting is an unpaid carer, that should be considered as well, particularly given that, although their own health might not be the issue, they are responsible for the care, and therefore the health, of someone else. We would ask for that to be considered.

The Convener: Gerry, you indicated that you want to come in.

Gerry Tierney: The issue of eviction being delayed is something that the tribunals have already taken into account. The Covid legislation brought in a reasonableness test, which is still in force, notwithstanding the end of the eviction ban on 1 April. That provides a safety net, which is of significant use to us when we deal with the question of eviction.

10:00

The tribunals already take into account the individual and personal circumstances of tenants who are represented. For example, we are often asked to provide information on special needs, vulnerabilities or health issues that tenants or their families face. Tribunals take all such matters into account. However, it would be of benefit to enshrine that in legislation. The fact that it is already, for practical purposes, being taken into account would be reinforced if the bill underwrote those rights.

The issue that I am concerned about is representation. Lucy Hughes mentioned briefly the lack of availability of data. Our sense is that a number of the tenants who are taken to tribunal by their landlords are unrepresented. That is throughout the whole of Scotland; we provide a service in our area that is not available nationally.

My experience of dealing with tenants who face eviction is that it is a significant crisis in their lives. It is a difficult matter for them to deal with. Many have chaotic lifestyles in any event, and to be asked to go to a tribunal and represent themselves, when most of the landlords are represented by lawyers, causes anxiety. In a number of cases, I am sure, tenants are unrepresented or do not take part, which is even worse. In a number of recent cases, a decree—an order for eviction—has been obtained at the tribunal, and the tenant does not know about it or take any advice until after they have been served with a notice of ejection; on a lot of occasions, we are trying to put the cart before the horse. The underrepresentation—the lack of representation and the lack of equality of arms, effectively—causes us significant concern.

Miles Briggs: Thank you for that.

To return to the data question, are you aware of any data? In Engender's written submission, there was a specific question about understanding how women experience eviction. Do councils or the Government hold any data, for example from the housing first programme, on when tenancies fail, or has any data been recorded by councils on families and children in temporary accommodation? Maybe you can also answer on the wider question about how family units experience homelessness.

Lucy Hughes: I do not have that data to hand, so I am happy to provide some supplementary evidence and to work with others to identify those data sets for you. Homelessness data is much stronger in some areas than it is in others—for example, in recording the numbers of children who live in temporary accommodation, which has soared. There has been quite a wide recording of the unsuitability of much of that accommodation, especially for women and children, who are disproportionately affected by long stays in bed and breakfasts, which are unsuitable temporary accommodation options.

We have other data sets, on aspects of housing and housing security, which we would argue are homelessness data, given that those aspects are preventative. There is limited access to knowing who lives in the private rented sector and what those households look like. We have some studies, which have already been presented to the committee—for example, from RentBetter and from the Joseph Rowntree Foundation, which has presented evidence that a third of renters live in poverty—through which we have some patchwork understanding. In addition, the EQIAs from the Scottish Government have identified the lack of a wider understanding of which equality groups are in which sectors.

Again, we have very robust data sets on social housing. The trend that women make up 30 per cent of social housing renters is of long standing and has stayed pretty steady over the past 10 years, but the trend in other parts of the housing sector is unknown.

I relate that back to the process for developing the bill. Our organisation works on gender mainstreaming and trying to bring consideration of gender equality into the heart of policy development through the public sector equality duty. What we have seen is that the equality impact assessments were published on Friday last week, which was towards the end of the committee's scrutiny, so you have not had access to those in asking questions of different panels. In addition, the assessments have come after the legislation has been developed.

We need to have an equalities-led approach from the outset, as the bill is being drafted. That will help us to answer the following questions. What data do we have? What can we do with it? How robust is it? What else do we need to find out to shape regulations and parts of the bill that will actively promote the equality that is enshrined in the Equality Act 2010?

The wider issue is that PSED is not functioning in the way that it needs to in Scotland. Women's experiences of housing and homelessness are largely invisible. That is to do with culture and a lack of understanding, but it is also because of a

lack of asking the right questions. You asked what data exists. We should know the answer to that, coming into the session today, but we do not.

Miles Briggs: As the bill goes through Parliament, we will have opportunities to open up more, and there is potential for amendments on that, as well.

Earlier, we touched on evidence of the need for a wider scheme of tenant support and enforcement within the private rented sector; the committee has heard about that in evidence from a number of people. Do you share that view, and what, specifically, do you think is missing from the bill on that, which could be included?

We have spoken about a tenants' charter in the social rented sector, for example. There has been a call for that in relation to the state that properties are in before people actually move in. Does the panel have any views that they want to add on that issue?

Gerry Tierney: I am sorry, my answer does not directly relate to this question, Mr Briggs. I meant to say that there is an important point about social tenancy eviction. Jon Turner made a comment about how Link Housing tries its best to avoid eviction, which is very laudable, but, in South Ayrshire, we have an issue whereby a number of tenants who have been evicted from social tenancies do not have any representation.

There is no in-house provision for lay representation in Ayr sheriff court, such as there is in Kilmarnock sheriff court. If a social tenant in Kilmarnock is being evicted and cannot afford a lawyer or does not have a lawyer, there is someone at court to speak for them from the in-house lay representation service. There is nothing like that in Ayr, and there is a dearth of representation from local solicitors. We have not been able to place or refer anyone to a solicitor in Ayr to provide representation at court for social evictions for a number of months. I do not understand why there cannot be the same representation in Ayr as there is in Kilmarnock.

Lack of representation for social tenants in the sheriff court is an issue. I want to make that clear to the committee.

Miles Briggs: Those were good points. Advocacy has come up during other sessions, and it is important, particularly for people living in supported accommodation who need additional support through those processes. I appreciate that.

Mark Griffin (Central Scotland) (Lab): Do any members of the panel have comments on the provisions in the bill that allow a tenant or a prospective tenant to request to keep a pet or to

make changes to the property, beyond the suggestions that James Calder has already made?

Kate Thompson: It is fair to say that some of the provisions are very important to children and young people, and they certainly matter a lot to them. They provide an opportunity to give children and young people a real home to live in rather than only a house or flat that is fulfilling basic housing needs. The provisions are important for fulfilling other rights of children as well, including their health rights. It is only right that the situation falls into line with what is the norm in social housing.

With regard to pets, a lot of children would be disappointed to hear that they do not have a specific right to a pet; such a right would be rather popular. It is right that children who are living in private rented sector accommodation have the same opportunities and the same opportunities to obtain the health benefits of having a pet. Having a pet has positive effects on development, mental wellbeing, developing positive relationships and reducing anxiety.

I ask for consideration to be given to the term “unreasonably refused”, because it is unclear what that condition would entail. We would encourage that the condition should fall into line with what is expected in social housing. My understanding of that is that consent is not often refused.

On decorating, the idea of children and young people being able to personalise their spaces and express their identity—having their bedroom the way that they want it—is important. However, there are particular benefits for children with certain disabilities. Actually, I am referring to children with types of neurodiversity or perhaps some mental health conditions. It is important to allow children the ability to control their sensory environment, whether that is thinking about the colour of the walls—is it a calming colour?—or something else that helps them in that regard.

Concerns have been raised about that. I restate that it should be an optional right to personalise a property. That does not mean that the obligation to maintain the property is passed on to the tenant. That is still very much the duty of the landlord.

Gerry Tierney: It is an important provision that is certainly worth taking forward. I am able to tell the committee that, in social tenancy circumstances in which tenants have presented for homelessness and are being considered for temporary accommodation, a pet is a barrier to being allocated temporary accommodation. That issue should be thought about. For example, if someone is allocated a hostel place, they cannot take a pet with them.

We recently had two cases in which two people who were homeless both had support animals. They were not able to access temporary accommodation, because they relied on that support. One was an ex-serviceman who had post-traumatic stress disorder, and despite the fact that he needed to have his support animal with him, it was not possible to have him placed in temporary accommodation by the local authority, which I think was unfair.

Jon Turner: As I said in my opening remarks, I am very supportive of this aspect of the bill. Anything that we can do to allow people to really own the home that they live in and want to be there is a massively good thing. Pets and personalisation very much fall into that category.

The challenge will always be in the detail of how you define what is reasonable in some respects. A pet that might be perfectly fine in a rural or low-rise setting might be very difficult when it comes to a 15th floor of a tower block.

All that we need to do with this aspect is accept that there will not be an immediately precise way to define what is reasonable. However, the basic principle of allowing people to personalise their homes and have pets is supportable.

The Convener: Thank you very much for that. I will now bring in Willie Coffey with questions on joint tenancies.

Willie Coffey: I want to ask a couple of questions on the proposals on ending joint tenancies. Do you support the proposals? What happens if there is no agreement between tenants to bring the tenancy to an end? Are there any particular issues in relation to the joint tenancy provisions in situations involving domestic abuse or where there are worries about domestic abuse? That latter question is perhaps for Gerry Tierney.

In general, do you support the proposals on the ending of joint tenancies? Maybe you could offer a few words on that.

Gerry Tierney: This important provision will, effectively, fill a gap in the existing procedure. I will mention one case. There was no domestic violence element, but the lady whom I was representing had left her partner and moved on to a new house with the children. She bought the house and was on a very tight budget. However, her ex-partner had accrued significant rent arrears. Although she had indicated to the letting agent that she wished to terminate the tenancy, the landlord opted—for reasons of affordability and because of concerns about the partner’s ability to maintain the rent—not to consent to the tenancy being placed in the sole name of the partner who was left in the property.

As a consequence, my client was taken to tribunal as a joint party and found jointly and severally liable for the rent arrears that accrued after she left the property. Although the chairperson of the tribunal was extremely sympathetic, the law being as it is meant that she was left responsible on the basis of a joint and several liability, which was very unfair. The bill's provisions will address that issue.

I think that Willie Coffey's question about domestic abuse relates to the point that, if a violent partner is excluded from a tenancy, there should be a mechanism to prevent them from seeking to terminate the tenancy out of revenge. There is also a concern that removing a violent partner from a tenancy would jeopardise the ability of the victim of the abuse to remain in the property. There must be a mechanism to ensure that tenancies are not permitted to be ended for revenge purposes. However, with regard to economic purposes and the lady whom I represented, I strongly support that significant and important provision.

10:15

Lucy Hughes: I will be up front in saying that we did not answer that question in our written evidence, but I am aware that Scottish Women's Aid, which was represented at another session, answered it, so I will defer to its evidence on the detail.

Scottish Women's Aid is supportive of people being able to end a joint tenancy, for many of the reasons that Gerry Tierney has outlined. Given concerns about remaining tenants, it asked whether it would be possible to provide greater protections, such as the ability to propose another tenant. For example, someone might say, "As this person is leaving, could someone I know be the new tenant?" We know that that is sometimes not possible at the moment.

Importantly, on the domestic abuse aspect, Scottish Women's Aid has said that the bill needs to progress in tandem with the full implementation of the Domestic Abuse (Protection) (Scotland) Act 2021, which closes a gap in protection for women and children, with provisions on removing suspected perpetrators from households and prohibiting them from contacting or abusing the person at risk. It puts the weight of responsibility on removing the perpetrator, rather than on removing the woman and children from their community, because they might have schools, as well as friends and family, nearby. Trying to find suitable alternatives is much harder for a large family with multiple children than it is for a single perpetrator, who would be removed from the household.

