



OFFICIAL REPORT
AITHISG OIFIGEIL

DRAFT

Local Government, Housing and Planning Committee

Tuesday 10 September 2024

Session 6



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LOCAL GOVERNMENT, HOUSING AND PLANNING COMMITTEE
23rd 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:

Catriona MacKean (Scottish Government)

Craig McGuffie (Scottish Government)

Charlotte McHaffie (Scottish Government)

Paul McLennan (Minister for Housing)

Yvette Sheppard (Scottish Government)

CLERK TO THE COMMITTEE

Euan Donald

LOCATION

The David Livingstone Room (CR6)

Scottish Parliament

Local Government, Housing and Planning Committee

Tuesday 10 September 2024

[The Convener opened the meeting at 10:04]

Decision on Taking Business in Private

The Convener (Ariane Burgess): Good morning, and welcome to the 23rd meeting in 2024 of the Local Government, Housing and Planning Committee. I remind all members and witnesses to ensure that their devices are on silent. The first item on our agenda is to decide whether to take item 4 in private. Do members agree to take the item in private?

Members indicated agreement.

Housing (Scotland) Bill: Stage 1

10:05

The Convener: The next item is to take evidence on the Housing (Scotland) Bill from the Minister for Housing, Paul McLennan MSP. Mr McLennan is joined by Scottish Government officials Catriona MacKean, who is deputy director in the better homes division; Craig McGuffie, who is a solicitor; Charlotte McHaffie, who is the private rented housing sector team leader; and Yvette Sheppard, who is the head of the housing legislation and reform unit. I welcome the witnesses to the meeting and invite the minister to make a brief opening statement.

The Minister for Housing (Paul McLennan): Thank you, convener and members of the committee, and good morning. Thank you for the opportunity to set out the vision for the Housing (Scotland) Bill and, in particular, how the measures can help us to build on our existing protections to deliver a private rented sector that works for tenants and landlords, and plays a part in eradicating child poverty.

I understand that the committee intends to provide its stage 1 report in the coming weeks, and I am grateful for your time today. In my evidence to the Social Justice and Social Security Committee on 27 June and 5 September, I highlighted key measures in parts 5 and 6 of the bill on homelessness prevention duties, domestic abuse and fuel poverty. In this meeting, I will focus on the actions that we are taking on other measures in parts 1 to 4 of the bill, such as rent control; increased eviction protection; rights for tenants to request a pet and not be unreasonably refused; and rights for private tenants to make changes to a rented home.

The legislation as introduced builds on the strong housing rights that already exist for people in Scotland, with its renewed focus on supporting tenancies to be sustained, which in turn will lead to less pressure on housing supply. The package of reforms as set out in the bill are, therefore, focused on helping to ensure that people have a safe, secure and affordable place to live. The measures in the bill introduce changes that are positive for both tenants and responsible landlords—for example, by reforming how civil damages for unlawful eviction are calculated; enabling unclaimed tenancy deposit funds to be used for the benefit of private rented sector tenants; and providing a mechanism for joint tenants to end a tenancy in cases when there is no mutual agreement. Due to time constraints, I will not talk about those and the other issues in the bill in detail, however, I am happy to answer any questions that the committee has.

I will turn first to rent control. As I set out in my letter to the committee, I remain committed to delivering our vision for a fairer, well-managed private rented sector that works in the interests of tenants and landlords, and supports on-going investment in rented housing. The bill as introduced sets out the framework for how rent control will be delivered, and I have continued to listen to stakeholders' views on the benefits of providing more clarity on how rent control would apply. In particular, we have considered the need to set out how rent increases will be capped in areas in which rent controls will apply. To support that, I will lodge amendments at stage 2 that set out how the rent cap will apply in rent control areas. That will provide clarity for all, including tenants, landlords and investors. It will build on the provisions that are already set out in the bill to deliver rent controls, which will involve the designation of rent control areas on a geographically specific basis, supported by a local assessment process, which will be carried out by local authorities. That is to ensure that measures can be tailored to the prevailing rent conditions in a localised area and respond to changing circumstances.

Rent control areas will be designated through affirmative regulations with a requirement for consultation ahead of the regulations being laid. The bill already sets out that a rent control area can be designated only when it is necessary and proportionate for the purpose of protecting the social and economic interests of tenants in that area, and when it is a necessary and proportionate control of a landlord's use of their property in that area. Furthermore, a rent control area can be designated for only a fixed time period of five years. Redesignation beyond the set period would require to be on the basis that further assessment shows that that would be required. The bill also allows ministers to provide for circumstances in which the rent cap does not apply or in which rent may increase by more than the rent cap.

Secondly, the bill places duties on the tribunal and courts to consider whether there should be a delay to the enforcement of an eviction. That action responds to concerns about the potential negative impact of the timing of an enforcement of an eviction on tenants and the fact that there are certain circumstances and times of year during which being evicted can be particularly problematic. The bill sets out specific factors that the tribunal and courts may take into account when deciding whether it is reasonable to delay an enforcement, such as seasonal pressures, periods of religious significance, exam periods, or where more time is required to access suitable alternative accommodation. The measures recognise that there are certain types of eviction where it would rarely be reasonable for the

enforcement to be delayed. Therefore, the bill includes exemptions from the duty for certain repossession grounds such as antisocial conduct, criminal convictions, domestic abuse and vacant and abandoned properties.

Finally, on personalisation and keeping a pet, the bill also introduces a statutory framework for private residential tenants to make certain changes to their home and to keep a pet. There will be a right for tenants, including social tenants, to ask to keep a pet and not be unreasonably refused.

With regard to personalising a rented home, there will be different categories of change. Category 1 changes will not require a tenant to request permission for a change; category 2 changes must be requested, but cannot be unreasonably refused by a landlord. Details of the types of changes under each category will be set out in secondary legislation and will be subject to further consultation.

In relation to personalisation and pets, the bill sets clear timescales for requests to make changes, and regulates how disputes will be managed; for private rented sector cases, that will be done through the First-tier Tribunal for Scotland.

Overall, the measures in the bill are part of our vision for the rented sector in Scotland—we aim to improve affordability and strengthen tenants' rights, while helping to sustain tenancies for the benefit of tenants and landlords.

I continue to listen to the information that stakeholders share and I will bring forward the amendments at stage 2 that I referred to, once we have had the opportunity to consider in further detail how the options will take account of the interests of tenants and landlords, while also encouraging investment.

My officials and I look forward to answering any questions that members might have on these parts of the bill.

The Convener: Thank you for your opening statement. We have a number of questions to get through today, and we will follow our usual format. I will start with some general questions, and then we will go on to rent control, evictions, personalisation and other issues. I hope that we will do so in the time that we have allocated, but we might go a bit over time.

I will start with a question that came to light as a result of our evidence session last week. We heard concerns from witnesses, including a representative from the Chartered Institute of Housing Scotland, about the absence of a clear vision for the private rented sector in Scotland. Can you briefly set out your vision for the private

rented sector and the role that the bill plays in its delivery?

Paul McLennan: I touched on that in my opening remarks—there are a number of key aspects, and I will try to keep my comments to a minimum.

One aim is to encourage growth in the sector, which is incredibly important. The sector plays an important part in the all-tenures approach that I have taken, and which has been discussed by stakeholders in previous sessions. It is about getting the balance right between the rent controls, which we have touched on and will go on to discuss, and the investment opportunities. That is one of the first aspects.

Another key aim is to ensure that we have the best-quality homes in the private rented sector and a flexible system for both tenants and landlords. That is a difficult balance to strike, but I think that the bill achieves it with what is being proposed.

Another key area is to look at how we tackle not just child poverty but fuel poverty and homelessness.

There are other aspects; for example, we need to move towards net zero, so how do we help landlords to do so? That is not part of the bill, but it is part of the on-going discussion with landlords.

Another aim is to ensure that tenants and landlords understand their rights. Again, that is about trying to strike the right balance, and I think that the bill does that.

That is a very quick run-through but, with the measures that are being proposed, we have tried to get the balance and flexibility right all the way through the bill.

The Convener: Can I come back on the encouragement for growth? Last week, the Chartered Institute of Housing said that there is no sense of what size the sector needs to be. Have you been looking at that?

Paul McLennan: I am keen to look at that more broadly outwith the bill. I have met the Scottish Association of Landlords on a number of occasions, and we have another meeting coming up. One of the key issues is that there has to be a tripartite agreement and almost a strategic approach. That includes not just the Scottish Government, landlords and investors but local authorities. In discussions with local authorities, we are trying to work with them to understand what the private rented sector looks like in Glasgow and in Edinburgh and what other roles it has in other parts of Scotland. When I have meetings with local authorities, I always ask them about the role of their private rented sector.

I have a meeting with John Blackwood and the Scottish Association of Landlords to talk about what that approach looks like. How do we get a closer relationship between the Government, the rented sector and local authorities? We will explore that and see what we can do there. The private rented sector is an incredibly important part of striking the balance with housing, but it is different in every part of Scotland, so it needs slightly different approaches. That is an important aspect.

10:15

The Convener: I understand that there are nuances for different local authorities. When you get some information or a sense of the appropriate size, the committee will appreciate hearing about that. The evidence that we heard last week was striking.

I will move on to our next question, which concerns the perspective of tenants. Our panel of tenants told us about the difficulties of accessing social rented housing and of unaffordable private rents. There is concern that the bill will not address housing affordability, as it will not affect existing rent levels, and that it will not address the fundamental problem of the supply of affordable housing. From your perspective, in what ways will the bill address the symptoms of an unbalanced housing system?

