



Environment, Housing and Infrastructure Scrutiny

Panel

Quarterly Hearing

Witness: The Minister for Housing

Wednesday, 7th May 2025

Panel:

Deputy H.L. Jeune of St. John, St. Lawrence and Trinity (Chair)

Deputy T.A. Coles of St. Helier South (Vice-Chair)

Deputy A.F. Curtis of St. Clement

Connétable D. Johnson of St. Mary

Deputy D.J. Warr of St. Helier South

Witnesses:

Deputy S.Y. Mézec, The Minister for Housing

Ms. N. Day, Head of Strategic Housing and Regeneration

Mr. T. Millar, Policy Principal, Strategic Housing and Regeneration

Ms. H. McManus, Critical Support Team Manager

[10:35]

Deputy H.L. Jeune of St. John, St. Lawrence and Trinity (Chair):

Welcome to this quarterly hearing with the Environment, Housing and Infrastructure Scrutiny Panel. Today is 7th May 2025 and this is, I believe, our second public hearing with the Minister for Housing this year, or maybe the first. I am not sure; it goes very quickly. I would like to draw everyone's attention to the following. This hearing will be filmed and streamed live. The recording and transcript will be published afterwards on the States Assembly website. Please do turn all electronic devices to silent and I would like any members of the public who have joined us today in the room to not interfere with proceedings and, as soon as the hearing is closed, please leave quietly. I would like

to make introductions. My name is Deputy Hilary Jeune, and I am the chair of the Environment, Housing and Infrastructure Scrutiny Panel.

Deputy T.A. Coles of St. Helier South (Vice-Chair):

Deputy Tom Coles, Vice-Chair.

Connétable D. Johnson of St. Mary:

Constable David Johnson, member of the panel.

Deputy A.F. Curtis of St. Clement:

Deputy Alex Curtis, member of the panel.

Deputy D.J. Warr of St. Helier South:

Deputy David Warr, member of the panel.

The Minister for Housing:

Deputy Sam Mézec, Minister for Housing.

Critical Support Team Manager:

Heather McManus, I manage the Housing Advice Service and the Affordable Housing Gateway Team within Employment, Social Security and Housing.

Head of Strategic Housing and Regeneration:

Natasha Day, Head of Strategic Housing and Regeneration.

Deputy H.L. Jeune:

Thank you, and we have someone online. Please introduce yourself.

Policy Principal, Strategic Housing and Regeneration:

It is Tim Millar; I am policy principal in the Strategic Housing and Regeneration team.

Deputy H.L. Jeune:

Thank you, and thank you very much, Minister, for joining us today. Although we are going to focus a lot today on our Residential Tenancy Law amendments, this is our quarterly hearing so we have decided that first of all we will focus on some other elements and then we will spend the last quite big chunk of the meeting on that. Though we would like to request that already we would like to probably see you again specifically for the Residential Tenancy Law once our submissions, et cetera, from the public have closed and we have worked through some of those and developed our

thoughts more. We would like to invite you back to go into more details. First of all, I would like to invite Deputy Curtis to start it on Affordable Housing Gateway.

Deputy A.F. Curtis:

Quite right, and the panel have noted obviously, Minister, you have lodged R.64/2025 which details your widening of the eligibility criteria for accessing social housing through the Affordable Housing Gateway. For those listening, this has been done through the uprating of income thresholds based on R.P.I. (retail price index) as well as removing the current maximum savings and capital assets limits. Minister, please could you confirm the rationale behind making these changes?

The Minister for Housing:

Firstly, to uprate the income limits, that is something we ought to be doing periodically anyway as time goes on and inflation and all the rest. It is something we ought to keep an eye on to make sure that we are not - by not uprating them - reducing those who might be eligible for social housing. That is just something we ought to periodically do, and it was as good a time as any to do that there. In terms of the moving of the asset consideration from the point of entry of Gateway to point of banding in Gateway, that seems like a smart way to enable what is very likely to be a small number of people who have, I think, expressed an interest in going on the Gateway but have not been able to get through the front door because of the asset limit to allow them to at least get in the front door. Then have a conversation about how they might access social housing in future if they have got a particular need that is in the spirit of the Gateway to offer them help but they hitherto have not been able to get that because of having assets above the threshold beforehand.

Deputy A.F. Curtis:

Okay, and you mention it is probably a small group of people. What modelling has been conducted to assess how many additional applicants will be added or could be added to the waiting list or the Gateway as a result of this change?