We did not write that in our submission, because Scottish Women's Aid covered those issues, but I am aware that consideration of the bill has been split between two committees, so I was keen to raise them with you.

The Convener: The final theme is mobile homes. I will direct my question to James Calder and Kate Thompson, because they mentioned mobile home provisions in their written responses. The bill proposes to change the method by which mobile home pitch fees are presumed to be increased from being based on the retail prices index to being based on the consumer prices index. Why do you support that proposal?

James Calder: We are very supportive of the proposal. As you might be aware, members of the Gypsy Traveller community are likely to be in a more economically disadvantaged position—they are about twice as likely to be in an elementary occupation as the average person in society, which means that members of that community are often on lower incomes.

In relation to the move from the RPI to the CPI, the CPI is generally lower than the RPI, so we argue that using the CPI is a fairer method for uplifting fees. Given that many members of that community rent mobile home pitches, that will have a positive impact.

I will make another couple of quick comments. At the moment, many local authority sites already use the CPI for uplifts, but there also needs to be consideration of local authority social housing rent increases. In a local authority area, the percentage increase for pitches should not be higher than the increase for social housing. We should avoid inequality resulting from people who live on Gypsy Traveller sites ending up facing higher increases than those who live in social housing. Going with some pensions parlance, we suggest that there should be a double lock to ensure that pitch fee increases do not go above either the CPI or housing rent increases.

The other thing to note is that not all pitches have the same facilities. When considering fee structures, a priority should be addressing the fact that many local authority sites still do not quite meet the Scottish Government's minimum standards.

The bill's provisions represent a positive move in the right direction, but there needs to be a little more work.

Kate Thompson: I do not have much to add. We felt that it was important to raise the issue, particularly because Gypsy Traveller children are a particularly unheard group. James Calder has spoken with expertise on the issue, so there is nothing else for me to add.

The Convener: That brings us to the end of our questions. I thank the witnesses very much for joining us. It has been really helpful and insightful to hear the strong thread around, and plea for, equality, among the other things that we covered.

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

10:21

Meeting suspended.

10:26

On resuming—

The Convener: I welcome our second panel of witnesses. We are joined in the room by Becky Thwaites, who is head of public affairs at Blue Cross, and Gilly Mendes Ferreira, who is director of innovation and strategic relations at the Scottish Society for the Prevention of Cruelty to Animals. We are joined online by James Hickman, who is head of outreach projects at the Dogs Trust.

Where it is needed, we will try to direct our questions to specific witnesses, but if you would like to comment in response to a question, please indicate that clearly to me or the clerks. James Hickman should do that by typing the letter R in the chat function. There is no need for witnesses to turn on microphones, as we will do that for you. It is one less thing for you to think about.

My first question is for all of you, but I direct it first to Gilly Mendes Ferreira. You all support the principle of allowing tenants to keep pets in their homes. Will you say how that would benefit tenants?

Gilly Mendes Ferreira (Scottish Society for the Prevention of Cruelty to Animals): Thank you for inviting me to give evidence today. Pet ownership significantly increased during Covid and we know the important role that pets can play in people's lives. There is loads of research out there that shows the significant impact that pets can have on people's mental health and so on.

The Scottish SPCA conducted a survey in March 2022, as we launched our "Pets and tenants together" campaign, and 75 per cent of the tenants with pets who responded said that they had a pet for emotional and mental health support. Sixty-three per cent stated that they had not had to choose between keeping a pet and having a roof over their head, but 37 per cent had had to make that difficult choice. Interestingly, when we asked people what they would do if they were told that they could not keep their pet in their current accommodation, 69 per cent of respondents stated that they would seek to move house even if it meant that they would risk becoming homeless.

We know from our engagement through our inspectorate work that people are really struggling just now. Our impact report, which we have just released, notes that we have seen a 10 per cent increase in calls to our animal helpline and an 8 per cent increase in calls about people looking to give up their animal, with 43 per cent citing financial reasons. If someone is forced to leave a property, it is really difficult for them to find somewhere they can take their pet.

We also recognise the challenges that landlords face in trying to accommodate people who have pets. There are lots of factors, and I am sure that we will move on to discuss them this morning.

10:30

Becky Thwaites (Blue Cross): I completely agree with everything that Gilly just said, but there is another real benefit that we see. The animal welfare rescue sector across Scotland is at breaking point; far too many animals are coming in, and we do not have the ability to rehome them quickly enough. Ultimately, we do not want people to have to give up a pet, purely because they are not able to move into a rental property with a pet-friendly policy: we think that the provisions in the bill will combat that. The fact that there will no longer be blanket pet-ban policies will be really positive not only for tenants but for the animal welfare sector in Scotland.

In fact, the research suggests that the move will be beneficial to landlords, too; for example, landlords have longer tenures with tenants who have pets. According to research by the University of Huddersfield alongside the Battersea Dogs and Cats Home, there is a financial benefit to landlords who rent their properties out to tenants with pets. As an organisation, therefore, we see the policy as a win-win for everyone involved, and it will be really positive for pet owners.

The Convener: Thanks very much for that. James, do you have anything to add?

James Hickman (Dogs Trust): Yes, just a couple of things. First, we at the Dogs Trust want an increase in pet-friendly housing and would certainly oppose any blanket no-pet policies in any type of housing. As a result, we see the proposals in the bill as a positive step forward and definitely as something that will make a real difference in turning rented accommodation into a home for people. The proposal to introduce a right to request a pet will have significant and positive impact on prospective pet owners, and it will be key in enabling existing tenants to enjoy pet ownership.

We also think the proposal could help reduce the time that is spent in kennels for the hundreds of dogs that are currently waiting for a home.

When we did our own research alongside Cats Protection back in 2021, we found that tenants with dogs reported being happier and—as was found in other research—were more likely to want to stay longer in a property. Indeed, a quarter of those whom we surveyed said that they would stay longer in a property if they were allowed to keep their pet with them. We therefore see the provision as a positive outcome for tenants and landlords, because it will provide more secure housing for tenants and their pets while reducing expensive void periods for landlords.

That said, we are concerned that the proposals will not improve access to rented accommodation for existing pet owners who are seeking new accommodation, given that the bill's provisions apply only to people with existing tenancies. That is a concern for us, at Dogs Trust, because we know that a lack of pet-friendly homes is a key driver of people needing to hand over their dogs. In Scotland, we have two rehoming centres—one is in Glasgow and the other is in West Calder. Last year, we received more than 2,500 handover inquiries in Scotland alone; in one in 10 of those inquiries, the change in accommodation or rental agreement was one of the main factors in people needing to hand over their dog.

Our research also showed that only 9 per cent of properties were being advertised as being pet friendly. That is just not enough properties. We think that we need better access to pet-friendly housing across all tenures, including for people who are seeking to move with their pet. We would like that element of the bill to be strengthened.

The Convener: Thanks very much for that perspective. We are now going to go into a bit more detail on the bill. I will bring in Willie Coffey.

Willie Coffey: Good morning. What are your views on the proposal to allow a landlord 42 days to respond to a request to have a pet? If that is too long, what do you suggest, instead? I will bring in Becky Thwaites first.

Becky Thwaites: From Blue Cross's perspective, 42 days is too long. We would like a period of 10 working days, because we feel that that is a reasonable amount of time for landlords to consider an application from somebody with a pet who wants to rent. We have to remember that, for a pet owner, it is extremely distressing and stressful to be left in limbo, not knowing what they can or cannot do with their pet.

Moreover, as James Hickman has just mentioned, there can be issues with kennelling costs: 42 days will mean significant additional costs. We also know that the behaviour of dogs, in particular, can deteriorate in a kennel environment, so we want to ensure that cases are dealt with as quickly as possible.

We feel that 10 working days is reasonable but, ultimately, we want to be able to work in partnership with the rest of the animal welfare sector, with landlords and with the Scottish Government to come up with a more workable timeframe. For us, though, 42 days is far too long and will have a negative impact on pets and pet owners.

Willie Coffey: Thanks. Gilly or James, do you have anything to add?

Gilly Mendes Ferreira: We have also said that 42 days is far too long. That would leave the person in limbo and, as we have established, it is really hard to find places where you can go with your pet. The SSPCA suggests 14 days, which would be 10 working days, so our approaches are very similar.

Again, this is about taking a multi-agency approach to make sure that discussions happen quickly and conflicts are addressed very quickly. That is a win for everybody concerned.

Willie Coffey: James, do you have anything to add on the period of time that is acceptable?

James Hickman: I absolutely agree with what my colleagues have said so far. We definitely believe that the time limit for a response should be significantly reduced—ideally to between 10 and 14 days—but we would support a reduction to a maximum of 28 days, which would allow tenants to plan for pet ownership, reduce kennelling expenses and lessen the significant stress of not knowing whether they will be able to keep their pet with them in their rented property.

We also think that, from a landlord's point of view, 28 days is reasonable. Reducing the response time would bring it into line with Scottish secure tenancies, which, in the same bill, have a response time of one month. We would like a time limit that is in line with that, so 28 days seems to be reasonable.

Willie Coffey: Thank you very much.

Pam Gosal (West Scotland) (Con): Good morning. The submissions from Blue Cross and the SSPCA discuss the use of the terms "reasonable" and "unreasonable" in relation to landlords' consent to a tenant request for a pet. Is there a way in which you would like those terms to be defined in regulations and guidance to ensure that there is a balance between the rights of the landlord and those of the tenants? The question is for Becky Thwaites and then Gilly Mendes Ferreira, but if James Hickman wants to come in, that is fine.

Becky Thwaites: The key point is whether a pet owner can maintain the welfare of their pet in the home that they choose. That is where we believe the definition of "reasonable" should be. We do not

expect landlords to be animal welfare experts, but we want requests to be dealt with case by case, by considering whether the animal's welfare needs can be met in the particular home environment. Every case is different, so in order to do that, we need to get the guidance right. Again, the key to getting the guidance right is to ensure that the animal welfare sector is involved, with landlords, in consideration of the various species that could be kept and how we meet their welfare needs in particular housing environments. If we get the guidance right, it will be easy for landlords to make that decision.

Dogs Trust has created template pet CVs, which are really beneficial. If landlords can ask for a pet CV, they can then really understand the requirements of the particular pet and whether they can be met in the home that the landlord is renting. It will come down to providing as much guidance for landlords as possible, so that they can make decisions quickly and effectively with the animal welfare knowledge that they will get from working with the sector.

Gilly Mendes Ferreira: I support everything that Becky said. We have a lot of experience of managing the relationship between a landlord and a tenant where welfare concerns have been raised. We have come out with good solutions, where the animal has remained in the property with the tenant because we have given the right advice and so on. As Becky said, one would not expect landlords to have that expertise, so that is where organisations such as ours can help.

As the guidance is being drafted, and in that early discussion around what is reasonable and unreasonable, it would be hugely beneficial to have the animal welfare sector involved and working closely with landlords to ensure that it works for everyone.