Paul McLennan: There are a number of things there. One concerns getting the balance right between protecting rents and the need for investment, as we need investment in various sectors. It comes down to supply and demand. We will move on to discuss rent controls, but we need to strike the right balance to encourage investment while protecting rents and keeping them at a reasonable level. We will touch more on the nuanced aspects of rent controls, but it is important to encourage investment. More broadly, when it comes to getting a more balanced rent control system in place, although we have had temporary measures, we now need to move on to a set of measures that encourage more balanced rent increases, as well as encouraging investment.

This is not covered in the bill itself, but I will mention a piece of work that we undertook with Ken Gibb, who was looking into affordability. The report on that—which I have referenced before—has just been submitted, and we are considering what it says. It will be taken into account in the broader discussions around rent controls. As I say, it comes down to supply and demand, and we need to increase the supply of housing—that is incredibly important. The bill covers rent controls, and it also considers how we can encourage investment. If we can encourage investment and keep rent controls at a certain rate, we will be able

to build houses at a quicker rate as part of the all-tenures approach. That is the important aspect for me.

The Convener: We are aware that there is a new housing national outcome. I would be interested to hear how the bill fits in with that and how you plan to monitor the impact of the bill, so that we can judge its impact on the housing sector and on tenants' and landlords' lives.

Paul McLennan: I supported the national outcome on housing before I became minister. It was discussed by various groups, and its importance for housing has been recognised, with discussions about what the outcomes will actually look like. Indeed, it is still under discussion at the moment. I am happy to write back to the committee about that, as it is important.

Data will be an important aspect of rent controls and of determining what comes through on a local basis, as well as nationally. That goes back to the point about the nuanced approach. What levels of investment are coming through for mid-market rent, build to rent and other forms of investment in the housing sector? I think that that is measurable.

Like for any bill, we need to evaluate how effective the measures have been—through rent controls and rent increases, and through the levels of investment being made. We will write back to the committee with more details about the national outcome.

The Convener: Great—thanks for that.

We will now move on to discuss rent, and I invite Pam Gosal to ask the first question. A few other members wish to ask supplementaries, and you can then come in with your second question, Pam.

Pam Gosal (West Scotland) (Con): Thank you, convener, and good morning, minister and supporting officials.

In previous evidence sessions, witnesses raised concerns that the Housing (Scotland) Bill could shrink the market and lead to a further reduction in the number of homes available. Witnesses emphasised the importance of giving confidence to investors in the build-to-rent market, and they believe that changes are required in the bill. Does the Scottish Government accept that those are valid concerns? If so, what changes to the bill does it believe are necessary?

Paul McLennan: I have engaged extensively with stakeholders since the bill was published, as I did before then. When I took over responsibility for the bill from Mr Harvie, I reviewed what had been previously proposed. It was key for me to set out a bill that still protected people, where they need protection, from rent increases. That is the main point of the bill, which we indicated in the

programme for government last week. The need for investment is also important, whether that is in the mid-market rent sector or the build-to-rent sector. We are engaging with stakeholders extensively on that and will continue to do so. There is no doubt that we need investment in order to build homes.

As we know, Government funding, whether it is in the United Kingdom or Scotland, is extremely tight at the moment and institutional investment will not replace the need for it. Although I hope that Government funding will expand and grow, we need investment in the sector, whether that is in the mid-market rent or the build-to-rent sectors. In the programme for government, we talked about the commitment to growing investment fund MMR stock.

About nine months ago, I also set up a housing investment task force, which brought together investors, banks, local authorities and the likes of the Scottish National Investment Bank and the Scottish Futures Trust, to look at how we can get more money into the sector. Rent controls have been part of those discussions. There are also other ways in which we can try to get money into the sector, and I am committed to making sure that we get investment into housing.

I take on board what investors have said, but I hope that what we achieve through the bill will allow investment to come into Scotland. There has already been investment, but we need more. Lots of developments need an all-tenure approach. Sometimes that will be done through local government and funding will be provided by local authorities and registered social landlords, but we also need institutional investment for that. In the bill and through what we are proposing with rent controls, I hope that we can strike that balance.

Pam Gosal: My supplementary question is about a huge issue that is driving up rents. We all know that we simply do not have enough homes in Scotland. Has the Scottish Government taken any action to better understand the resource constraints associated with tradespeople in the private rented sector?

Paul McLennan: I think that that problem is much broader than the private rented sector. The Construction Industry Training Board published a study six to nine months ago that broke Scotland down into 10 areas and identified the resources in those areas, including the workforce, operating companies and colleges. I continue to meet Graeme Dey to discuss how we fund colleges and construction courses. I have had further discussions with the CIH about how we professionalise the construction sector and ensure that those in it are as qualified as possible, and I asked the trade body to produce a paper on that, which we have recently received. We are working

with the body on how we expand qualifications and are looking at what else needs to be done in the sector to ensure that it has enough qualified people and that it attracts them because, traditionally, the housing sector has not done that, but there are great opportunities for people.

As we know, there have been issues because of Brexit, which has reduced the size of the workforce. We need to ensure that we try to get people into the construction sector. The issue of visas for the sector has been raised with the UK Government. It is not just affecting housing. If we look at the growth in renewables, for example, having spoken to colleagues in that sector, I know that there is a real demand for construction work for that. We are looking at a number of solutions to try to ensure that the sector is up to the level that it needs to be at with recruitment and for future training. I think that the average age for people who are working in the construction sector is 60, or near enough. We cannot go on like that; if we look at the demographics, we see that we will run out of people. It is a challenge, but we are approaching it in different ways.

Pam Gosal: In your answer to the first question, you said that a task force had been set up. Is that task force working? You told me that investors and banks are on the task force and are giving you guidance, but over the weeks that the committee has been taking evidence on the bill, we have heard that there is a big issue with certainty in investment and the fact that people do not want to invest in the housing market any more. People who have given evidence to the committee have said clearly that there is an issue.

Paul McLennan: One of the key things that I mentioned at the start of the bill process was about making sure that we give investors that clarity, which, from speaking to them, I know that they want. It is long-term patient capital, which no one tends to invest in, so they want clarity over a certain period of time. That is the message that has come through in the discussions that I have had.

The two-pronged approach is about setting up the housing investment task force, on which there are members of the investment community that are part of those discussions, and about trying to give clarity through the rent controls.

A key aspect that the housing investment task force is looking at is barriers to investment. It is not just looking at rent controls but at a much broader range of measures, such as the use of guarantees. The housing investment task force will produce a report with recommendations, so that work is being driven by the task force itself.

We talked about the MMR commitment following last week's programme for government, which

kind of came out of discussions with the housing investment task force. We are looking at different ways and different models to deal with that, which we hope will come out in the short term through the task force's recommendations. However, we need to give clarity on rent controls—there is no doubt about that.

Pam Gosal: When will that report come out?

Paul McLennan: I think that we are looking at the first quarter of next year—that is the task force's target. I am happy to write to the committee on that point. However, the minutes are online, so they can be looked at.

The Convener: Thank you. I will go back to the First Minister's announcements on amendments that will seek to attract more investment. We are interested in understanding the Government's plans for amendments to this part of the bill, and in knowing whether one of the potential proposals is inflation-linked increases. You are maybe exploring that area. I think that one of the issues is how attracting more investment can be brought about without allowing more profit to be extracted from tenants and thus continuing to make housing ever more unaffordable. I appreciate that you have a balancing act here, but it is quite an important issue.

Paul McLennan: You are right; inflation-linked increases is one of the issues that is being considered. I previously mentioned the discussions that we are having with Living Rent, investors and so on, about trying to strike that balance. It is a tough ask, but I still think that we can achieve that balance with what is being considered, to make sure that we have protection for tenants but can also encourage investment.

I cannot go into detail, because we are still considering and discussing the matter, and we have meetings planned with stakeholders on that. However, one of the key things is trying to strike that balance, which I mentioned at the start. It is also about trying to provide flexibility.

As I said, it is about giving clarity to investors—as Ms Gosal mentioned—and about making sure that we protect people where they need to be protected, which is where the local approach with regard to data and getting local authorities' and local residents' views can come in. That is incredibly important in trying to get that balance.

The rent increases are not the same across Scotland, as we know. It involves a much broader discussion about supply and demand and about how we encourage more house building in Edinburgh and Glasgow. I regularly have discussions with the councils in Edinburgh and Glasgow about what we can do to encourage that. The rent controls in the bill are part of it, but there are much broader discussions going on about how

we bring strategic sites forward. One of the housing investment task force's key areas of work is on how we bring strategic sites forward at a quicker pace. That requires a mix of investment, local government funding and Government funding, and there is the question of the role of the SNIB and the SFT.

It is a much broader discussion, but what we are looking at is all about trying to strike a balance. Hopefully, when the amendments are lodged, we will demonstrate that.

The Convener: If new amendments come, we will potentially do a bit more evidence taking.

Paul McLennan: I was going to mention that. Of course, we would be happy to take part in that.

The Convener: Mark Griffin has a supplementary question.

10:30

Mark Griffin (Central Scotland) (Lab): I think that most people would accept that the rent control elements are the flagship part of the bill. Given that this is our last evidence session, and that we will be producing a stage 1 report, with recommendations, in the dark, without any knowledge of what the final proposals for the flagship element of this housing bill will be, has the Government given any consideration to withdrawing the bill and committing to reconsulting on whatever the final proposals are? Will it give the committee the chance to consult on that and to make substantive recommendations and conclusions in a relevant stage 1 report? We are otherwise going to be debating in the dark.