The Minister for Housing:

None, and I am not sure such an exercise would realistically be possible, certainly to any credible degree. We know from those who approach the Gateway and investigate whether it is an option for them that there is a very, very small number of people who occasionally get in contact and suddenly find that they have to be turned away as a result of it. Sometimes there are other considerations in their situations that are not accounted for in the rules. Some people might be well beyond retirement and have circumstances in their life that mean the security of social housing is of great benefit to them, but they have some assets because they have saved for their retirement and it was not able to be an option for them. It has been a small thing that a small number of people have tried to investigate before and they have been turned away from having the option entirely.

Deputy A.F. Curtis:

How will it work under this now with no asset threshold for entering band 3 of the Gateway? Does that mean somebody with potentially millions in assets could join the Gateway and when they are on the Gateway, how would that be treated differently to somebody who equally exceeds the former cap of £80,000 but would have, let us say, less than millions? I think members of the public would be interested to know how this works in practice. Once you are in band 3, how are you then assessed with your assets given there is no criteria to enter that band?

The Minister for Housing:

Yes, so because Andium are no longer doing choice-based lettings and are contacting people in order of priority through the bands, et cetera, if they get to a point where there is nobody suitable for a particular home for those listed in band 1, then they go on to band 2. If there is nobody listed there, then they go to band 3. They would go through the list to attempt to find somebody who was suitable there and everybody's round of needs are taken into account in that.

Deputy A.F. Curtis:

Within that band then, they will still be judged based on, perhaps, their asset limits as to their preferentiality within the band.

The Minister for Housing:

Sure.

Deputy A.F. Curtis:

Okay. Given that this will create, or could well create, a larger number of people sitting within the Affordable Housing Gateway - it extends the criteria - what assessment has been taking place to ensure that there is a sufficient supply of social housing to meet demand?

The Minister for Housing:

That exercise is constantly going on because Andium has been developing a substantial amount of new social homes and there is planning to continue doing so. That building programme has been the thing that has inspired moves not just under my tenure but previously before to widen the access criteria for the Gateway. This is not the first thing that has been to widen access. There have been multiple things that have happened in recent years. All of that is done because the social housing stock is greater than it was before. It is going to get greater because of that building programme and it therefore can accommodate more people. Therefore, it is right to widen the criteria in the various different ways that have been done and may happen in future as well. Despite there being some people who would like me to loosen the criteria very, very widely or in some instances get rid

of them entirely, it makes sense to do that at more a staged process monitoring what demand there is, how cases are getting resolved so that you do not inadvertently make things much worse by giving people access to higher priority bandings when we do not quite, at this point, have the supply to accommodate that.

Deputy A.F. Curtis:

Part of that answer was that the increased build programme provides increased capacity that allows for a programme of widening eligibility, but if the changes you have made increase demand to be on the Gateway, how do you foresee relationships with Andium and social housing providers as to whether they need to build more to meet that? How will you differentiate between the real need on the Gateway versus those who chose to be on it with less need and how do you align expectation for those who would be joining the Gateway?

The Minister for Housing:

To be honest, I find that difficult to give a particularly clear answer because it is, kind of, chicken and egg; do you create more demand because you have built more or do you build more because demand has presented itself? I personally believe that social housing is a fundamentally good form of housing for a society, and I would like to see more and more of it provided. I would like to see it more and more be in a position to create thriving communities that are diverse and have people from all walks of life residing in it and that over time would mean the access criteria becoming more generous. Just philosophically, I think that is a good thing. I do not think social housing should purely be seen as an ambulance service for people facing desperate situations. It should be much broader than that and the way you make it broader is by providing more of it.

Deputy A.F. Curtis:

Okay, and you mentioned the criteria and the way that Andium would look, for example, at the Affordable Housing Gateway and the bands but part of the reason for adding people is there are case-by-case scenarios, so how will discretion be applied when assessing, for example, healthcare or social needs of somebody who now falls into band 3? Will they always be, as you stated, treated after people in band 1 or band 2 or is there discretion to treat people out of band either with yourself or with a housing provider?