When we did our pets and tenants together survey, we found that many landlords were not aware of pet CVs, pet contracts or different types of deposits. There is real education to be done on that, and there is an opportunity, through working together, to make a strong support package available so that everyone can be supported, whether they are a landlord or a tenant.

Pam Gosal: James, do you want to add anything?

James Hickman: I will make a couple of points. We think that it is very positive that Scottish ministers will be able to produce guidance—that will be really important. We would like to ensure that owners of exempted banned breeds—a specific group that has not been mentioned yet—are not discriminated against in seeking to keep their exempted pet in rented accommodation with

them, provided that they remain compliant with the requirements of the Dangerous Dogs Act 1991.

We also do not consider the risk of damage to be a reasonable ground for refusal. Our 2021 survey found that despite damage to the property being the main reason for not allowing pets, and its being a big factor or fear for many landlords, just 21 per cent of cases resulted in property damage, many of which could easily be covered by the security deposit.

We have produced guidance on reasonable refusal, which we have already shared with the Scottish Government and the committee as part of our evidence, but we would be happy to share it with you again. In summary, we believe that landlords should always take a case-by-case approach to renting to pet owners. They need to have open and transparent conversations with tenants about concerns, and to discuss what they might be.

Pam Gosal: I was going to ask about that. Gilly Mendes Ferreira said that her organisation had carried out a survey. What did landlords say were the problems with tenants keeping pets? Pets that behave unreasonably might stay in a fifth-floor flat or a ground-floor flat. Landlords might fear that their property will be damaged, but you say that they should consider taking out security against that happening. What barriers lead to landlords feeling that that might not work? Do they feel that pets will destroy their property and that they will not get their money back? What landlords' views have come out of the surveys?

Gilly Mendes Ferreira: It certainly came through that if a landlord has had a bad experience with a particular tenant, it will stick with them. In an example that was mentioned to us, a cat had urinated on all the carpets, so the landlord had had to replace all the flooring. A landlord having a bad experience will have a knock-on effect on their willingness to offer a tenancy opportunity to somebody else.

First and foremost, regular dialogue is important so that people can get ahead of any issues. That is the advice that we give when we are out and about in our inspectorate role. If people are starting to see signs of damage, having a conversation and trying to reach a resolution at that time can be beneficial. Unfortunately, some people do not take the responsibility that goes with pet ownership, which can cause concerns. People need to try to get ahead of issues early.

Sadly, however, that general feeling came from landlords who had already had a bad experience, which we can sympathise with.

Gordon MacDonald: Good morning.

We have touched on safeguards for landlords, including pet CVs and pet contracts. Are there any other measures that we should consider that would give landlords reassurance?

Gilly Mendes Ferreira: There should definitely be some sort of mediation service so that everybody's views can be heard. We have been working closely with SafeDeposits Scotland; I do not know whether members are aware of that organisation. It has its free SDS resolve service, which has provided us with quite insightful evidence. I recommend that the committee seek more information from it. It is a great organisation that has explored working on such disputes, whether they relate to standards, repairs or all sorts of other issues. That mediation service has been running for a couple of years now. Access to such a service would be beneficial for landlords and tenants, so I recommend that the committee reach out to SafeDeposits Scotland.

Becky Thwaites: I completely agree with Gilly Mendes Ferreira. However, it is important to say that such issues involve a limited number of tenants—they are not a massive problem. When they do arise, though, we want to ensure that landlords can signpost pet owners to relevant advice and support. For example, if a dog's behavioural issue is resulting in excessive barking, people should not jump towards taking the eviction route. Instead, they should consider how they can signpost the tenant to appropriate services. For example, Blue Cross runs a free pet behaviour helpline and Dogs Trust has something similar. Making small changes might rectify such problems and so keep a person and their pet together in a property. We must ensure that guidance contains lots of signposting to relevant services for key problems, such as barking, that come up time and again. That would lead to better situations for both landlords and tenants.

Gordon MacDonald: We have discussed potential damage to property, including soiling of carpets and cats clawing at curtains. SSPCA officers go round many properties. Is there any evidence to suggest that the damage level is higher in rented properties than it is in owner-occupied ones?

10:45

Gilly Mendes Ferreira: I would probably have to look at that. However, sometimes when we have entered a property because of concerns about an animal's welfare, we have found that other things have been going on in that property. It is not just down to the animal—there is general disrepair. We have definitely seen an increase in that since Covid because, sadly, people are not going out as much and are restricted financially in various ways.

To bring that to life, I will mention one example from not long ago. We received a complaint because a housing officer was getting frustrated with a dog being in a property. The family was in temporary accommodation and did not have anywhere permanent to stay. It turned out that the dog had a horrific ear infection, but the family could not afford the veterinary treatment, so the dog was becoming destructive within that environment.

Between SSPCA, the housing officer, the People's Dispensary for Sick Animals and StreetVet, we had the dog treated, put everyone back into the accommodation and monitored the situation. The housing officer is happy not just that our inspectors have been out and have given the right advice but, mainly, that the dog has been treated and there have been no further issues.

That is a good example of partnership work. Alluding to what Becky Thwaites said, it is about getting ahead and having conversations about what we can do to resolve the situation so that everybody is comfortable with the next steps that will happen.

Gordon MacDonald: Do you have anything to add, Becky?

Becky Thwaites: I mentioned the Huddersfield university research, which looked at how much damage is caused and found that the costs are less for pet owners than they are for people who are not pet owners. I think that the average was around £250 of damage from pet owners, compared with between £500 and £700 from people who are not pet owners. There is a fear among landlords, but when we look at the evidence, we see that pet-owning tenants potentially cause less damage than tenants who do not own pets. Also, as I mentioned, landlords get longer tenures and more stable tenancies from pet owners, so the benefits outweigh the potential implications of damage. I really recommend the Huddersfield research, which has a lot of good evidence on the issue.

Gordon MacDonald: What is your view on the suggestion that landlords could ask for a higher deposit from tenants who have a pet? Obviously, there is a question of affordability. At the moment, people have to find two months' rent for a deposit, which in Edinburgh can be up to a couple of thousand pounds. What is your view on higher deposits for pet owners?

Becky Thwaites: Blue Cross would not support higher deposits for pet owners because there should be no additional financial burden for pet owners. We know that pet ownership can be expensive; we provide free veterinary care for people on low incomes. We do not want to make it more financially difficult for pet owners, because

that could block people from becoming pet owners in the first place. Ultimately, the evidence shows that they do not cause more damage, so why increase costs for them as tenants? We would not support that increased financial burden.

Gordon MacDonald: I have a final question. Should there be a restriction on the type of pet that people can keep?

Becky Thwaites: Blue Cross believes that some pets are unsuitable for keeping within the home environment. For example, primates and other animals that are covered by the dangerous wild animal licence should not be kept within the home environment.

Each animal needs to be looked at on a case-by-case basis. For example, rabbits have specific welfare needs: they must be kept together and cannot be kept singly. We need to make sure that that guidance gets out to landlords, because we do not expect them to know all the ins and outs of individual species' welfare needs. We hope that, if we give them that guidance, they can make those decisions. We can also give them a list of the absolute no-nos with regard to animals such as primates.

Gordon MacDonald: Does anybody else want to come in?

The Convener: James Hickman has indicated that he wants to come in.

James Hickman: Becky Thwaites covered a few of the points that I was going to make, so that is all good.

We have already said that we expect animals to be looked at on a case-by-case basis. Certainly, with dogs, you cannot jump to conclusions: a decision depends on the property, access to outside space and a wide variety of other issues. A blanket no-pets policy does not seem fair; looking case by case is a lot fairer.

The Convener: Thank you very much for that. I will bring in Mark Griffin.

Mark Griffin: Tenants who live in private rented housing would have the right to appeal to the tribunal if a landlord refused their request to have a pet or imposed unreasonable restrictions. How easy would it be for tenants to access their right to appeal? How well should they be supported in doing that?

Gilly Mendes Ferreira: There definitely needs to be a right to appeal, and there needs to be a reasonable timeframe for that. Also, people need support with appeals. For example, we have a good partnership with Citizens Advice Scotland, which is one partner that can provide the support that people need. For a majority of people, an appeal will be very unknown territory, and they will

probably struggle with the process. There needs to be a support mechanism in place, but the key thing is that the process should not last for too long.

I think that James Hickman can add to that.

James Hickman: We are certainly concerned about how the right to appeal would work in practice for people who request to keep a pet. As drafted, the bill places a high burden on the tenant to bring a challenge to the First-tier Tribunal, and that includes the long notice period of 42 days, which Gilly Mendes Ferreira has just mentioned.

The Scottish Government might benefit from looking at other countries for some precedent. I know that the state of Victoria in Australia has recently put something into law through which a landlord cannot unreasonably refuse consent for someone to have a companion animal—that is similar to the provision in the bill—but the onus is on the landlord to apply to the tribunal within 14 days if they want to refuse on reasonable grounds, otherwise the consent is automatically granted. Something like that, where there is a whole shift in approach, would make the process much simpler, as the onus would be on the landlord to say if there is an issue.

We know that landlords are more likely to have superior resources, including greater access to representation. We feel that the current drafting places tenants at a distinct disadvantage and makes it highly unlikely that they will actually pursue redress in practice. As has been mentioned, the idea of a mediation service is a good one because, if the relationship breaks down, mediation can provide a way to resolve issues. We recommend that the proposals are reworked to provide greater protection for tenants who seek to challenge a landlord's refusal.

Emma Roddick: I want to pick up on the earlier comments that, for many pet owners, when it comes to considering staying in secure housing and giving up their pet or staying with their pet, they prefer the latter. My question is for Becky Thwaites first, but anyone else can come in. Could preventing tenants from having a pet in a property be considered to be a homelessness trigger?

Becky Thwaites: Yes, I think that it could. A problem that we see is that blanket pet ban policies ultimately result in people having to make a really difficult choice. We take hundreds of calls on our phone line every month from owners who are making that decision. Many people consider their pet to be a family member and, when they are forced to make that choice, they decide to stay with their pet. They therefore can make themselves homeless or be forced to live in accommodation that is not really suitable for them.

I am a pet owner, and I am sure that many committee members are, too, so you will understand why people make that decision. Ultimately, people are considering having to give up a family member. As an animal rescue organisation, we do not want people to be in that situation. We know that, when pets and owners work well together, that can be an amazing lifelong relationship, but we get pets coming into our centres and then have to spend months trying to rehome them to find another one of those relationships when, if we just had a pet-friendly policy, we would not be in that situation in the first place.

James Hickman: Dog owners who are either experiencing or at risk of homelessness are a group that is of particular interest to the Dogs Trust. Through our together through homelessness service, we have been supporting such dog owners for almost 30 years, so we have a lot of experience with that group.

We know that people who are in temporary accommodation are most likely to progress into permanent accommodation in the social rented sector. I think that the figures from last year showed that only 3 per cent of applicants are housed in the private rented sector. However, when people are faced with a choice between accommodation or their pet, we see time and again people deciding to stay with their pet because of the incredible close bond that they have. If pet-friendly accommodation is not available throughout their whole journey, the impact on those who are looking to progress into permanent accommodation is absolutely devastating. It would be great if that was recognised in guidance for registered social landlords under the bill.