Paul McLennan: The answer to the question of whether we will withdraw the bill is no, for a number of reasons.

I will go into more of the detail.

We need clarity for tenants about what the rent increases will look like. Ms Gosal mentioned investment opportunities, and investors also need clarity.

In terms of where we are now, it is a framework bill to give flexibility, including in relation to what is required in local areas. What the rent control formula will be is also an important part of it.

Another key thing is discussions with stakeholders. I appreciate Mr Griffin's point about the committee, and I am happy to come back to the committee when the amendments are lodged. Discussions with stakeholders in order to get the balance right is an important part of the rent controls, if they are proposed.

Coming back to the point about areas, if a local authority proposes and would like to go down the

route of rent controls, it has to go out to consultation and consult the people who live in the area, which is incredibly important. The principle of rent controls is there, but the rent control measures that are proposed in Edinburgh will be different from those in Glasgow and in other parts of Scotland. Consultation is built into the bill. If a rent control is to be introduced, it is all about trying to strike the right balance.

I take the point that Mark Griffin made about the committee, but we need to move on in relation to giving that clarity to tenants and investors and trying to strike that balance. It is also about giving that certainty in relation to keeping people in the private rented sector.

When we talk about investors, we might be talking about landlords who have one, two, three, four or five properties. It is important that we recognise that the PRS is an important part of it, but so are the investment sector, the MMR sector and tenants.

I appreciate the point that Mark Griffin made. I am happy to come back to the committee when the amendments are lodged so that I can be held to account; that is what I am here for.

It is about giving us that flexibility. It is all about trying to get that balance and move us on at a time when we need a little more certainty.

The Convener: Will you give us a timeline for the work that you are doing, so that we have an understanding? For example, if we publish our report, how much time will there be between our report coming out and that information coming out?

Paul McLennan: Correct me if I am wrong, but I understand that your report is due out at the end of October.

The Convener: Tentatively, at this point.

Paul McLennan: I would think that it would be around that time, or not too far off. Again, I am happy to come back to the committee when the amendments are lodged to have that discussion and take that further.

The Convener: Emma Roddick, would you like to come in?

Emma Roddick (Highlands and Islands) (SNP): Yes, thank you—

Paul McLennan: I am sorry, but I will make another point.

One of the key things—which Mr Griffin knows about—is that I will be having discussions: I think that we have a note out to Mr Griffin, Mr Briggs and others about discussing the bill. When we talked about the Housing (Cladding Remediation) (Scotland) Bill, one of the key things for me was

about making sure that it was as collaborative as possible. I really want to see that approach again. I will be talking to Mr Griffin, Mr Briggs and other party spokespeople about that. It will be about saying, "Okay, where do you see this going?". Ultimately, the bill has to get through Parliament as well. It is about discussing it and trying to be as collaborative as possible.

I am happy to meet Mr Griffin and Mr Briggs. I think that there are already letters out and meetings planned within the next few weeks to discuss that. Again, that is open to any member who wants to discuss the bill with me; I am happy to discuss it with them.

The Convener: Thank you. That is very much appreciated.

Emma Roddick: Part 1 of the bill gives ministers power to designate part or all of a local authority a rent control area based on the reports that councils have to submit. The minister has mentioned Edinburgh and Glasgow. Does the Government have indications at this stage from other areas that it expects to take such a direction, and will the tests be the same for all local authority areas?

Paul McLennan: I mentioned Edinburgh and Glasgow because when we look at rent increases we see that they are areas that have been under pressure. I think that that is down to supply and demand, and to much broader measures. I talked about how we might bring forward strategic sites in Edinburgh and Glasgow. We have had discussions in Edinburgh and Glasgow on that; for example, I asked the Edinburgh city region body to produce a report on the eight strategic sites there and to say what is required to bring them forward and the time for that, because the quicker we can increase supply, the better. That is basic economics around supply and demand. Glasgow is similar—a broader approach will be taken through looking at the city region.

When you look at rent increases in different parts of Scotland, you sometimes see rent increases that are quite low. I have visited parts of Scotland—for example, Inverclyde—that have that opposite problem. Therefore, the local approach is really important. I am not saying that the controls need to be in Edinburgh and Glasgow—that is not a Government target. I gave those as examples because they are the areas where large rent increases have been identified.

Obviously, we would consult the Convention of Scottish Local Authorities and the local authorities on what that looks like, and we would look at the data behind that to be sure about what is taken forward. The process has to be done in consultation with local authorities and based on the data. As I have mentioned, we need to do a

little more on the data and to work with local authorities on that. For example, I talked about the size of the PRS in Edinburgh and Glasgow. I would like to see closer collaboration between local authorities, the PRS and the Government on what the sector looks like, its opportunity to grow and its role in tackling homelessness. How do we incentivise people to come back into the PRS? That is a much broader approach.

There is also a need to consult the local community on what rent controls actually look like. However, we need to have flexibility in the system, based on what is required in Edinburgh and in Glasgow. A rent control area will be set out for a period of time, but if we find that the data changes over the period, the rent controls might not stay in place. If there are changes in the economy, we will have the flexibility to remove the rent controls at those times.

I gave Edinburgh and Glasgow as examples because those are the areas where the largest rent increases have been.

Emma Roddick: If similar rent increases to those in Edinburgh and Glasgow were seen in other areas, would the Government seek to implement rent control areas there, as well?

Paul McLennan: That would need to be set out, based on the broader situation. There are specific issues behind the rent increases in Edinburgh and Glasgow. We have talked about the opportunities around the freeport and renewables hubs in the Highlands. If construction workers go into those areas, how will that increase rents? That might be for the short term, but we need to take cognisance of it. For example, if workers are being attracted to the freeport area—Highland Council has estimated that there could be 25,000—we have to ensure that we are building houses at a level that meets that demand. We are having discussions with Highland Council about that and on the renewables hubs to consider the opportunities for accommodating construction workers and the legacy housing opportunities behind that. We need to take cognisance of other local impacts that there might be.

The flexibility allows us to look at controls in different parts of Scotland and the reasons behind that, but that has to be backed up by data.

Emma Roddick: Local communities have been mentioned as consultees a few times now, but the bill refers to local authorities and representatives of tenants and landlords in that regard. Is consulting the wider community a change in direction?

Paul McLennan: I will bring in Yvette Sheppard on the specifics. The key thing is that local authorities will come forward with what they think,

and we will look at that. Yvette might want to touch a wee bit on the broader consultation.

Yvette Sheppard (Scottish Government): It remains to be seen how the proposals will be consulted on, but in the process as envisaged the assessments will be carried out by local authorities and will come to ministers, who will assess that information. The local authorities will carry out the assessment based on guidance and information from Scottish ministers on how it should be done. We are working in partnership with local authorities to determine what the assessment process will look like, as part of the work that is going on to support the detailed development that will allow for implementation. Ministers will assess the information and make the decisions in discussion with local authorities.

There is a requirement to consult where rent control areas are potentially going to be taken forward. There are various ways in which we could do that. We could consult individually on each local authority area. We could also consult nationally and put out a single open consultation that allows anyone to comment on places where ministers intend to introduce rent control.

There is a little bit of detail to think through for implementation. There are different approaches that could be taken. It could be done locally by area or nationally, with a list of all the areas where a local authority assessment has indicated that rent control should be put in place, to allow anyone to make comment that could be taken into account in the final decision making.

Emma Roddick: Can I have something clarified?

The Convener: Okay—but we really need to move on.

Emma Roddick: It sounds like the language that is being used is different, at this point. It is about councils making proposals rather than ministers making decisions based on the reports that all local authorities have to provide. Is the bill moving more towards councils requesting rent control areas? How would that be different to measures such as the likes of rent pressure zones, which no council has managed to implement?

Yvette Sheppard: No. The bill places on local authorities a duty that they do not currently have. There will be a duty on them to carry out an assessment of rent conditions in their local areas that will run on a cyclical five-yearly basis, so that we have a long-term commitment to assessing rent conditions to establish whether it would be appropriate to introduce rent controls.

Local authorities will have the duty to assess in accordance with whatever guidance ministers

issue and then to make a recommendation based on the outcome of the assessment. That recommendation and assessment will be passed to ministers. Ministers will be the decision makers. They will review the information, understand the outcome of the assessments, look at the recommendations from the local authorities then make the decision, subject to consultation and, obviously, an affirmative instrument going through Parliament for the final decision.

Pam Gosal: Previous witnesses told us that there is a lack of robust data, which could leave councils liable to legal action should they decide to enforce a rent control area. In fact, data on the private rented sector is so poor that we cannot reliably tell whether it is growing or shrinking. Witnesses are sceptical about whether a robust data set will be in place by 2026. Do you share those concerns? If so, what action is the Scottish Government taking to improve data on the private rented sector? I also have a question about the national side of the matter, but I will let you answer that right now.

Paul McLennan: There is recognition of that. I touched on the data point earlier. The new deal for tenants touched on data.

I will touch on the specifics, but the relationship between local authorities, the Government and the PRS is important. How do we strengthen that? How do we ensure that there is a closer relationship at the local housing strategy level, investment level and planning level? What does that look like? That gives you the overarching relationship that I would like to develop, because it is important. I have discussed that with local authorities and the Scottish Association of Landlords. We have a meeting at which we will discuss that in a wee bit more detail, which is important.