The Minister for Housing:

The Gateway team in the first instance would assess an applicant based on all of their circumstances, not just the incomes and assets. Upon conversation with them it transpired that the reason they were applying for social housing is because they had a specific need that they were struggling to cater for in the private sector - and that might be a health need, it might be a whole host of things - once that is identified and evidenced, at the initial points the Gateway would have

discretion then to say they are now able to get through the door and have that conversation, because of the asset limit thing moving is there greater need from other areas drastic enough that it justifies them being put to a higher band? But they would do that in the first instance.

[10:45]

Deputy A.F. Curtis:

Okay, and reflecting on a statement you made in our last quarterly hearing that, to quote: “Andium are pushing me on the Gateway eligibility. They want me to widen it.” Can you confirm if the changes you have made are the ones they were referring to in regard to, say, the removal of the savings limit? Is that what Andium were pushing for?

The Minister for Housing:

Not specifically. There is a whole host of different things that I am sure they would want to push me on, and I sometimes hear from voices in other providers saying the same thing as well. There are loads of things that could be done. We could lower the age limit even further. That is something I would like to do at some point. We could make the income thresholds even higher and cater for people on even higher incomes than we already do. There are loads of different things that are occasionally brought on to the table and considered but some of them would probably have a more drastic impact than others. This one I do not anticipate it really leading to much more demand beyond a small handful of people, which is why I thought it was an easy thing to do.

Deputy A.F. Curtis:

Would you say, Minister, that the decision as to the eligibility of the Gateway and the provision for social housing for who should access it is inherently a political decision and, if so, to what extent do you have a conversation with a provider who is pushing you for eligibility changes?

The Minister for Housing:

Sorry, I do not quite understand that.

Deputy A.F. Curtis:

To avoid it seeming too leading, but I will start with the first question: to what extent is the eligibility criteria for social housing a political decision?

The Minister for Housing:

Entirely a political decision.

Deputy A.F. Curtis:

How do you respond to social housing providers pushing you for widening Gateway eligibility without, perhaps, specific reasons provided to you?

The Minister for Housing:

I start by thanking them for the challenge because it is one that I welcome. I think that that is the direction of travel we ought to go and when providers want me to go further and faster, I say: "Great. Philosophically, I am with you. I want to get there as well", but, as the elected politician, I have got a duty to the people of the Island that we make decisions that are sensible and well considered, not kneejerk or necessarily always based on instinct. We sit down and we look at things first and if a proposed change is likely to have a more drastic impact, we would be more careful about that. There will constantly be an ongoing conversation with those providers about what demand they are in a position to cater for and how we can potentially adjust Gateway to help people access it who want and need to access it. It is a constant conversation, but I have the final decision.

Deputy A.F. Curtis:

Of course, but what are the reasons behind, in this case, Andium pushing you? Are they pushing because of a political narrative they have within their executive or is it an economic or financial one? Because it is interesting for us as Scrutiny to hear from you in your last quarterly hearing a message being pushed that you have confirmed yourself is about a political decision. Are they pushing for political reasons or are they pushing for other reasons, like economic or financial?

The Minister for Housing:

Andium will follow my political leads, and they are absolutely clear they have a strong public service ethos. They recognise that and they recognise that they exist to serve the agenda of the democratically elected government of the Island but they can - and they often do this because I specifically ask them to - come to me if they are noticing things on the ground that they think could be tweaked to be better or that they could do more on or that perhaps we need to slow down on. I am clear to them that I welcome their feedback on that because it can help inform political decisions that I make but they know that they exist for the good of the Island and believe me, they are very passionate about that. I know their leadership team very well and I know that that is how they feel. I know that they want to do the best for Islanders and if they feel that they can help more people, they come and let me know and say: "We can help more people, Minister. Is that something you want us to do? If you give us the green light, we will go ahead." If you say: "No, not now. I prefer to focus on something else", they will say: "Okay. That is fine then. That is the democratic will."

Deputy A.F. Curtis:

Looking back to the changes in criteria specifically that you have made, what consideration was given to creating a new banding for those with a different asset class versus grouping them? How

easy will it be to report on the demand within the bands, for example those that exceed the asset criteria? Will you have that data?

The Minister for Housing:

We will have that data, yes. We might have to do a bit of thinking if there is a way we wanted to format it to make it presentable in the kind of way you might be interested to see it, but I anticipate it being such small numbers that I do not think it would be right to create an entirely new different banding for it.

Deputy A.F. Curtis:

Would you review that?

The Minister for Housing:

Yes.