We are currently delivering a pet-friendly housing pilot in which we are working with a housing association to support it to make its services pet friendly. As part of that, we plan to create a framework that can then be used by other housing providers, and to scale that up for use by the large national providers. We would be happy to share our experiences with you as we go through that process. That may help you in relation to the development of guidance for registered social landlords. Increasing the availability of pet-friendly housing is crucial to ending homelessness in Scotland.

The Convener: Thanks, James. We would welcome being kept informed about that project. Gilly, do you have anything to add?

Gilly Mendes Ferreira: I have a point that is about homelessness but also about domestic abuse. If someone who is looking to flee has a pet, it is 10 times harder for them to leave the property unless their pet can also be moved to safety. We

work very closely with the Dogs Trust's freedom project, because we are in a position to be able to support the animal immediately and then work with the project to make sure that it can be moved to safety as quickly as possible. It is important that there is more availability so that people can make what are often life-saving decisions to get out of a property and take their pet with them.

Emma Roddick: We have heard that guidance for landlords is really important and that things such as pet CVs are a big help. As a personal reflection, I note that I once had a pet refused by a landlord because she believed that people who rent have less money and do not have the ability to look after an animal. Do you see that type of stigma in your work? How can we overcome that?

Becky Thwaites: Definitely. At Blue Cross, we support low-income pet owners, and we see that stigma and judgment, with people seeing pets as a luxury item. That is not how we view pet ownership. It is important that we support people to have pets where they can. If they can provide for the welfare needs of their pets, that is the most important thing, and that can be done on a lower income.

There is a lot of work to be done to develop guidance and to work with landlords to educate them on the benefits of pet ownership. Actually, their concerns about some of the issues that we have talked about today can be allayed if we get the guidance right and if they work in the right way with their tenants. We hope that, if that happens, we will deal with the stigma that comes with being a pet owner on a lower income.

The Convener: Is that everything, Emma?

Emma Roddick: That is me finished. Thank you, convener.

The Convener: Great—thanks. I also thank you for enabling the appearance of a pet at our meeting. I notice that you have one behind you.

Emma Roddick: He never sits there, but he is very passionate about this issue.

The Convener: Absolutely. He wants to make sure that we are advocating properly.

Miles Briggs has some questions.

Miles Briggs: I think that we all agree on the principle, but I want to discuss an issue that has been raised with me and the committee, which is how the guidance can cover student accommodation. For example, there could be a situation in which someone moves into student accommodation not knowing that a fellow student will be in that shared space with their pet tarantula. How should policy be defined to cover such situations? We have spoken about dogs and cats, but other pets will be covered by the policy.

Should there be a complaints process for university accommodation, or would that become burdensome for the institutions? The idea of the bill including a defined list of pets has been raised with us, but could that become problematic, given that there are different types of accommodation, including shared accommodation? What are your views on that?

Gilly Mendes Ferreira: We have done some work on situations in which young people are in residential care, which is a similar set-up. A young person may move in with a pet, but there may be other young people in the situation who cannot be around that animal. It very much depends on the type of environment that is provided and whether it is suitable. How can the welfare of the animal be protected, as well as those around it? Are there issues such as allergies? It would be good to learn from the residential care side, because there are definitely pets in those establishments. We have been working with the Care Inspectorate on risk assessments where animals go into those types of settings. Again, however, some guidance would be helpful.

11:00

It would be hard to keep a list of species, because where would we stop with that? Also, people view different species in different ways—some people love tarantulas. There definitely needs to be guidance in place for shared properties. I think that there could be learning from places where pets are kept in residential settings.

Becky Thwaites: Again, I agree with everything that Gilly Mendes Ferreira said. It is really important to work with universities and understand the nature of those tenancies. They will be more temporary, because they are only for the period in which the student lives there. It is about making sure that we understand the tenancy requirements, and then contributing as a sector and saying which pets would be suitable. We would not want to see a blanket no, but it is important to recognise that different tenancies operate in different ways and that, therefore, some animals may not be suitable. The only way we can do that is by sitting down and having a proper conversation.

Our expertise and background are in animal welfare and not in tenancies, but we want to be part of that conversation in order to ensure that the guidance document is as strong as possible and that it covers as many different aspects as possible. Otherwise, we will end up with a bill that contains loopholes or guidance that does not provide enough clarity, and we will go back to having blanket “no” policies in certain types of accommodation. That is not what we want to see.

James Hickman: I agree that the principle should be to look for practical solutions on a case-by-case basis, with people having conversations to see what is reasonable and practical in each situation, rather than having either specific, defined lists or blanket “no pets” policies.

The issue here is that, as people go through their lives, they will be in different tenures at different stages for lots of different reasons. It is really about the principle that pets bring people a lot of joy and we should enable them to be with people wherever possible.

The Convener: That brings us to the end of our questions. Is there anything that you want to add that we have not covered? It appears not—our questions have covered it all. That is great.

Thank you so much for joining us today. It was really very helpful to get more insight into the nuances of the issues that we need to look at and be aware of.

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

11:02

Meeting suspended.

11:08

On resuming—

Subordinate Legislation

Civic Government (Scotland) Act 1982 (Licensing of Short-term Lets) Amendment Order 2024 [Draft]

The Convener: We turn to agenda item 4, under which we will take evidence on the draft Civic Government (Scotland) Act 1982 (Licensing of Short-term Lets) Amendment Order 2024 from Paul McLennan, who is Minister for Housing in the Scottish Government. As members know, Mr McLennan will give evidence remotely. He is joined online by Scottish Government officials Craig McGuffie, who is a lawyer; Jessica Niven, who is unit head in the more homes division; and Andy Kinnaird, who is head of transforming planning.

I welcome the minister and his officials to the meeting, and I invite the minister to make a brief opening statement.

The Minister for Housing (Paul McLennan): I apologise for not being in the room. After coughing and spluttering my way through some statements last week, I tested positive for Covid on Thursday, and I have still not recovered. I thank the committee for being so accommodating—it is much appreciated.

I am grateful to have the opportunity to speak to the draft Civic Government (Scotland) Act 1982 (Licensing of Short-term Lets) Amendment Order 2024. Legislation to establish a licensing scheme for short-term lets was approved by the Parliament in January 2022, and the scheme opened in October 2022. The scheme delivers a set of basic safety standards to protect guests, hosts and communities and guarantee high-quality accommodation across Scotland. Those core principles have underpinned our approach, and we have consulted extensively and worked with a range of stakeholders on the scheme's early implementation.

When the then Cabinet Secretary for Social Justice, Housing and Local Government appeared before the committee in February 2023, the committee made it clear that the Government should use the available time to respond to concerns that had been expressed about the operation of the licensing scheme. I am therefore pleased to have the opportunity to speak to the draft order, which reflects operational adjustments that have been made to the scheme as a direct result of feedback from a range of stakeholders.

The development of the proposed statutory amendment is by no means the only action that

we have been taking to continue to refine and improve the licensing scheme. I know that some groups in the sector have shared with the committee evidence that reflects their perspectives on the scheme, and which encourages us to go further. We will continue to work with and listen to stakeholders. I am pleased to inform the committee that, in addition to the regular engagement that we have, we are formalising an expert group to further refine guidance, taking into account the feedback that has been received since the scheme was launched.

The provisions in the amendment order offer technical clarifications and operational improvements for businesses. In bringing forward the proposed amendments, we are conscious that implementation of the scheme is still in a transitional period, in which thousands of operators have recently taken action to comply with the legislation, and that authorities are still processing applications for existing hosts, so any action must be proceeded with in a measured way. That approach has been endorsed publicly by many in the sector.

I turn to the order itself. We are making it more straightforward for short-term let operators to transfer their businesses to a new operator. That aligns with our commitment in the new deal for business. We are also ensuring that new short-term let enterprises can apply for provisional licences, as we listened to and acted on feedback that indicated that securing lending in industries such as agritourism was challenging.

We have reflected the feedback that we received on the operation of exemptions to short-term let licences by clarifying the periods in which that provision may apply. That will ensure that local authorities can apply flexibilities for key sporting and seasonal events that can heighten demand for accommodation, while still having regard for health and safety.

We are also taking the opportunity to make some minor changes to the provisions relating to guest rooms in certain types of residential accommodation and the provisions that require safety information to be provided to guests. The latter change has been made in response to a fatal accident inquiry into a case that involved short-term accommodation.

The approach that is being taken aligns with our commitment to supporting businesses and with the Verity house agreement. It will ensure that the high-quality accommodation that visitors expect in Scotland is maintained, and it prioritises the importance of doing business. I therefore ask the committee to support the draft order.

The Convener: Thank you for that. I think that you touched on this in your opening statement, but

I would like to get a better understanding—without getting into too much detail, because members have a number of questions—of what the problem is that the order is trying to fix through the provisional licence provisions. What was the problem that you identified that meant that you needed the order to address that?

Paul McLennan: When it comes to provisional licences, I remember that, when I was a member of the committee, an issue was raised about the financing aspect and what was required in that regard. At the time, there were applicants who had had issues with their lenders, and the committee took evidence on that. I have also spoken to other stakeholders about that point, including the Scottish Tourism Alliance and the Association of Scotland's Self-Caterers. There was an issue in relation to finding finance, particularly for people who were new to the business. There was an accumulation of evidence that indicated that we should make it easier for people in that position to proceed.

That is the main thing that we are trying to do. We will work with stakeholders on that. That is an issue that has been raised over a period of time. It is important that we try to get people into the sector.

The Convener: Thank you. What was the problem that you are trying to fix with the order through the provisions on the transfer of licences? What came up that made you feel that you needed to respond?

Paul McLennan: There will always be an element of interchangeability, with people coming into the sector and people moving out of it. We want to make that process as easy as possible. Stakeholders have told us that we should make it easier. That came from evidence that we received when I was a committee member, but also outwith that. The point was raised by stakeholders such as the STA and the ASSC. Again, that was the main point that was raised through engagement with stakeholders.

11:15

The Convener: Okay—thank you for that. I have a couple of process questions. First, I am interested to hear who you consulted and how as you developed the changes in the order. Secondly, how did the results of that consultation shape the final content of the order?

Paul McLennan: There have been a number of consultations. Looking back, I remember what was said at the time when I was on the committee. I have probably met the ASSC on about a dozen occasions. We have spoken to the short-term let providers—the trade groups such as the STA, as well as Airbnb and other such organisations. We

have spoken to the industry advice group and I have met it on a number of occasions. That group includes VisitScotland and other stakeholders.

I have also spoken to and met the Society of Local Authority Lawyers and Administrators, as have my officials—I might bring my officials in to speak about their broader consultation as well. SOLAR represents the local authorities in Scotland. We have therefore had feedback on the particular point from across the whole group of stakeholders. That includes individual authorities within SOLAR, because it is partly about their individual interpretations of the scheme and how they see it. Different local authorities will have different aspects and issues that they would like us to deal with. It was really important to meet SOLAR so that I could listen to people who are on the ground and hear about the impact.

We have heard from stakeholders ranging from individual groups, such as the ASSC, to those who represent the broader sector, such as VisitScotland and the industry advice group, along with local authorities. We have tried to cover as broad a range as possible. That is my involvement, but I will bring in Jess Niven if that is okay, convener, to talk about officials' engagement on a daily and weekly basis and the broader work that has been going on.