There is already work under way on data, because we will need it to determine rent controls for local areas in the future. If we do not have data, we will make assumptions based on data that might not be accurate. The key thing is how we develop the data that is needed. We are discussing that in detail with local authorities.

Yvette might want to touch on that in more detail, but I have that discussion with councillor colleagues and officials. That is a key part. Yvette might want to add something else on the logistics of how it works, but there are continuing discussions.

Yvette Sheppard: There are two things to reflect on in the bill, as it stands. There is a power for local authorities to require data from landlords in relation to the information that would be required to support local authorities to carry out their assessment: local authorities will have the

power to approach landlords for the information. There is also a provision for local authorities to apply to the First-tier Tribunal for Scotland for a penalty—in short—to be placed on landlords who do not provide that data. In terms of carrying out the detailed assessment process, that power would be available to local authorities, and they would be able to access the data that they would require on tenancies and rent levels to support their assessment.

10:45

As the minister has alluded to, there is an acceptance that improved data on the private sector, and the rented sector more generally, would be helpful when it comes to rent control and more broadly. Our new deal for tenants consultation reflected on that.

Work is under way on a data collection project to look at the best way to achieve that improvement. A lot of different options could come into play in terms of how best to deliver that in a robust way that gets data that is verifiable, that supports rent control development and that is cost-effective and feasible in a practical sense to deliver. Another project that was already going on is looking at how, in the future, we could improve data collection more generally. Those two projects are working in parallel.

As I mentioned earlier, we also have a local authority working group on rent control. We are talking with that group about how the actual assessment process will be designated. We are looking at a two-stage process, which will include a screening exercise that can go forward on the basis of data that is already available. We collect data on the private rented sector through rent service Scotland, and a more detailed part of the process would look in more detail at how local authorities themselves could collect data to support that.

Pam Gosal: I will pick up on the local authority working group. Minister, you have probably heard the earlier evidence sessions on the bill. The Convention of Scottish Local Authorities spoke about having a national approach, because a collective approach would ensure that no legal challenges come through. Witnesses have also said that resources are very important. Are you looking at that in the bill? Council budgets are already cut, so looking to them to collect the data will put more of a burden on them. Where will you address the need for local authorities to have the right resources and support mechanisms in place?

Paul McLennan: There are a number of ways in which that is being done. One is by having discussions; there are discussions among officials on that, which Yvette Sheppard can highlight.

Secondly, there are discussions with local authorities. I have talked to them about the resource issue, so the issue has been raised and that is important. The financial memorandum sets out an initial estimate of the costs. As we develop the bill, the financial memorandum will need to demonstrate the resources that are required.

Our discussions with local authorities are not just about what the data collection is about; they are also about the resource that is required to do it. That information will come in an updated financial memorandum. The discussions that we are having are looking at the resource for local authorities, because the point that you make is incredibly important: we cannot put additional pressures on local authorities without the resource. The discussions cover what resource is required to deliver the data that we are looking for. That has been raised by local authorities, and we are asking them to be more specific about that. The initial discussions are about estimates.

Pam Gosal: What are your thoughts on the national approach?

Paul McLennan: I think that Yvette Sheppard touched on that. That is one of the key things in our discussions with local authorities and, for example, the Scottish Association of Landlords, because they have data on what that looks like. It is really important that we have that data, both on a local basis, because that will determine the size of the sector in Edinburgh, Glasgow and other local authorities, and nationally, because that will inform how we develop the PRS sector and the role that it plays in Scotland. There is a need for that. I hope to discuss that with local authorities and the SAL when we have a discussion relatively shortly.

The Convener: I will bring in Mark Griffin with a few questions.

Mark Griffin: I want to come back to MMR. It is good to hear that the Government recognises the importance of mid-market rent properties, which make up a crucial part of the affordable housing supply programme. We have heard evidence from witnesses who are concerned that any legislative application of rent control to the MMR sector could impact on supply, which neither of us would want. Given the commitments that have been made in the programme for government and today, has the Government given any consideration to exempting mid-market rent properties from the rent control proposals?

Paul McLennan: I cannot go into the specifics of MMR. A key thing to mention on exemptions is that the bill gives us the power to specify types of properties, or other circumstances, for which rent increases would not apply. When we discuss some of the amendments at stage 2, those details

will become clear. We have demonstrated the value of the ability of MMR properties to bring in additional capital. As is mentioned in the programme for government, the £100 million that we will commit will bring in additional capital of about £500 million, based on some existing investments.

In discussions with the housing investment task force and with colleagues in the housing sector there was recognition of the importance of MMR—you have probably heard the SFHA talking about it. We are listening to what the SFHA and a range of other stakeholders are saying.

Mr Griffin will also know that the all-tenures approach is key. It is not just social housing; we need a mix of MMR and other types of housing in different parts of Scotland. MMR is easier to offer in some parts of Scotland than in others. Private investment also comes in. I have visited a number of developments—as, I am sure, committee members have—where there is a mix of social housing, MMR housing and private development. I want to see that flexibility in the Scottish housing market, because that is an example of how we can look at projects that may not be viable on their own, but with a mix of MMR, private development and social housing they work. It is about trying to achieve a balance with that. As we lodge amendments to the bill, there will be recognition of the evidence that has been taken, and we are listening to all stakeholders. Again, it is about striking the right balance. I am happy to discuss the specifics of MMR in more detail once they are available.

Miles Briggs (Lothian) (Con): Good morning to you, minister, and your officials. I express my frustration, as Mark Griffin has, that we are not able to look at the detail. I have been arguing for some time that the mid-market rent sector, especially in the social rented sector, should be removed from the bill. I hope that it is. The mystery is not useful for us when we are doing our work. I hope that, when we meet, we can get clarification on that. I met a number of developers during the summer that have withdrawn from pretty large-scale developments in Edinburgh, which are desperately needed.

Some evidence has suggested that landlords are leaving, or are planning to leave, the private rented sector. From what I have heard, there seems to have been a change in tone from the minister since the change in Government structure. What has been done to derisk the bill for landlords to ensure that we have a balance and that we do not see a loss of more private rented sector properties, especially in the capital, where that has been happening?

Paul McLennan: I will talk about the specifics of the bill. It is important to recognise the private

rented sector—I will touch on MMR and BTR in a wee second.

First, the private rented sector is important. We have had discussions with the City of Edinburgh Council and Glasgow City Council and it is fair to say both councils know that they need to work more closely with the PRS in a strategic approach. I would like and would encourage deeper discussions on the role of the PRS in Edinburgh, Glasgow and other parts of Scotland and for that to be part of local housing strategies, and we have written to local authorities about that.

The second consideration is how we ensure that the sector grows, and that needs to be recognised in the bill. The bill tries to strike a balance between what is proposed for rent control and the need to bring in investment. Investment might look like a landlord who currently owns one property buying another; or someone who owns five or 10 properties looking at doubling up. I have said to the SAL that I want to see people coming back into the sector. The latest data shows that numbers have slightly increased. Anecdotally, having spoken to the councils in Edinburgh and Glasgow, I know that they have found that landlords who own single properties are selling up but they are selling those properties to landlords who have a bigger portfolio, such as five, 10 or 15 properties. The number of landlords is probably decreasing and the number of properties in the sector is slightly increasing. At the moment, there is a slight lag, but that is the data that is coming through on that. That is recognised.

There are a couple of other things. If a local authority says that it has a requirement for rent controls and comes to ministers, there is also the opportunity to review the matter then. If there is a change in circumstance, for example, rent controls can be revoked. It is not that they are in place for five years and cannot move. There is an opportunity to discuss them and to have flexibility.

One question is whether we can give that clarity through rent controls. If they are a local authority's responsibility, there is flexibility to change them if circumstances change. However, we have to balance how we get into MMR and BTR.

Obviously, we recognise that MMR—housing associations—is an important part of the sector. In Glasgow, for example, because the council is a non-stockholding authority, RSLs have a really important part in how MMR stock is developed. Again, we have listened to what Glasgow City Council is saying and we will consider that. It is the same with Edinburgh. There are a number of housing models, not just RSLs. The question is how they deliver.

There is that wider discussion. Local housing allowance obviously has a part to play in the

matter. There have been discussions with the UK Government previously and there are discussions now about what the role of LHA is. That is an important part of the matter.

We are trying to encourage BTR. We have churn in properties in Edinburgh and Glasgow. That is turning round. We also need to recognise not just the role of BTR in housing—it is important because it increases supply—but its role in bringing investment into Scotland and in construction jobs, as well as the gross value added that it brings into Scotland.

We have picked up on the importance of those things in the discussions about BTR and MMR that we have had with stakeholders and with individual landlords through the Scottish Association of Landlords, for example. On the other hand, we have to make sure that rent controls are there to protect people who need them. The challenge for me with the bill is in striking the right balance. I think that we are moving in the right direction, and I appreciate the point that you make about it being a framework bill.

I am happy to come back to the convener to discuss amendments and any changes in detail when those come through, but it is important to get the right balance. It is a tough ask in a complex market. It is not that one size fits all, but that is what we hope to achieve. I am happy to come back to the committee at the appropriate stage to discuss those matters.

Miles Briggs: Thank you for that.

I have a few more questions with regard to evictions, convener.

The Convener: We will stick with the questions on rents and come back to you.