The Convener: I would welcome that.

Jessica Niven (Scottish Government): Thank you for the opportunity to give evidence, convener. As a team of officials, we have engaged widely. There have been three public consultations but, in the most recent period since October last year, which was the deadline for existing hosts to apply, we have refreshed the work with a new round of engagement. That involved small group sessions with local authorities in their role as licensing authorities, and we implemented a questionnaire feedback session with them. Some of the issues that industry members reported to us in the previous consultations were reflected and put into a draft format, which was shared with an industry advisory group at official level. We took that away and reflected on the feedback.

The minister chaired another industry advisory group meeting in April, and since then we have taken further action to refine what is in the order, as well as wider action to establish the expert group that the minister mentioned, because a lot of the evidence that has been provided to the committee, as you might have noticed, relates to the guidance.

I think that the groups are broadly supportive of the provisions, although they wish that they would go further. We were conscious that guidance is another area of focus and, although we have worked with industry and local authorities on it

before, we wanted to formalise that into the group that we have mentioned.

The Convener: Thank you for that detail. I have another question. I will start with you, Paul, and you can see who you might need to bring in after that. I am interested to understand why you decided on the relatively limited scope of the amendment order, particularly given the on-going concerns, which you and Jessica Niven have mentioned, that the industry has expressed about the impact of the licensing regime.

Paul McLennan: There are a number of things. Returning to your previous question, I add that we spoke to two other groups as well. We met the Edinburgh International Festival and Edinburgh Festival Fringe Society, and we had a joint meeting with them and the City of Edinburgh Council to clarify their understanding. We worked closely with them in that regard, because Edinburgh is a major city and the festival is literally just weeks away. We will meet them again after the festival period to analyse what it looked like from their side.

The broader point is that it is an iterative process and the legislation is still in a transitional period. The key things that we have acted on are the key measures that were picked up on, and we have tried to reflect those in the draft order.

The other key thing was to be cognisant of the impact on tourism more broadly. Again, we have had meetings in that regard—we have spoken to VisitScotland and tourism officials to get that other perspective. It is not just about the safety aspect. That is the main point of the order, but we also want to ensure that there is no detrimental impact in the tourism figures that come through. In that regard, what we have seen so far has been reasonably encouraging. One of the key things for me is to try to strike that balance in the interpretation of where we need to go with this.

It is very much an iterative process, and I think that I have shown that in the engagement with the sector. We have met the ASSC approaching a dozen times. We have also met other stakeholders—SOLAR and others—on a number of occasions, and we will continue to do that. I think that I have mentioned before that I am happy to come back to the committee at any stage to discuss the issues and the impact of the legislation as we see that coming through. I think that we have struck the right balance, but it is very much an iterative process.

That brings me back to the point that I made about Edinburgh. We have another meeting planned with the festival, the fringe and the council after the festival period in order to, almost, analyse the impact on the Edinburgh festivals, which are some of our biggest festivals with regard to

tourism. There is a broader question about what the scale of the festival and the fringe should be and what the capacity of the city is in that regard. We have already agreed to meet the festival, the fringe and the council again after the events in August to interpret that. If we need to make changes accordingly, we will do so.

Willie Coffey: The committee has heard from councils and some accommodation providers that they need greater clarity on applications for sites that have a single licence but multiple accommodation units. Do you intend to provide further clarity on that as we move forward?

Paul McLennan: Yes. That is one of the key issues. It comes back to the point that I made about our meeting SOLAR. I can get anecdotal feedback on what local authorities are saying, but it is really important to hear that directly, and I will continue to meet SOLAR, as my officials will, on that particular point.

I think that you are right. The example of yurts has been given. There could be two different sites for a project that has 30 or 40 yurts, and we might need two groups of 20 yurts in different places. In such cases, there could be slightly different interpretations of how the licence works. We are working with individual local authorities to try to give them that guidance.

I will bring Jess Niven in to go into the detail of the discussions that officials have been having with individual local authorities that have raised the issue, but you are right. There are impacts in relation to the paperwork that is involved—if there is one application for all the yurts, for example. There is also the cost element, because the cost has to be proportionate.

Jessica Niven: We believe that it is for local authorities, as the licensing authorities, to consider and make decisions on applications to the scheme depending on the circumstances. It may be that multiple short-term lets within a single premises can be covered by a single licence. It will really depend on the situation of those premises. Quite a few examples are detailed in guidance, and there is flexibility for local authorities to consider a single application and vary their fee structure according to how many individual pods or whatever are on one site.

That is one of the issues that we are monitoring. We may well gather further feedback from local authorities based on the operation of the scheme. It should be remembered that we are in a transitional phase and local authorities are already processing applications.

Willie Coffey: I want to ask a couple of questions about transfers, which Paul McLennan spoke about in his opening remarks. If a licence is going to a new host, will the conditions that apply

to it remain in force during the transfer and pass to the new host, or can the licensing authority amend the conditions before the transfer takes place?

Paul McLennan: I will bring in Jess Niven again on that point. My understanding is that the conditions should stay the same in the transfer process unless any specific issue is raised. There is the element of making sure that, when the application is first dealt with, it reflects everything accurately. As part of the transfer process, the conditions should remain the same unless any specific new information comes to light and there have been specific changes. The important point is that it very much depends on individual circumstances.

I have not been made aware of those things in any correspondence or any discussions that I have had, so I ask Jess Niven to come in on that.

Jessica Niven: Just to confirm, the balance left to run for the original licence will remain the same at the transfer. That means that the new licence holder will be required to submit a renewal application in due course once the licence expires, and that is subject to the usual scrutiny.

Local authorities also have the ability at the point of transfer to check whether the change in licence holder has resulted in changes to the accommodation. For example, if any extra furniture or electrical equipment has been added, they might request further information about compliance at that point.

Willie Coffey: On the opposite side of the coin, the amendment order does not include provision for the transfer of a licence where the current licence holder has passed away, is bankrupt or has fallen into administration or liquidation. Is that something that you are aware of and might reflect on?

Paul McLennan: Yes. We have engaged with the Law Society of Scotland over a long period of time and it raised that point about the order. We are still in discussion with it about that, and we would certainly look to engage with it on that point. We got its feedback at a relatively late stage in the process, we continue to engage with it, and we will continue to engage on that point. If we need to amend the guidelines or whatever, we will ensure that we do that. However, we are still in discussion with the Law Society on some of the points that it has raised.

Willie Coffey: Okay. Thank you.

The Convener: Emma Roddick, who is online, has questions about transfers, too.

Emma Roddick: Good morning, minister. What was the justification for not including transfers in the original order?

Paul McLennan: There were a number of issues. This takes me back to when I was on the committee and we discussed those. It was about trying to bed in what was already in place at that point. That has been the key thing for me during the process and from speaking to the ASSC, the STA and others. Obviously, this is the first point at which we could do that.

I will again bring in Jess Niven, who has been involved in the process, which goes right the way back to 2019.

11:30

Covid made an impact in 2019, which continued to 2021, 2022 and 2023. There was a bit of flexibility within the sector, with people coming into and out of it. The issue was highlighted then—and I will bring in Jess Niven to discuss that point. From our interactions with stakeholders, I thought that we needed to act on the issue relatively quickly, hence why we took the opportunity.

Jess Niven has been involved in the process for a lot longer than me, and she was involved in the original discussions.

Jessica Niven: It depended on the local authority administering the scheme. There were local arrangements for what might happen to a licence if there was a transfer request. Some local authorities were operating through letters of comfort, but we recognised that we could use the opportunity of the draft order before us today to improve provision and to ensure that the process is as smooth as it can be for business.

One particular piece of feedback was that, the more complicated the process, the more unlikely it is that a new host and a new operator would be attracted to the commercial entity. We therefore wanted to ensure that the process was as smooth as possible, although there was provision for that before.

The Convener: Emma, have you completed your questions?

Emma Roddick: No—sorry, convener.

The Convener: That is all right. Please continue.

Emma Roddick: Picking up on the point about local authorities and the process, I note that councils have raised concerns about the complexity of the different kinds of licence, as well as about inconsistency in comparison with other licensing schemes. Other licences administered by local authorities cannot be transferred from person to person in the same way. What is it that makes short-term let businesses different?

Paul McLennan: There are a number of things to consider. One takes us back to the general

principle. Was the scheme to be a national scheme or a local scheme? It was established that it would be best for it to be a local scheme, for a number of reasons. Edinburgh, the Highlands and East Lothian, for instance, are all different areas, and the level of interpretation within local authorities is really important.

There are a wide range of short-term let units. Coming from a local government background, I am aware that there are various licensing schemes, for taxis, alcohol and other things. The idea was to recognise the variances that could exist within the short-term let sector and to allow for local interpretation. There will be variances in what local authorities think and in relation to the local authority's outlook on certain types of accommodation among short-term lets. The key thing is to be as flexible as possible within that.

We spoke with SOLAR representatives on a regular basis—to people who are themselves engaging with and licensing people. They are engaged not just in short-term lets licensing but in licensing more broadly, too. We have tried to listen to them regarding their approach, and we will continue to listen to them. I know that there are different interpretations of the guidelines and policies; it can come down to individual authorities, as you will see within planning broadly, and in alcohol licensing, for example. It is about recognising that individual local authorities will have their own input and their own outlook, which I think is really important, while understanding the variances in the types of accommodation. It is a matter of being as flexible as possible. However, we want to deliver on the overarching safety aspect behind why the scheme was brought in without having a detrimental effect on tourism, so that people can come to Scotland and have faith that the accommodation that they are staying in is safe and suitable for them.

I do not know if Jess Niven wants to add anything, but the overriding principle is to encourage flexibility.

Emma Roddick: But local authorities could not choose not to implement a transfer scheme; that is something that they will have to provide.

Paul McLennan: Yes. Pretty early on, we had feedback from the sector about what the transfer scheme would look like. It would have been a relatively straightforward process, but the feedback suggested that we should make it simpler and more flexible, so that if someone wanted to transfer a licence to a family member or anybody else, they could do that. Jess Niven noted that if a licence was being transferred and there were little or no changes, the process should be pretty straightforward. Obviously, if there had been a material change, as with planning, there would need to be an updated description to ensure

that the safety of the premises was not affected. Jess, do you want to add anything on that?

Jessica Niven: I emphasise that there would still be a fit-and-proper person test for the person who would be taking over a licence. The provision in the order represents a balance between the health and safety aspect and ensuring that the process is smooth. Given that local authorities do not have to create a bespoke process of issuing a letter of comfort to hosts that might be purchasing a short-term let as a commercial entity, we would hope that, over time, it would be a more straightforward process for them. We will continue to work with them and will monitor implementation.

The Convener: Thanks for that. Craig McGuffie, you have indicated that you want to come in.

Craig McGuffie (Scottish Government): Just to clarify, the order could tackle only provisions for short-term licences. Obviously, if there are calls for transfer provisions to be added to other forms of licence under the Civic Government (Scotland) Act 1982, that would require primary legislation, which is part of the reason why our hands are tied.

The Convener: Okay. Thanks very much for that clarification.

Emma Roddick: The transfer process does not provide the opportunity for public comment in the same way that a new licence application would. Could that create a loophole whereby operators that have not been able to successfully obtain a licence could more easily access one through the transfer option? Could that advantage large, multiple short-term let operators over smaller-scale operators, given that it would give them the opportunity to potentially buy out smaller operators around Scotland?

Paul McLennan: There is a broader overview when an application comes through. Jess Niven mentioned the fit-and-proper person test, for example, which is one element of it. If you are talking about a larger organisation taking over single individuals, that would be a much bigger issue. Local authorities would still assess an application during the application process and they would be aware if there was a particular issue along the lines of the scenario that you mentioned. There is enough in the current guidelines to allow local authorities to pick up on any such instances and deal with any issues. I do not think that that would come out of the blue, if you know what I mean. Craig McGuffie wants to come in on that.

Craig McGuffie: The transfer provision allows for an expedited process for the licence to be allocated to somebody else, so although there would not be the same public consultation process, the chief constable would be notified of the licence application. They could object, and a fit-and-proper person test would then be done. If

there were no objections, the licence transfer would be granted—there is an expedited process.

Once the licence had been granted, any individual could still make a complaint to the local authority, so if anyone had concerns about a business or an individual short-term let licence holder, they could make a complaint to the licensing authority. Under paragraph 11 of schedule 1 to the 1982 act, a local authority could then take steps to suspend or revoke a licence in response to concerns raised by an individual.

The Convener: Okay—thank you for that. We will move on. I will bring in Gordon MacDonald.

Gordon MacDonald: Good morning, minister. I want to ask about a couple of areas. The first is temporary exemptions. You rightly talked about the pressures in Edinburgh with accommodation during the festival, at new year and so on. There is already a limit for temporary exemptions of six weeks per year. Why was it felt necessary to place a further limit of three times per year for a total of six weeks?

Paul McLennan: Again, there are a number of things to look at. I will come back to the specific Edinburgh issue. First, there is a broader discussion, which is perhaps not for this committee, about the size of Edinburgh and how much accommodation it can take. I suppose that that is a question for the City of Edinburgh Council to pick up.

The issues are not just for Edinburgh, although the Edinburgh festival highlights the point; other local authorities have events that require accommodation. We looked at the period of time and tried to find a balance. After speaking to the festival and fringe, and to local groups, we felt that the six weeks' exemption was felt to be inflexible, in some ways, and too restrictive. Again, we wanted to try to provide flexibility, given the number of events. The festival itself goes on for around four weeks, and there are other events that are held in Edinburgh, such as Hogmanay and events as part of the Forever Edinburgh campaign.

In other parts of the country, it would depend on what events were being held. We were listening to feedback on that, and picking up on events that we were aware of, and some that we were not aware of. Again, it is up to each local authority to address the needs. We listened carefully to the festival and fringe, to the City of Edinburgh Council and to other stakeholders about what the picture can look like. We were trying to strike a balance to ensure that we can, if possible, accommodate the people who need to come in.

The key point is giving local authorities flexibility in that regard. That ensures that activity can take place throughout the year, and that we do not

have to come back and deal with the issue every year.

To come back to the point about Edinburgh, we will pick up the key points around the festival and fringe, which I referred to, and ask the local authority and other stakeholders how they find the approach. In Edinburgh, that has to take place in the context of asking how big the festival and fringe should be, to accommodate what needs to happen. I know that the festival and fringe have been looking at trying to spread accommodation out, accommodating people not just in Edinburgh but in other parts of the Lothians. Again, we were very much listening to what stakeholders were saying, but it is an on-going process, so we will be looking for feedback not just on the issues in Edinburgh, but from stakeholders in other areas. We were listening to what stakeholders were telling us and were trying to strike a balance.

Gordon MacDonald: My understanding is that Glasgow City Council has already indicated that it will not be issuing any temporary exemptions. The reason for that is around basic safety standards and the issue of checking whether the applicant is a fit and proper person. Will those checks not happen where a temporary exemption is in place?

Paul McLennan: They should take place as part of that. Again, when I had a discussion with the City of Edinburgh Council, we discussed what period of time we were talking about, and Edinburgh's own interpretation of the scheme and how that worked.

To go back to the local position as against the national position, Glasgow City Council obviously feels that it is in a particular position. I am happy to discuss that individual position with Glasgow, although it has not been raised with me specifically. I am happy to pick that up.

I will bring in Jessica Niven to see whether she is aware of the point that you make, but it has not been raised with me. Nevertheless, that may be Glasgow's interpretation. Jessica, do you have anything else to add on that? Are you aware of that point?

Jessica Niven: I think that it would be fair to reflect the wide range of views from local authorities on the use of temporary exemptions. Local authorities have different views about their use; I emphasise that local authorities have the flexibility to attach conditions to licences for temporary exemptions, so they still have flexibility over how and when they use those exemptions.

Gordon MacDonald: My next question concerns provisional licences. What is the purpose of a provisional licence, given that a holder of such a licence cannot accept bookings?

11:45

Paul McLennan: That comes back to the financing of some of the schemes. I come from a background of working for the Bank of Scotland for 20 years and I know that, when someone is trying to finance a project, the certainty that a bank has around planning and licensing risks is important in, first, whether the financing is available at all, and, secondly, how that financing is priced. The ability to have a provisional licence gives more security to an applicant and to the bank that the applicant is going to get a licence, which means that the applicant is more likely to get the funding and that the funding will be priced at a less risky point—it might be 4 per cent over base instead of 6 per cent over base.

The provision comes from feedback that we got from applicants who want to come into the sector and have concerns about how they will know that they are doing everything right at any particular stage, so that the application goes through the process and they end up with a full licence. The provisional licence helps with the process. It makes it cheaper and easier for people to get into short-term letting. As I said, the provision is based on feedback that we received, and my banking background enables me to understand where applicants are coming from on that point.

Gordon MacDonald: Just for clarification, when whatever is being built or constructed is complete and people holding a provisional licence want to apply for a full licence, will they be able to take bookings when they submit the application, or is that possible only when the full licence is granted?

Paul McLennan: My understanding is that they can take bookings only when the full licence is granted, but I might be wrong. Craig McGuffie can give you more information on that.

Craig McGuffie: Bookings can be taken only when the full licence is granted. The licence does not have any effect until it is confirmed, and it must be confirmed within the three-year period for which it is granted. If it is not confirmed within that period, it is revoked and cannot be renewed. Once the licence is confirmed, it has effect as a full licence for the remainder of that three-year period.

Miles Briggs: Good morning. Many of us are disappointed with what we have been presented with at this stage and think that the tweaks that the committee is looking at are not effective enough. It is worth reflecting that stakeholders have told the committee that this is

“by far the worst example of policy implementation that we have ever encountered.”

I have a couple of specific questions. First, how is the fact that a provisional licence is available for new-build properties but not buildings that are undergoing conversion compatible with the

Scottish Government's climate change ambitions, which involve encouraging the reuse and renewal of existing buildings?

Paul McLennan: I am not sure that I quite understand your question. I would dispute your interpretation of the provision. My officials and I have gone out of our way to speak to individual groups. As I said, I have met the ASSC on a dozen occasions, although we might not have agreed on everything, and I have also had a number of meetings with the STA, SOLAR and so on, and have listened to their views.

Maybe I am being silly, but I am having difficulty understanding the climate change aspect of what we are looking at. Can you clarify that?

Miles Briggs: Provisional licences will be available for new-build properties but not buildings that are undergoing conversion. Why has that approach been taken, rather than including all buildings?

Paul McLennan: I can take that away and follow it up with you later. I know that we have had feedback on the issue. There might be issues around how easy it is to monitor what is happening with a new-build property compared with a building that is undergoing a conversion. Jessica Niven might be able to give you more information.

Jessica Niven: I think that the provision as drafted responds to specific feedback about what would be most helpful. However, there is a possibility that we could extend it to conversions to short-term lets in the future. We will monitor the use of that particular part of the draft order.

Paul McLennan: Conversions have not been picked up as an issue, while new-builds in particular have been. I am happy to pick up that particular point, and we will continue to monitor the on-going feedback. Again, we have not had that fed back from local authorities on a large number of occasions, either—feedback tends to be on the new-builds—but I am happy to pick up on that point.

Miles Briggs: The committee has also heard concerns that the amendment order could mean that two different short-term let licence schemes will be running simultaneously. What assurances can you give the committee that the amendment order will not create that situation?

This is not the first time that we have looked at the issue. I have been on the committee throughout the passage of the legislation and this partial review, if we can call it that, and the minister has outlined that there will potentially also be an expert group established. We know that the City of Edinburgh Council has already had a specific legal issue around the provision and we

do not want to create more complex situations than we have already seen.

Paul McLennan: I do not think that the order will do that. One of the key things that I talked about with the expert group was on-going dialogue. We speak to SOLAR on a regular basis, as do officials—almost weekly. I will continue to meet ASSC. I have mentioned reviewing the situation in Edinburgh once the festival is over. You and I have discussed in other forums what that will look like, and I will be happy to involve you in discussions at that stage. The other issue is meeting providers, such as Airbnb and other groups, so that there is on-going dialogue.

I suppose that it comes back to the original decision on whether it would be a national or a local scheme. I think that it was decided that it would be best if it was a local scheme for a number of reasons, one being that that would take in local circumstances. There will always be variances within the scheme, as there are variances within planning. Outwith short-term lets, there will always be variances in terms of planning and other licensing schemes—there will always be that element.

The whole purpose of coming here today was to try to simplify and feed back on some of the points that have been raised. Obviously, the scheme is still in the transitional stage, as has been mentioned, so we will continue to monitor it. The expert group has been brought together to look at that. I also speak in the advice group, which includes VisitScotland and other stakeholders.

A wide range of discussions have gone on in the past and a wide range of discussions will continue. I am pretty confident that, despite the variances that you will see among local authorities—which are similar for any other licensing or planning scheme—that clarity will be given. Of course, we will continue to monitor that.

Miles Briggs: I am not sure about having the transitional phase four weeks before the festival starts and then looking at it afterwards, given the damage that it will potentially have caused. We know from many people—Jason Manford being one of them—that the scheme has seen prices rocket such that people on a budget who want to come and showcase their talents in the festival just cannot. Statistically, we will need to see, but the damage will be done. I have made those arguments to you already.

Paul McLennan: On that point, Mr Briggs, discussions on the scheme have been on-going for a number of months. I pulled together discussions on the feedback that we were getting. We had a meeting with the festival organisers and the Edinburgh Festival Fringe and local authorities, and everybody was quite happy with

the outcome of that particular meeting. The City of Edinburgh Council required some clarity and we gave them that clarity. It comes back to what we all know, which is that, every year, prices rocket in Edinburgh because of the festival.

There has been on-going dialogue and debate in Edinburgh about whether the festival is too big for Edinburgh and what the scale of the festival should be. You and I have had that discussion. Should more be done to try to work with other local authorities to take some of the demand that is there? There is a much broader piece of work that Edinburgh needs to do with the festival, the fringe and the Scottish Government to look at how big the festival should be, how far we can spread it and what impact it has.