Emma Roddick: Some private landlords are concerned that, in a rent control area, rent increases between tenancies would be restricted. That is where a lot of rent increases happen. Could you speak to how that might come across in the bill and, in particular, how it could affect rents in rural areas?

Paul McLennan: That issue has been raised. I know that you have an interest in housing in rural areas, which is incredibly important. That is part of the discussions that we are having with local authorities. It is not just the City of Edinburgh Council and Glasgow City Council; we are having discussions with Highland Council and other local authorities. When I go to any local authority, I speak about the PRS. The bill is always raised in relation to that.

It comes back to local circumstances. The issue has not been raised hugely in rural communities. It is more about supply and demand in the PRS. I am happy to discuss that, because you are closer

to the issues on rural housing and have more regular discussions on that. It is more about what the role of the PRS is, and it is different in rural communities. Sometimes it plays a larger role, so we need to take account of the local circumstances.

I will bring in Yvette Sheppard, who has had discussions with rural authorities about this. It has not been hugely raised, but it is an issue that we need to be aware of. It is about local flexibility.

11:00

Yvette Sheppard: On how the measures are currently laid out in the bill, the restrictions on increasing rent—the cap—would apply both within a tenancy and between tenancies. Having the controls apply in and between tenancies is an integral part of ensuring that the purpose of the rent control measures—stabilised rent levels over the period of time that a rent control is in force—is delivered on. Other than that, rents are controlled for existing tenancies, but they can increase when the tenancy ends. If people are in an affordable tenancy but moving will mean a large increase in their rent, that has the potential to make it difficult for people to move to a new tenancy. That can make moving on unaffordable for tenants. That is why the bill is structured as it is. We understand that some landlord stakeholders have a concern about that. They would rather have the capacity to increase rents to whatever level they feel is appropriate between tenancies. However, it is integral to fulfilling the purpose of the measures in the bill that that is not part of the process.

In terms of reflecting on local authority views, we are engaging in our local authority stakeholder group with about 18 or 19 different local authorities and another nine are corresponding with us. Therefore, there is a fairly good spread of local authorities that are engaging with us on the process, working in partnership on rent control and how it could be implemented. Helpfully, we are hearing different views from different local authorities, including those in more rural areas, on how they think this could function for their areas.

Paul McLennan: It is key that the regulations need to be reviewed on a regular basis and that they do not need to be in place longer than is required. The bill is trying to give that flexibility. It is not saying that the period is definitely five years—it gives that flexibility.

There might be circumstances—for example, in a freeport—that impact on the housing market. I visited Shetland and Orkney and talked to people about the impact of renewables development. It is great to have economic development, but if there is an influx of construction workers or longer-term workers for a period of time, it distorts the market

to a certain point. We need to try to tackle that when we are talking about the need for temporary accommodation. We are having discussions with local authorities about that issue; we are having a round-table meeting on it. However, if we or the local authorities do not get that right, there will be an impact on rent. It is down to supply and demand. If 2,000 or 3,000 construction workers move into an area and there is a lack of accommodation, that will impact on the rental market. There is a broader strategic discussion that we need to have, but rent controls should not be in place any longer than they need to be and they should be reviewed on a regular basis.

As Yvette Sheppard said, we are speaking to rural local authorities about that now and trying to look at any issues that might come up further down the line.

The Convener: So the idea would be to put in rent controls in areas such as freeports.

Paul McLennan: No—I am just suggesting that as an example, but I am speaking more broadly. I am talking about how a market might be distorted for a period of time, so we would need to make sure that we are developing housing as the workers come in over that period of time. I am saying that, if we do not get that balance, that might distort the housing market, although I am not suggesting that that would be the case or that local authorities would need to go down that route. However, we need to be aware of local circumstances and how the market might change.

We talked to Orkney Islands Council and Shetland Islands Council, which had seen rents go up by large amounts because there was not enough accommodation. Strategically, we need to get ahead of that to make sure that there is enough temporary accommodation and we need to work with local authorities. As I said, the freeport in Highland will have an estimated 25,000 jobs, so we need to be developing housing to make sure that it is meeting the demand, because it is about supply and demand. We are in discussions with Highland Council and other local authorities and house builders. You will know that we had a meeting last year where we got house builders around the table with the freeport developers and said, “Okay, how do we develop this?” That is an example of how a market might be distorted. I am not saying that there would need to be rent controls or anything like that. That decision would depend on local circumstances and would have to be backed up by data.

The Convener: Before Emma Roddick goes on to her next question, Mark Griffin has a supplementary. I have to ask that we corral the focus back to the bill. It is good to get into the detail, but we have a lot of questions to get

through. I will bring Mark in very briefly, and then I will come back to Emma.

Mark Griffin: I want to ask about the provision on rent increases between tenancies. Does the Government have any concerns about whether that might inhibit investment in improving property standards? I am thinking in particular of net zero and the need to improve energy efficiency. Is there any way to enable landlords who make significant investment in improving their property to be able to have a rent that reflects the increased standard of their property?

Paul McLennan: I know what Mr Griffin is trying to get at, and I can totally understand his position. He has probably had feedback from investors on that issue. We need to recognise that and to provide, through the bill’s principles, a framework that encourages investment. When we are considering amendments, we will have to take cognisance of that. I am happy to discuss the issue in more detail with Mr Griffin, who, I am sure, will have had feedback from the sector. That is an area in which we must try to strike a balance.

Emma Roddick: Section 15 in part 1 of the bill will enable local authorities to request certain information from landlords to support the creation of reports. Would the minister be open to requiring landlords to provide that information as standard?

Paul McLennan: That is still under consideration. Yvette Sheppard might have something to add in relation to the discussions that she has had.

Yvette Sheppard: The measures in the bill are framed in such a way that landlords will be required to provide that information to local authorities, and local authorities will have the potential to apply to the First-tier Tribunal for Scotland for a penalty to be imposed if a landlord does not comply with the requirement. A loop is being closed in relation to obtaining that information.

As I mentioned earlier, a project is under way to look at improving private rented sector data overall. There are a number of ways in which that could be achieved. That is what is being worked through at the moment. We are looking at robust, verifiable, feasible and practicable ways of collecting that data, which could include landlords providing additional information as standard. However, that involves quite a lot of work. The process needs to be robust and cost effective, and it needs to work for landlords.

Emma Roddick: Why is the onus on tenants to challenge rent increases? We heard from a panel of tenants who proposed an alternative system, whereby landlords should have to apply to a third party, such as rent service Scotland, to increase the rent for their property. That would place the

onus on landlords to ensure compliance, and it would improve data collection and relieve the pressure on local authorities to collect the data. What are your views on that?

Paul McLennan: There are a number of issues there, one of which relates to the general principle of improving tenants' rights, which I touched on. That is one of the key issues. Awareness raising is important, and we have spoken to tenants groups about that.

The bill sets out information that landlords must include in advertisements for rental properties. One of the measures in the bill proposes to modify the existing duty on landlords to provide specified information to the tenant at that time. Both those aspects are required.

There is a need for general awareness raising, and we are talking to tenants groups about that. I regularly meet tenants groups, both locally and nationally. That issue has been raised not only in relation to rent controls but in the much broader context of renters' rights and what we can do to support renters to make them aware of those rights. As you rightly recognised, not everybody who is a tenant is aware of their rights. We need to continue to work with tenants on that.

Emma Roddick: I absolutely agree, but tenants would not have to be so aware of their right to challenge rent increases if landlords had to justify increases in the first place. Should there not be an onus on the landlord to do that?

Paul McLennan: It is a case of trying to strike a balance. I think that what is proposed puts an additional onus on landlords, but we also need to raise awareness of what is there for tenants. I mentioned the fact that, in a rent control area, landlords have to provide specified information to a tenant at the start of the tenancy. There is an onus on landlords to do that. We will continue to discuss that with tenants, but it is a case of striking a balance.

Emma Roddick: Therefore, the Government is not open to moving the onus on to landlords.

Paul McLennan: It is about that balance and what it looks like. There is a duty for both landlords and the Government to do that. We need to make sure that we are picking up the issue of tenants' rights and raising awareness of them, and that duty also lies with the landlord.

Again, there is a whole discussion and debate about getting people into the sector and the regulation for single-property landlords, for example. It is about trying to strike that balance. The balance might move slightly, but I am confident that what is proposed in the bill is what we set out as our initial position.

We will continue to discuss that with other stakeholders and consider the committee feedback and what the bill would look like before it becomes law.

The Convener: A number of times this morning, you have mentioned conversations that you have had with colleagues outside of this room, but it would be helpful if we could respect the fact that this is public scrutiny. It would be good if information and answers could be shared here for the benefit of the whole of the committee.

Paul McLennan: Of course. Obviously, those are discussions that I have in my day-to-day role and not just on the bill, but I appreciate your point.

The Convener: I agree that you have to meet different party representatives, but we want to get the information so that people who are watching this meeting understand what you are trying to do with the bill.

Willie Coffey has a brief supplementary question.

Willie Coffey (Kilmarnock and Irvine Valley) (SNP): Good morning, minister. I want to clarify a point on the application of rent controls, which was discussed earlier. Is it the case that a rent control area can come about only if a council recommends to you that it should come about, because you have the power to designate rent control areas? Is it likely, possible or otherwise that you could proceed to declare rent control areas without the local authority seeking them?

Paul McLennan: There are two ways to look at that. First, there would have to be data to back that up.

Secondly, it is the right of the minister to look at that and say whether they would impose rent controls in an area. If a local authority says that it wants to look at rent controls, the minister at the time can say that they do not agree with that, so the rent controls would not just come in. There is flexibility for the Government and the minister to look at that and say that they do not think that there is a case for rent controls at that particular time. The key thing is that it has to be backed up by data. There would be discussions—it is not something that would happen overnight. It would have to go out for broader consultation. The key thing is that the minister would have the right to say whether rent controls could be brought in, depending on the local circumstances at that particular time. A local authority might want to do it, but the minister might not agree and would have to give reasons for that. The ability to look at that goes both ways.

Willie Coffey: If a council does not make a recommendation for a rent control area, does it go any further?

Paul McLennan: My understanding is that the minister at that time would still be able to bring in rent controls if they wished to do so. However, such circumstances would be highly unlikely. As you said, you are talking about the situation just now, and we do not know how circumstances might change in time.

Yvette Sheppard: As the system is constructed at the moment, the local authorities are responsible for carrying out the assessment and making a recommendation. Those two specific duties are placed on local authorities. Ministers will be required to review not only that recommendation but the evidence that comes forward in the assessment. There will be guidance for local authorities as to how the assessment should be carried out. Stakeholders and local authorities tell us that they would like to make sure that the approach is consistent and that it is clear how they should consider information and evidence to help them to reach the conclusion.

Any decision by the minister will be reliant on the data, evidence and information that comes forward from the local authority, and it will be a case of reviewing that evidence. Where ministers feel that a local authority has not adhered to the guidance or has not carried out the assessment in the way that it was intended to be done, they have the power—in the bill—to ask the local authority to do further work or consider further evidence. Ministers could look for more assessment and further information to be taken into consideration if they feel that the recommendation from the local authority is not really balanced with regard to the information that it has brought forward in the assessment.

11:15

Willie Coffey: Okay. I think that that is clear.

The Convener: Emma Roddick has indicated that she would like to ask one more question. This is such an important topic, so I will allow it before we move on to evictions, the tribunal and awareness of rights.

Emma Roddick: I just want clarification. If the local authority carries out an assessment and the data suggests that rent increases are too high in a particular area but the council is not minded to recommend a rent control area, is the minister prepared to direct one anyway?

Paul McLennan: Can you ask that again, so that I am clear in my mind?

Emma Roddick: If the data suggests that rent controls are required but the council is not minded to recommend that a control area be defined within its area, is the minister prepared to implement one?

Paul McLennan: Again, I think that Yvette Sheppard talked about such circumstances. First, as she touched on, there would be an option for us to go back if we think that the data is not sufficient. If that is still the case when the data comes back, we would have to take it as an individual circumstance, but I think that the minister has the ability to do what you said. There are a number of points before we even get to that regarding whether the data that the authority provides backs up sufficiently what it proposes. That is where issues of broader local consideration come in.

I do not know whether Yvette wants to add anything other than what was added before. Again, there is the procedure of looking at the data that comes forward to work out whether we think that the data that the authority has collected is sufficient and sufficiently supports what it proposes.

It might be the other way round—the authority might come forward and say that it does or does not recommend a rent control area. There are different circumstances. I do not know whether Yvette wants to add anything to what she added before.

Yvette Sheppard: I do not, particularly. The evidence base for designation will come from the local authorities. If the evidence base that comes forward in the assessments indicates that a rent control area would be the right approach, it would be about understanding why the local authority feels that, in that particular instance, that is not the right course of action. However, whether there is evidence to support it is the key consideration for ministers in making a decision.

The Convener: Thanks. Getting that detail was worth our while. We go back to Willie Coffey for questions about evictions and so forth.

Willie Coffey: We will go into evictions territory. Some of the witnesses who were previously at our committee have suggested to us, and to you, that we should review some of the grounds for eviction—in particular, the levels of proof that are needed in order to evict a tenant. There were also requests to improve tenants' and landlords' awareness of their various rights. Have you had a chance to reflect on that, and are you minded to strengthen the relevant part of the bill so that we are clearer about the grounds for eviction, the rights of tenants and so on?

Paul McLennan: As I mentioned, a new deal for tenants is part of our wider strategy. A key thing from that is the learning from coronavirus. As has been talked about, we are committed to a review. I ask Catriona MacKean to come in on that.

Catriona MacKean (Scottish Government): It should be Charlotte McHaffie.

Paul McLennan: I am sorry: I meant Charlotte McHaffie. The timing is still to be confirmed, but it is important that we learn the lessons. Covid was a challenge that we did not expect at the time, obviously, and we had to deal with it. We need to consider the issue, Mr Coffey, because it is an important part of the refreshed look at the bill. At that time, when the emergency legislation was brought in, we knew that there were lessons to learn. I will bring Charlotte in on that point.

Charlotte McHaffie (Scottish Government): Reviewing the grounds for repossession is an outstanding commitment. We knew that such a review was key in our monitoring of the operation of the 18 grounds that were introduced in the Private Housing (Tenancies) (Scotland) Act 2016. Obviously, since then we have had a few changes, such as the strengthening through the Coronavirus (Recovery and Reform) (Scotland) Act 2022, whereby the grounds moved from some being mandatory to all being discretionary, which brought them into line with provision for the social rented sector. A review will therefore now look at a number of aspects, including the levels of proof and, potentially, misuse of some grounds. We have remained committed to doing a review; however, the timing needs to be confirmed.

Willie Coffey: The committee has heard concerns about how the tribunal operates, particularly in relation to the time that it takes to deliberate. There has also been a suggestion that we need an ethics component in consideration of the processes, because that is singularly missing from the work of the tribunal. Has the Government thought about that aspect in order to widen and strengthen the work of the tribunal?

Paul McLennan: The tribunal is really important. I will touch on that in a wee second.

I will maybe bring in Charlotte McHaffie to talk about ethics. One key point is that the Scottish Courts and Tribunals Service is a separate body. Obviously, we have on-going discussions about case numbers, staffing numbers and costs, and we have raised concerns about the time that the process has been taking, but the service is a separate body and the tribunal is a judicial decision maker, so we cannot interfere in that. It is all about trying to strike the right balance. The tribunal sits on its own.

Charlotte might want to touch on whether the ethics point has been discussed. As Mr Coffey will know, there are discussions between officials and the tribunals service, but the tribunal sits separately. Charlotte—do you want to add anything?

Charlotte McHaffie: In the way in which the tribunal operates, ethics and how it considers reasonableness are all part and parcel of the

judicial process. We do not comment on the arrangements that the tribunal has in place. I am sure that determining reasonableness is a key aspect of operation of the tribunal. I do not know whether Craig McGuffie wants to say anything about how reasonableness might be considered, but it is a key part of the role of the tribunal to look at the various parties and ensure that the members who are considering the case act appropriately.

Paul McLennan: Just before Craig comes in, I will say that one of the key things that the tribunal offers is a less adversarial approach. Such discussions can, by their nature, be tricky, as you can appreciate. We should recognise the work that the tribunal does, in which it tries to promote a less adversarial approach in what can be really difficult discussions.

I will bring in Craig McGuffie on the point that Charlotte McHaffie made.

Craig McGuffie (Scottish Government): We do not want to interfere with judicial discretion. The court is best placed to consider matters of reasonableness—far better than the Government would be—so there is nothing in the bill to interfere with that. The separation of powers means that the judiciary is best placed to deal with consideration of the individual circumstances of a case. We can set out parameters for that, but it is not for us to direct the tribunal on the question of reasonableness.

Willie Coffey: Last week, I think, we heard that a tenant can still be evicted if their landlord defaults on their mortgage payments. That falls into the space of questioning whether that is right and proper. Legally, it probably is right, but the question is whether it is ethical to throw a person out because their landlord defaults on their mortgage. That is why the question has been raised. We are looking for clarification from the Government of whether it intends to incorporate such issues within the eviction process and grounds.

Paul McLennan: I will bring in Charlotte McHaffie in a wee second. I am happy to pick that up later if there is further detail on that, or if there is a specific case. Charlotte might want to come in on that specific point, because we hear about that happening occasionally.

Charlotte McHaffie: Those sorts of cases are complex, and there are duties on lenders in respect of how they recover a property. It all comes down to the question of reasonableness. In determining whether an eviction was reasonable, the tribunal would take into account all the circumstances of the case, including the payment default. That situation is not a mandatory ground for eviction any more. In the past, I think that it

was one of the mandatory grounds—I would need to confirm that—but it is now discretionary, so the tribunal could decide that it is not reasonable in the circumstances of the case for the tenant to be evicted.

The current parameters allow for such cases to be considered on their own merits and for a decision to be taken.

Willie Coffey: My final query is about representation at the tribunal. We heard that people are rarely accompanied to or represented at the tribunal, but attend basically by themselves. That is often difficult and challenging for them and they might lack the experience to enable to do it. It has been suggested that the committee should ask the Government whether you think that that is an issue and whether we should give tenants more support at the tribunal to allow them to make their case better.

Paul McLennan: I will bring in Charlotte McHaffie in a second.

I think that the tribunals service allows both tenants and landlords to have representation, which can come from a friend, a family member or someone from the third sector. I am aware of cases in which the likes of Shelter have taken part. Charlotte might want to touch on that.

This might relate to the discussion about tenants' rights and whether they are aware of what is available to them. That goes back to what Ms Roddick asked about whether we should ensure that tenants are aware of their rights. Charlotte may want to touch on that. She can correct me if I am wrong, but I think that they have the ability to do that. We will consider how to support tenants who go to the tribunal so that they are aware of that right, but I think that that right is available.