I understand the point that you are trying to make, but we need a much broader analysis of issues with regard to the festival. Every year, prices go up and there are shortages, but a much broader piece of work needs to be done. Again, I am happy to speak to colleagues in the Government and in local authorities and, indeed, to yourself about that, but as I have said, we need a much broader analysis to give us a much broader perspective on what we need to do. After all, this has been an on-going debate in Edinburgh as well as in other parts of Scotland for a long time now.

Miles Briggs: I agree with that, but I would just note that the regulations were put in place for health and safety reasons, not for planning and licensing purposes. You might be saying now that the decisions are about reducing the size of the festival—or about looking at that, even—but that is not where the regulations originally came from.

Paul McLennan: On that point, Mr Briggs, I am not saying that this is about health and safety. How people interpret these things and how the matter is assessed as part of the broader debate are separate issues. Health and safety considerations are incredibly important, given the thousands of people who come to Edinburgh, but there is no doubt that we need a broader—and separate—discussion about the amount of provision that exists.

Miles Briggs: Finally, councils have told the committee that the order's commencement date will not give sufficient time to update policies or administrative and information technology systems, and it has been—quite rightly—suggested that that might lead to possible misinterpretation and the sorts of problems that we have seen across councils, especially here in Edinburgh. What assurances can you offer councils that there will be sufficient time to update systems, given that the order will come into force on the day that it is made?

Paul McLennan: There are a number of points to make in that respect. Again, it comes back to those really important discussions that we have had with SOLAR. There have been lots of discussions with that organisation prior to today; lots of discussions are on-going; and there will be lots of discussions with it beyond this. I will bring in Jess Niven to talk about the operational discussions that have gone on, but I have certainly had meetings with SOLAR on this matter, and if any clarity is required or if any issues arise with regard to outstanding applications, we will obviously continue to work with the local authorities on that. However, we are continuing to have discussions on the matter. Jess, do you want to add anything about the almost day-to-day operational discussions that go on with local authorities?

Jessica Niven: Of course, but perhaps I can first make one or two points about the previous question, with regard to Edinburgh. As Edinburgh is a short-term let control area, the circumstances there are quite different to those in the rest of Scotland. Moreover, Edinburgh is exercising its ability to apply for temporary exemptions and is attaching conditions to those, too. I just wanted to make the committee aware of that.

As for giving councils the time to implement the proposals, we have been working with and talking to councils pretty much on a daily basis throughout the scheme and, since last October, we have been doing so in a more stepped-up way. Councils have been consulted on what is in the statutory order, and many have already started to make preparations for implementation. We also expect quite a low take-up initially of the provisions in the order, and we will work with councils on ensuring that they are able to handle things. I would advise anyone wishing to take advantage of the provisions in the order to contact their local authority initially and ask about the best way of achieving that.

Miles Briggs: Thank you.

The Convener: Emma Roddick, do you have any final questions specifically on the order?

Emma Roddick: I just have one question for the minister. One local issue that has been raised with me and on which I have corresponded with the minister is the loophole with regard to premises licensed to sell alcohol not requiring a short-term let licence. I highlighted the fact that a number of premises in my region are now licensed to sell alcohol but have no intention of serving it, just to get around the order. I appreciate that he is seeking to strike a balance between the needs of business and the needs of communities, but why has the order, which addresses industry asks, been introduced before any tightening of the clear

issues that communities, which are unable to comment on these practices, have raised?

Paul McLennan: We have been made aware of the point about alcohol licences and I will bring in Craig McGuffie. Craig, do you want to comment on what we are doing in that respect?

Craig McGuffie: Someone who has an alcohol licence needs a layout plan, and there are other conditions that they need to comply with that should give some protection to individuals who are looking to stay in the property. There is some regulation of the state of the building and the layout of the premises in the alcohol licence that maybe is not in the short-term let licence. I suppose that the exemption was created to avoid any degree of overlap.

12:00

Emma Roddick: Are you looking at whether further action is needed around the use of alcohol licensing as a loophole for accessing a short-term let licence?

Paul McLennan: Craig, do you want to come in, and then I will come back on that point?

Craig McGuffie: We certainly look at that to see whether there are circumstances where a premises with an alcohol licence may be in such a condition as to be a danger or a nuisance to somebody who stays there, and whether the provisions in the alcohol licence are enough to create a safeguard. If not, we could consider whether the scheme could be extended. At present, the scheme is not extended to premises that already have an alcohol licence, on the basis that an operating plan and a layout plan are already provided for those premises, which the council is aware of.

Paul McLennan: We are in discussions with SOLAR about that and feeding back to it on what is coming through. Emma Roddick is right that the issue has been raised by her local authority, but we are in discussions with SOLAR about how we could address that.

Emma Roddick: Okay. Thanks, minister.

The Convener: Thanks for picking up that important point, Emma. We move on to the wider issues that have been raised in written submissions.

Mark Griffin: Good morning, minister. I hope that you are feeling better. I feel your pain, after my recent brush with Covid.

Paul McLennan: I am getting there.

Mark Griffin: How do you respond to the concerns that have been expressed by short-term let operators that the proposed changes in the

amendment order are not sufficient to deal with the challenges that they see in the sector as a result of the licensing scheme?

Paul McLennan: Can you be more specific? Having met the ASSC and others, I know that there are other things that they wanted us to include at this stage, but I do not know whether there is anything specific that you are referring to.

Mark Griffin: You have referred to the industry advisory group, which you meet with regularly and which made a number of recommendations that are not included in the order. I would like to hear the Government's thinking on why it has chosen not to include those recommendations in the order.

Paul McLennan: There are a number of points. One is about trying to strike a balance. For example, we talked about the temporary exemptions and other issues that were raised. That has been the most pertinent issue, in terms of bringing things forward. Obviously, there were discussions about how far to go at this stage—we are still in a transitional stage, which is important. We agreed that we would discuss that particular point with the expert group.

Exemptions and provisional licences were the things that were raised as priorities in the feedback, not just from the ASSC but from other groups. At the moment, those are the most important things that we need to pick up on. Going forward, through the expert group that I talked about and the on-going engagement with stakeholders, we will continue to look at the issues. If we need to bring something back, we will certainly do so. We will also be cognisant of what the committee says. It was felt that those were the most important points that had to be raised.

There is a broader discussion, and it is not just with the stakeholders—it is also with the likes of SOLAR and so on. It was always going to be a balancing act to consider the key things that we need to take forward. We will continue to discuss the issue. There has been on-going dialogue all the way through, and there will continue to be on-going dialogue. As I referenced, the expert group will continue to consider the issues once the scheme is fully operational and in place.

We have included the most important things that we need now, but we are not knocking back the issues that stakeholders have raised. We will continue to discuss the issues with the stakeholders and with SOLAR and others.

The Convener: Pam Gosal has a supplementary question.

Pam Gosal: Good morning, minister and officials. Minister, you have mentioned throughout this conversation that you have been working with

and listening to stakeholders and that you have consulted the ASSC. However, Fiona Campbell from the ASSC has said that the amendment order has not been informed by stakeholder opinion, and that it “falls far short” of what is necessary to ameliorate the scheme, which is materially damaging to small accommodation providers and the wider tourism sector in Scotland. Do you agree with that assessment?

Paul McLennan: A number of stakeholders would balance that view. For example, the STA welcomed the provisions and said that they are striking the right balance. There has to be a balance of opinions. I understand that the ASSC represents about 5 to 10 per cent of the sector. I have probably met Fiona Campbell more than I have met anybody else in past year or so, so I have listened. We do not always agree—Fiona and I would agree on that point—but there is a balance to be struck. The STA, which represents a number of short-term lets, has said that we struck the right balance, and it looks forward to continuing engagement. That is always going to be the case, whether it is ASSC or the STA.

The key thing will be the evidence on the impact that the amendment order will have on the tourism sector. We have seen an increase in short-term let accommodation and in visitor numbers for Scotland, which is encouraging.

Of course, we always listen to the ASSC, but we also listen to the STA and other stakeholders. There are different opinions on the issue, and that is why it is really important that we have an on-going dialogue. As I said, the STA welcomed the amendment order and thought that it was the right balance for the number of organisations that it represents. We have struck the right balance with the provisions that I have brought forward at this time, but I think that it is important that we continue to listen to the sector. I have done that all the way through, and I will continue to do it as we move ahead. It is the way I operate. Whether it be the cladding bill or the housing bill, I will be as collaborative as I possibly can be and listen to as many people as I possibly can.

There are different opinions within the sector, but that does not mean that any one opinion is more important than the others. They are all important, and that is why I will continue to engage with the committee and stakeholders as we move ahead, while making sure that what we are doing does not impact on the tourism figures that are coming through.

It is encouraging to see the number of visitors to Scotland in the past few quarters returning after Covid and in what is still a difficult time for tourism because of the on-going cost of living crisis. The tourism figures that are coming through are encouraging.

Fiona Campbell knows that I will continue to engage with her and the ASSC, as well as with the STA and other stakeholders, such as SOLAR, the industry advice group and the expert group that is being pulled together.

Pam Gosal: Thank you, minister. We must not lose sight of the fact that Fiona Campbell is talking about the scheme materially damaging the sector. There is definitely something there to listen to, but I am glad to hear that you are in conversation with her, and that you will continue that.

Paul McLennan: Of course.

Mark Griffin: In previous exchanges, you have talked about the Government taking forward these changes as they are felt to be the most urgent changes that need to be made. You have also said that there is a difference of opinion in the sector about what is the most urgent and pressing issue. Do you have a timescale for when the Government plans to address the other issues that are being raised that you perhaps do not see as being as urgent?

Paul McLennan: There are a number of things there, Mr Griffin. One question is whether we decide to go down the legislative route for the other issues that have been raised. Something might require an SSI or guidelines, and we will continue to discuss that. We have brought forward what we have brought forward to try to address all the key issues that were raised when I was in committee and between when we brought the scheme and where we are now.

We will continue to look at the evidence in the figures for short-term lets and the accommodation in the sector. I know that anecdotal statements have been made, but I will continue to engage with the expert group on the evidence that comes through. If I need to, I will introduce legislation or guidelines at a time when I think that it would be relevant to support the sector on that. I have made it clear that I am happy to engage with the committee at any time on what is being brought forward, whether that is through correspondence or whatever.

The approach is very much one of continuing the discussions. The establishment of the expert group indicates that we are really willing to do that. The engagement that I have had will continue, even beyond the transitional phase.

It would be difficult to put a timeline on it as such, but if we collectively feel that we need to introduce amended guidance or legislation, that will be done at the time that I think it would be relevant to do that.

Why we are bringing these things forward now is one of the key questions that have been asked. There are different opinions in the sector about

what is important. The STA, as I mentioned, thinks that the measures strike the right balance, but it is an on-going dialogue. I think that they have struck the right balance.

Mark Griffin: Something else that we have been hearing about through our evidence taking is the interaction between the licensing scheme and the planning system. Short-term let operators have been asking for the approach to be clarified and made more consistent, as things seem to operate differently in different parts of the country. You have spoken about it essentially being a localised scheme with differences in policies. However, is the Government hearing the same concerns about how the licensing scheme is interacting with the planning system in different parts of the country? Are there any plans to issue guidance on that?