Willie Coffey: The issue might be the ability to pay for support.

Paul McLennan: From my experience as a councillor I say that support tends primarily to come from Shelter or other third sector organisations. A case would have to be incredibly complex to go to court. I found in almost all circumstances that Shelter had the expertise to help people.

Charlotte McHaffie: There is the ability to have different types of representation at the tribunal. For example, a landlord or tenant could bring a friend or a third-party advocate to the tribunal. They could also bring a solicitor. We acknowledge that there are serious cases where legal representation would be necessary; the same legal aid as is available elsewhere is available to people who need it in the tribunal system.

The Convener: I note that we are fast approaching 11:30, which was our originally

agreed end time. Quite a few members have questions, so is it okay for us to run over by maybe 20 minutes?

Paul McLennan: That is fine by me.

The Convener: We may take a bit longer: it will depend on how long your answers are.

Paul McLennan: I will try to keep them short.

The Convener: It will depend on how long our questions are, too. We may have some long questions.

Miles Briggs: I will try to be concise in looking at some personalisation issues.

You will have seen the evidence that was given by the Dogs Trust. I do not know what thoughts the minister might have had since we took that evidence, but we are looking at how we might flip things round so that it is for the landlord to say whether pets are allowed, rather than for the tenant to apply and go through a tribunal process.

Paul McLennan: On the general question of personalisation, I met the Dogs Trust before I was a minister and, knowing that a housing bill would be coming up, the trust raised that issue. It said that it can be helpful for an elderly person, or for someone who cannot get out of their home because of illness, to have a dog as a companion. That was raised two and a bit years ago, before I was a minister, and I think that it is really important.

I have visited the Scottish Association of Landlords to talk about the matter. Procedure is the key thing and must be in place. Is the pet a wee Chihuahua or a great Dane? I might be exaggerating, but the dog has to be appropriate to the size of the property. To me, the onus should be on the tenant to look at that, but we are trying to be as flexible as possible. We will see what that looks like in more detail when the regulations come in.

Regarding landlords, it is all about making sure that they are aware of the procedure and that they have the ability, within reason, to say, for example, that you cannot have a great Dane in a one-bedroom flat. It is about recognising the importance of people having pets as companions and striking the balance. That is a key thing.

11:30

Miles Briggs: The shift is almost towards a presumption in favour, but taking—

Paul McLennan: On the point about reasonableness, the landlord would have to say what the grounds or reasons were for saying no. There is a balance, and that will be fleshed out in the detailed regulations. You are right that it is

about striking that balance, but the landlord would have to give reasonable grounds for saying no.

Miles Briggs: A significant part of the bill relates to home adaptations. Currently, the bill will require tenants to wait six months before they apply to make modifications to their home. Concerns have been raised about what that could mean for older citizens and people with disabilities. Will you clarify whether their needs will be considered when you are looking at that?

We have also heard concerns relating to other portfolios with regard to people getting home from hospital and whether the timescale can be sped up in such cases. Have those concerns been taken into account? Often, people are stuck in hospital, and the need to make modifications at home is one of the reasons that we have heard for delayed discharge.

Paul McLennan: Yes, you are right: that is an issue in relation to adaptations. One aspect is about ensuring that local authorities are more proactively aware of the adaptations that are required. There will be cases in which a person who is coming home from hospital needs adaptations to be made. There is guidance to encourage landlords to consider that and to move as quickly as possible. I do not see a situation in which a landlord would say no, unless there are real technical issues, such as in relation to changes involving heavy lifting gear. There is support and guidance in order to try to provide changes as quickly as we possibly can, which is really important.

I touched on category 1 and category 2 changes. It depends—if the adaptation involves a couple of handrails, I would not imagine that that would be an issue. If it involved lifting gear going in, for example, that might impact on the property, so I imagine that there would be discussions at an early stage about the technical stuff. However, there is support and guidance to encourage landlords to be as flexible as possible in that period, particularly in respect of the issues that you raise. I am sure that most landlords would be sympathetic, but it would depend on the level of adaptation.

Miles Briggs: Significant research has been done by the University of Glasgow and Marie Curie on terminally ill people having to move. Statistics show that 27,600 people in Scotland had to move home as a result of experience with dying, death and bereavement. How is that dealt with in the bill? Marie Curie's evidence to the committee suggested giving terminally ill people full exemption from eviction. Where is the Government with regard to drafting potential amendments on that?

Paul McLennan: Marie Curie has mentioned that point in recent discussions. I expect to get some correspondence about that matter, if it has not already come in. That suggestion is something that we could consider.

I have also had discussions with MND Scotland and Marie Curie about getting in place a process to deal with adaptations, because sometimes a situation is life threatening. In some cases, such as with cancer or motor neurone disease, things can happen very quickly. Therefore, it is important to get in place a structure to ensure that matters are dealt with. For example, we have been speaking to the Association of Local Authority Chief Housing Officers about local authorities having a process to ensure that those people are prioritised. For the PRS sector, again, we should have a process in place for people who are terminally ill.

I fully expect that MND Scotland and Marie Curie will send in something in writing, and we would look at that sympathetically, because we are trying to get people in as comfortable a position as possible. As I said, both MND Scotland and Marie Curie have raised the matter in previous discussions, but we have not received anything yet, as far as I am aware.

Charlotte McHaffie: We have already had discussions with Marie Curie about those issues. It might be helpful to say that there are existing processes to enable tenancy succession in the social and private rented sectors. That is not a blanket provision. With regard to the tribunal, the fact that all the grounds are discretionary provides a significant protection to ensure that the right decision is taken by looking at all the circumstances of each case.

Miles Briggs: That is helpful. I am sure that there will be cross-party amendments on that as the bill progresses, and it will be useful if the Government legal team can assist with those.

Paul McLennan: I think that you are right, Mr Briggs, looking at the matter legally. The point that you make will be looked at sympathetically, and there have already been broader discussions about the process for adaptations and succession, as Charlotte McHaffie mentioned.

Gordon MacDonald (Edinburgh Pentlands) (SNP): Good morning. I will ask about part 4 of the bill and unclaimed tenancy deposits. Minister, you said in your opening remarks that you want to use those deposits for the benefit of tenants in the private rented sector. Can you be more specific about what you mean by that and what the cost would be of providing that additional service?

Paul McLennan: That has been recognised as a key issue. I visited a rent deposit scheme to see the work that it does, and I was impressed by the

way that it tries to return deposits to the best of its ability. Unclaimed deposits represent a substantial amount of money, and that is one of the key issues that it discussed with me. It is important to have the necessary contact information. It made the point that, sometimes, it has only one telephone number or email address and that, if somebody changes that, it suddenly cannot get hold of them. People get to the end of their tenancy, move on and forget about their deposit.

Gordon MacDonald: I was going to ask about that. There seems to have been a substantial increase in the number of deposits that have not been claimed. In March 2021, the value of those deposits was £3.3 million; in March 2024, it was £5.4 million. There seems to have been a big increase between March and September 2023. Do we know why that happened at that time?

Paul McLennan: At the time when I visited the rent deposit scheme, which was about a year ago, there were issues to do with Covid and people moving in and out again reasonably quickly. I am not too sure why there was that increase at that time. Charlotte McHaffie might have something else to say on that.

Charlotte McHaffie: We can look at that question specifically and write to you about the figures. We would also need to speak to the deposit schemes. One thing that the review of tenancy deposit schemes showed was that the increase related to international students, but different factors come into play with regard to why deposits remain unclaimed.

Gordon MacDonald: I have looked at the numbers for the three deposit schemes. The figures were provided by the Scottish Association of Landlords. Mydeposits Scotland's unclaimed deposits increased by 16 per cent over that three-year period, while SafeDeposits Scotland's figure for the period was 69 per cent and Letting Protection Service Scotland's figure increased by nearly 300 per cent. Do they all operate on the same basis, and do they all operate with regard to the same demographic?

Charlotte McHaffie: My understanding is that it is not the same demographic but, again, we can write to you to confirm the information. My understanding is that some of them are more heavily based in the student market, for example. There are such elements at work, which feed into the picture. However, they all need to comply with the same regulatory framework and key performance indicators. They are therefore the same structurally, but they have different systems, some of which have expanded to include the ability to gather additional, alternative contact details, which is helping with the return of deposits.

Separate from the bill, we are looking at using existing regulatory powers to change the regulations and increase the requirement to hold alternative contact details, so that all the schemes are subject to the same requirements. However, some have independently shifted to address that issue.

Gordon MacDonald: A survey that was done back in 2017—which considered, I think, only one of the deposit schemes—showed that some international students forgot about their deposits, some thought that they would not get them back and some thought that it was too inconvenient to reclaim them. What can we do to address that? We are now seven years down the line, and the amount of money that is lying unclaimed has probably more than doubled since 2017.

Charlotte McHaffie: You are right. The information that tenants have is key. The changes under the bill will mean that we have another opportunity, as part of implementation, to be clear with tenants about what will happen if they do not reclaim their deposit. If people know about the deposits that are sitting unclaimed, that will help to raise awareness.

A substantial number of the historically unclaimed deposits are now quite old. There is a challenge in relation to those ones as we cannot contact the former tenants, but there is also an opportunity, through raising the awareness of the general public and implementation of the measures, to ensure that some tenants come forward to reclaim their deposits. There are a number of opportunities in our implementation plans and in our communication strategy that can support some movement.

Gordon MacDonald: Do we have the right balance between the landlord's powers and the tenant's right to reclaim their deposit?

Paul McLennan: There is an onus on the landlord to take as much information as possible at the start of the process. If a tenant changes their only email address or their mobile phone number, which could be their only number, it becomes difficult. As I said, the onus is on the landlord to get as much information as they can. There is also a responsibility on the tenant to provide as much information as possible, but it should be made clear at the start of the process that there is a substantial amount of money sitting there.

You mentioned the substantial increases, Mr MacDonald. I imagine that the situation is partly down to Covid, but it is not just about that. We cannot have a situation where an international student changes their email address and is forgotten about. There are also questions about how we liaise with universities and whether we get

information from them. There are issues around the general data protection regulation, but we have to maximise the information that we have on tenants, because a substantial amount of money is sitting there.

The bill touches on how the money may be used, which is restricted. It mentions the provision of

“information or assistance to private tenants in relation to their rights”

and

“other services or facilities that promote or support the interests of such tenants”,

and work that involves

“preventing private tenants from becoming homeless”.

The funds can be used, but we have to discuss how we support tenants specifically. I think that deposits are treated as unclaimed after five years. We need to decrease the amount of money that is unclaimed and, if we cannot reduce the money that is left, ensure that it is used to protect and support tenants’ rights.

The Convener: We have a few more questions. I will see whether I can rattle through them.

I have personal experience of great landlords in the private rented sector, and what I am about to ask is not a reflection on them. Last week, Tony Cain discussed how

“The private rented sector attracts a significant element of poor landlordism, but it also attracts criminal activity.”—*[Official Report, Local Government, Housing and Planning Committee, 3 September 2024; c 13.]*

That was in response to a question that I asked about landlords having to put their energy performance certificates, gas safety checks and electrical inspection condition reports in a public-facing setting—by uploading them online somewhere—so that someone who is about to go into an agreement with a landlord can see that they are showing a certain level of accountability. I am interested in hearing your thoughts on that requirement being included in the bill through an amendment.

Paul McLennan: I am happy to discuss that in more detail. In principle, it is something that we would consider. The Scottish Association of Landlords has discussed unscrupulous landlords. You mentioned that we are talking about only a small number of people, but how do we ensure that there is not an impact? You are right: the EPC is an important part of how information is provided, and the association recognises that. The association has to make sure that it is limiting the number of landlords such as that who are in place. There could be a carrot-and-stick approach, and

the stick would be to include measures on that in the legislation.

I would be happy to talk about that in more detail, convener. I do not know whether Charlotte McHaffie or Catriona MacKean want to comment.

11:45

Catriona MacKean: I can comment briefly. We have not considered that in the context of the bill, but how well the landlord registration scheme is running and the information that is provided through that approach are on-going considerations. We are interested in that in the context of potential new requirements for private rented sector landlords in light of our proposals on heat in buildings and moving towards decarbonisation, and in relation to fuel poverty. Those policy considerations are in the mix, but we have not considered them in relation to the bill at this stage.

Paul McLennan: I am happy to pick that up offline, or you can contact me about that point.

The Convener: Okay. Thanks very much.

Accommodation for seasonal workers is currently unregulated—I can see that you recognise that issue, minister—and I am aware of seasonal workers living in overcrowded caravans. Sometimes there are six people, who are each paying £300 a month. In some cases, the caravans are in poor condition. Is there scope for the bill to protect those workers, who are also renters?

Paul McLennan: On whether that would fit in the bill, the issue is slightly more complex than that. If we are talking about seasonal agricultural workers, an aspect of that is where responsibility sits. I will touch on that in a second. Mairi Gougeon and I will be meeting Richard Leonard very soon to discuss seasonal agricultural workers, and others have raised the issue, too.

More broadly, the issue is to do with identifying key workers. I have visited various places where accommodation is an issue, particularly during the summer tourism season. Should that be a matter for local authorities to address when they look at their key worker strategies? I am encouraging local authorities to look at that and take a strategic approach. That is one way to look at the issue. It comes back to the accommodation issue, although that is not so much about seasonal workers as it is about construction workers. As I said, Mairi Gougeon and I have a meeting coming up with Richard Leonard about seasonal and agricultural workers in particular.

On key workers and on seasonal workers more broadly, we would encourage local authorities to look strategically at what they need to do, to

discuss that and to come forward with any proposals. We have had a number of round-table events with accommodation providers, including hoteliers, and other organisations to talk about what we need to do. The issue needs to be discussed. Some reports on accommodation came out, I think, last week. We cannot have people staying in accommodation such as the examples that are raised in those reports.

The Convener: Good. I am glad to hear that cross-portfolio working is going on.

I move on to the financial memorandum. COSLA has expressed concern that some elements, including the homelessness prevention duties and rent control aspects, have been significantly underestimated, and a coalition of private rented housing providers has criticised the Government's response to the Finance and Public Administration Committee, arguing that

"the Minister's response has misrepresented our legitimate concerns and dismissed the substantial impact of the proposed legislation."

How can you assure the committee that your approach to developing the financial memorandum has been thorough and appropriate? Will further assessments be needed in light of any Government amendments?

Paul McLennan: When I spoke to the Social Justice and Social Security Committee about homelessness prevention, we touched on the fact that we contacted local authorities to ask about costs and they gave their best estimates at that time. Colleagues and local authorities have had detailed discussions about what implementation will look like and when the measures will be phased in. That is the important part. The focus of that is not to have additional resource implications for local authorities—I think that Ms Gosal mentioned that. Our discussions with local authorities include asking what additional resources would be required, including for data collection, and discussions are on-going. The financial memorandum provides an estimate, and an updated memorandum will be provided at the end of stage 2.

It is safe to say that discussions are on-going. We have to ensure that the resource is in place around homelessness prevention measures and gathering data on rent controls, because we cannot put any additional pressures on local authorities. As I said, there are on-going discussions, and at stage 2 there will be an updated financial memorandum to reflect that. I do not know whether any colleagues want to mention anything in relation to resource discussions.

Yvette Sheppard: Our approach on rent control measures was similar to what we did for homelessness prevention measures. We engaged

with local authorities on costings, and we asked them all to provide us with information in relation to the measures. In developing our estimates, we took cognisance of the information that was provided by the local authorities that responded, but we acknowledged in the financial memorandum that there was a level of uncertainty.

The assessment process is locally based—it will be staged, and it will require local authorities to make decisions about how much assessment they want to undertake, based on what they understand about their area. That was brought forward in the financial memo, but we took account of the information that local authorities fed in.

The Convener: I have a final question. The Delegated Powers and Law Reform Committee expressed concerns about a number of different powers under the bill, suggesting that there is a need for more detail in the bill itself. I would be interested to hear your response to those concerns. Will you consider putting more detail into the bill with a view to giving tenants, landlords and investors greater certainty?

Paul McLennan: We have touched on that. One of the key points was to provide flexibility around the individual circumstances of each of the local authorities, which is important. With regard to looking at possible amendments or changes to the bill, that has given us the flexibility at this stage to discuss with local authorities what is required.

That comes back to the balance around protection. The whole purpose of rent controls is to ensure that we protect people who need those controls in place, while not deterring investment. It is about trying to strike a balance in that regard, and reflecting the impacts on individual local authorities, or wider regional impacts, at that particular time. That was an important reason. I am happy to come back at stage 2 to discuss any amendments to the bill. It is about giving more flexibility to ensure that rent controls do not try to provide a one-size-fits-all answer.

The Convener: I said that that would be the last question, but Miles Briggs would like to ask a very brief supplementary question. I will bring him in now.

Miles Briggs: Thank you, convener.

Given that there is an opportunity to look at opening up the bill to more amendments, I wonder whether the minister has considered work around void properties and different models to bring them back into use. We have a conversation almost weekly about the homelessness situation in Edinburgh, given the 3,000 empty properties that the City of Edinburgh Council has. Is there an opportunity to look at that in a different way? I know that there are significant issues with regard to the performance of utility companies in bringing

those properties back into use, and with the investment that the council is asking for to enable it to look at some of the modernisation needs that are involved.

Given that we are considering the Housing (Scotland) Bill, which has very little housing in it, could we look at a different model for void properties, or at work that could be included, at this stage?

Paul McLennan: I will try to be brief, convener. There are a couple of points. One is that funding was announced last week, from which Edinburgh will benefit significantly. We have been working with the City of Edinburgh Council on its practices around void properties in terms of what it needs to do. The council thinks that it is making progress, so we have tried to help it. In addition, there is an upcoming round table with utility companies—housing conveners raised the issue of utility companies with us in a meeting—and local authorities on how we can improve the practice in that regard. Utility companies need to be doing more and working more quickly in that regard. That work is already under way. The housing investment task force is also looking at different funding models around accommodation and so on.

I am happy to pick that up in the discussions that we have planned. If there is anything that you think we could consider as an amendment to the bill, I am happy to discuss that, but other things are already going on to provide support on void properties. As you recognise, the issue is incredibly important in Edinburgh specifically, and I am happy to take that offline with you.

Miles Briggs: Thank you, minister.

The Convener: Thank you for a good morning, minister; it has been useful to get into some of the detail. We look forward to seeing the amendments, and we will consider our approach to our report, given that there will be some amendments that we have not necessarily been able to scrutinise.

As that was our final agenda item to be taken in public, I close the public part of the meeting.

11:54

Meeting continued in private until 12:45.

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