Paul McLennan: There are a number of points to make. As Jess Niven mentioned, Edinburgh has short-term let control areas. That is a planning issue. There is the licensing scheme, too. I know that Edinburgh has faced legal challenges and that it has amended its approach. Edinburgh's approach was based on its interpretation of policy; it is not my job to tell the council how to interpret that.

That issue was specific to Edinburgh. However, I know that other areas are looking at adopting short-term let control areas. Consideration will be given to those interactions.

Some of the issues that have been raised have been particular to Edinburgh. That council felt that it needed to bring in short-term let control areas. That is a broader issue. It is not part of the licensing scheme. If a local authority decides to look at planning, that is about its interpretation of those aspects. It still comes back to local authorities acting within their own flexibilities in relation to the scheme, but some of the issues have been about the short-term let control areas. The Minister for Public Finance, Ivan McKee, who deals with planning, and I are meeting the ASSC again to pick up that point.

Planning law does not fall within the scope of the instrument. This is about how we interpret what the scheme is there for, which is for health and safety purposes. The broader issue has been discussed.

We have written to the ASSC on a couple of occasions to say that we do not agree with its interpretation of that, but we will continue to meet it. As I said, Ivan McKee and I have a meeting coming up with the organisation on that particular point. I know that that issue has been raised by other local authorities.

I do not know whether Jess Niven wants to come in on that. Actually, I will bring in Andy Kinnaird on that planning point.

Andy Kinnaird (Scottish Government): I will pick up a couple of points on that. First, the provisions in the Planning (Scotland) Act 2019 on the short-term let control areas were intentionally introduced in a way that allows for local choice and for local authorities to designate different approaches in different parts of their areas.

Secondly, in national planning framework 4, we have a policy within the tourism policy—policy 30 of NPF4—that is very supportive of tourism-related development, but it sets out specific conditions on which it might not be appropriate to grant planning permission for short-term lets. Those are that there is an unacceptable impact on local amenity or that the loss of residential accommodation is not outweighed by the local economic benefits that come with it. That has all been built in so that any planning decisions should be reasonably made by local authorities based on what they want to see happen in their areas.

One of the strengths of the links between licensing and planning is certainty and confidence for the operators, and the recognition that someone could receive a licence but still be in breach of planning control and face planning enforcement action. Therefore, there is recognition that local planning choices can still be made and must be part of the mix. I hope that that is helpful.

12:15

Paul McLennan: Thanks, Andy. I suppose that it comes back to local authorities having flexibility on that. I understand why some stakeholders have raised the point, but it is important that local authorities have that flexibility. We have already met the ASSC to speak about those specific points, and Ivan McKee, who is recently in post, and I will meet the ASSC again to discuss this and any other specific issues that it might have.

Mark Griffin: This is my final area of questioning. Will you outline any initial findings from the Government's monitoring of the licensing system's impact, and do you have any evidence that it is achieving its stated aims?

Paul McLennan: There are a number of things to say. When we brought the scheme in, it was partly to get an accurate number of how many short-term lets exist. The business and regulatory impact assessment indicated an estimated number. Figures on the number of short-term let applications in different parts of Scotland have been highlighted in the local press, and it is good for local authorities to have that information when deciding on their broader strategy. That is really important.

There will be an update to Parliament on the number of short-term let licences over the summer period, which will involve looking at what is coming

through in each local authority area. The number of applications that came through was encouraging. It is important to remember that the BRIA estimate of around 32,000 applications was made in 2019, which was prior to Covid. Some of the figures that are coming through on the applications are encouraging to see. Statements were made that the system would reduce the number of short-term lets, but I do not think that that is the case, and when they all come through, the figures will demonstrate that.

On tourism, I have some figures in front of me. Average occupancy rates in B and Bs, guest houses and self-catering accommodation are up on the prior year, which is encouraging. There has not been any material drop in that regard. Tourism numbers in the past number of years have also been encouraging. We will continue to monitor that, but the initial figures that are coming through do not show a drop-off; they still show an increase in short-term lets and for B and Bs and guest houses.

In every meeting that we have with the ASSC and others, we have officials from the tourism sector there to feed in on anything that is coming through. We will also meet Airbnb and other providers to discuss what influence they think the legislation has had. They are not seeing anything at this stage, but I will meet them after the summer to sit down and discuss that with them. There is on-going dialogue with the stakeholders, including the providers, to make sure that there is no drop-off, but I have no real concerns at this stage about the update in relation to implementation over the summer.

Part of the challenge was finding out the actual numbers in the sector. We have been given the chance to look at the numbers, as well as the local authority numbers, in order to think about how we balance them and monitor the local authorities' input.

The Convener: Minister, if you could keep your answers to the point and very brief, that would be great. Mark Griffin has a question, I have one more question and then we need to move on to the next bit of the work that we are going to do together.

Mark Griffin: The Government committed to publishing a full monitoring report before the summer, which has obviously been affected by advice around election period publications. Will that be published as soon as possible after 4 July?

Paul McLennan: Yes—I will bring in Jessica Niven on that particular point. As you are aware, we had hoped to have those figures available for the committee. Perhaps Jess can advise on when it looks likely that that report will be published.

Jessica Niven: Of course. There is no specific date for that report to be published—it needs to go through the usual process in the Government and then go to the publishers to work through that iteration. However, all the information that accompanies the draft order, such as the business and regulatory impact assessment, has been published, as have the official statistics as of December 2023. That information is out there already, and a publication update will follow. The further information will gather and reflect wider feedback from local authorities and others.

Paul McLennan: Mr Griffin, perhaps we could write to the committee—if that is okay, Jess—when we have a more accurate date.

Mark Griffin: Okay.

The Convener: We have a final question, for which I would like a very brief response, please.

We heard from VisitScotland, in its written evidence, that it believes that

“there is evidence that licencing authorities have misinterpreted the guidance and or used the old 2021 Order not the current 2022 Order as the basis for their policies and practices in some cases.”

Are you aware of that? If you are, do you have a sense of how that occurred, and what are you doing about it?

Paul McLennan: On that particular point, I note that there are a small number of cases—it is not wide ranging. There is on-going monitoring; I will bring in either Jess Niven or Craig McGuffie on that particular point. Again, they were more involved in the operational day-to-day discussions.

Jessica Niven: The minister met the industry advisory group in April, and that was something that the group raised: that there may be a mixed interpretation of the legislation. As a result, we engaged directly with local authorities—it is not their point of view that they are following the wrong legislation, of course, but we continue to engage with them to facilitate their use of the appropriate processes.

The Convener: Okay—thank you for that response. I thank the minister and his officials for the evidence that they have given us today. Thank you so much, minister—I understand that Covid is a challenging experience, having had it myself, and I think that you are doing a great job. I appreciate you being here with us this morning.

Item 5 is consideration of the motion on the instrument. I invite the minister to move motion S6M-13502.

Motion moved,

That the Local Government, Housing and Planning Committee recommends that the Civic Government

(Scotland) Act 1982 (Licensing of Short-term Lets) Amendment Order 2024 be approved.—[*Paul McLennan*]

The Convener: Do members wish to make any further comments on the instrument?

Miles Briggs: We will abstain today, because we do not think that the Scottish Government has really listened and acted on many of the concerns that we have put forward. We have tried to work with the minister constructively on a lot of this, but it is clear from what we have heard today that the order is a dog's breakfast. The warnings that I and others have given in the committee have come to fruition, and the legislation is impacting on people's livelihoods. As much as we hear the minister saying that it has not made an impact, the sector is telling us that thousands of rental properties have been lost and have not necessarily moved into the longer-term rental market.

In addition, it is quite clear that the legislation was poorly drafted. We have had to look towards foster carers, for example, being taken out of the scheme. It is clear that councils have had almost 32 different versions of the legislation in operation, and that has presented legal challenges in Edinburgh specifically.

I hope that there are further opportunities to look at the issues as soon as possible—the minister highlighted the expert group—but I think that there needs to be a significant review of the scheme. Portugal, which seems to be a model that the Scottish Government has used for the legislation, has suspended its scheme because it has damaged the country's tourism sector and not resulted in any of the policy outcomes that Portugal had said that it would have, and which the Scottish ministers also said there would be. We will, therefore, abstain.

I hope that, as soon as we return in September, there will be an opportunity not only for the committee to do more work on the issue but for the Scottish Government to examine the order's impacts and introduce more provision. We are now getting to the stage where we are constantly looking at matters in this way. That is not how we should make legislation. This is another bad example of a framework bill.

Mark Griffin: I will not be voting against the order. I am happy to see it proceed, but I cannot vote positively for it.

The minister mentioned the Scottish Tourism Alliance. Its submission to the committee said that the order was

“a positive first step in addressing some of the issues that have emerged since the introduction of the STLs scheme.”

That was not the full extent of what it said, though. It continued:

“However, it remains the case that a far more significant review of how the Short-Term Lets ... Licensing Scheme is operating in practice is needed if we are to safeguard these businesses and to protect and enhance the visitor accommodation offer”.

It is, therefore, clear that there is disappointment in the sector that the order does not go far enough.

I would not wish to block the small improvements that the scheme has made, but it has wide-ranging impacts that still need to be addressed. The Government has convened its own industry advisory group, which has made recommendations that have not been fully listened to or implemented. I am not quite clear why we need to approach the issue in such a piecemeal fashion, and I am not sure why all the recommendations could not have been implemented.

When the committee made its initial decision on approval of the scheme, it was very finely balanced. I would have much preferred to see the Government taking an approach similar to that employed on the tourism visitor levy. It encouraged local democratic control, in that councils could choose not only how they would implement the scheme but whether they would implement it at all. I feel that some areas of the country do not need a short-term lets licensing scheme at all. I would have preferred there to be much more local say in how such a scheme should be run.

Although the bill makes small steps towards addressing some of the issues that the industry has raised, we should have been conducting a far more comprehensive review and a much more wide-ranging implementation plan. I do not see why we could not have come to that point today.

The Convener: Does the minister wish to respond to any of those comments? Members should bear it in mind that only the minister can respond; officials are not permitted to speak to this item.

Paul McLennan: I would like to pick up on the points that were raised, I said that we acted on the most important points from stakeholders. For example, I mentioned the Short Term Accommodation Association’s view.

I will continue to engage with the committee and with stakeholders. I will also reflect on what the committee has said today. Convener, if the committee wishes to have additional information, it can certainly invite me back at some other stage. In the meantime, I will continue with the discussions and reflect on what has been said today. I will also be happy to meet the committee or individual members at a further stage if that is thought to be appropriate.

The Convener: Thanks very much for that. Continued engagement is always welcome.

The question is, that motion S6M-13502, in the name of Paul McLennan, be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Burgess, Ariane (Highlands and Islands) (Green)
Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)
MacDonald, Gordon (Edinburgh Pentlands) (SNP)
Roddick, Emma (Highlands and Islands) (SNP)

Abstentions

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

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

Motion agreed to,

That the Local Government, Housing and Planning Committee recommends that the Civic Government (Scotland) Act 1982 (Licensing of Short-term Lets) Amendment Order 2024 be approved.

The Convener: The committee will publish a report setting out its recommendations on the instrument tomorrow. As that was the final public item on our agenda, I now close the public part of the meeting.

12:29

Meeting continued in private until 12:56.

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