Deputy A.F. Curtis:

Will you commit to reviewing that data to ensure that if you see the numbers are sufficiently large and your hypothesis of a small number of people is not the outcome, would you consider a new band to provide clarity in, ultimately, the demand supply?

The Minister for Housing:

I would commit to that potentially being on the table alongside with lots of other things if that became necessary, but I do not anticipate that it will.

Deputy A.F. Curtis:

Okay. Finally, I would ask from a Scrutiny perspective, the vice-chair of this panel in the debate on Deputy Warr's proposition, which had an asset cap of £80,000, highlighted in his closing remarks: "Let us bring this to Scrutiny", and other members, including myself in my individual capacity, highlighted that. You, as is your power, lodged this change through a report without bringing it to Scrutiny. Could you outline the decision-making process behind that and why you felt it was not necessary to bring these proposed changes to Scrutiny?

The Minister for Housing:

I really think this is a very minor change. I really do not think it is going to have a drastic impact on the Gateway. I do not think it is going to see us flooded. I think it is a very small handful of people that will end up potentially wanting to use this. I think that doing a big exercise on this would be disproportionate on that basis. There are some things ... the reason that we have an executive system of government is so Ministers can get on and make good decisions hopefully as quickly as

possible so people can benefit from them as possible. With something like this that really is not drastic at all, and which I gave notice to the Assembly as a whole that I intended to do and which nobody has proactively approached me outside of the floor of the Chamber to ask for anymore on this to be done, I felt that it was a quick win and an easy thing to just get on with.

Deputy H.L. Jeune:

Thank you, Minister. We are going to move on to the Housing Advice Service and Deputy Coles will lead on that.

Deputy T.A. Coles:

I will just pick up on the final part as we move into the Housing Advice Service. Obviously, one of my concerns around this is the information provided to people who are potentially going to sell their home to get on to the Gateway and then the risks that come with that in regard to long-term care and income support. Will you be producing any sort of guidance, or the Housing Advice Service, are they going to be ready to stand up and provide that crucial information for people who are investigating this process?

The Minister for Housing:

The Housing Advice Service is well connected with all of the other parts of the Employment, Social Security and Housing Department. They will have the expertise and colleagues within that department that they can work with if somebody presents themselves that ... the people that come through the door of the Housing Advice Service normally have lots of other things that are part of their circumstance that they need to think about, whether that is long-term care, whether it is income support, et cetera, so they are very well connected into all of that and can help facilitate that when someone presents themselves.

Deputy T.A. Coles:

Okay. Great. Thank you. On to the Housing Support Service itself, why has the *Homelessness in Jersey Report* for quarter 4, 2024, limited homelessness statistics to include only those individuals for whom Housing Advice Service is the lead organisation?

The Minister for Housing:

Could you say that again, please?

Deputy T.A. Coles:

Why has the *Homelessness in Jersey Report* for quarter 4, 2024, limited homelessness statistics to include only those individuals for whom the Housing Advice Service is the lead organisation?

The Minister for Housing:

I did not think it did.

Critical Support Team Manager:

Would you like me to speak to it?

The Minister for Housing:

Please.

Critical Support Team Manager:

We have mulled over this for quite some time and our contact with multiple individuals, they are often engaging with other providers as well and we need to recognise that we are not an accommodation provider. We are an advice, guidance, triage service, not a sheltered accommodation provider. Us providing all of that data massively confused the statistics so we chose to represent those who we are supporting that no other sheltered accommodation provider are, to give a richer narrative and to cause less confusion around the numbers.

Deputy T.A. Coles:

Is it to simplify the data?

Critical Support Team Manager:

Yes, and to give a richer narrative that we will build on quarter by quarter, and we will produce internal statistics around as well.

Deputy T.A. Coles:

Okay. What steps are being taken to ensure that all homelessness cases, regardless of which agency is the lead, are captured and counted by government? How are you proof-checking that so you know that they have gone out to these other agencies?

The Minister for Housing:

This is for the purpose of reporting it in the reports?

Deputy T.A. Coles:

Yes.

The Minister for Housing:

There is an infrastructure underneath this that has been developed by people in my team. They have close contact with not just Housing Advice Service but all of the homelessness providers as

well. It is still relatively new what they are doing and so I am sure that it will develop and change over time, but they have been working closely with all of those people to work out: “Right, how do we get the most accurate reporting and make it a standard easy thing to do that we can repeat over time to collect this data over each quarter?” But they have built an infrastructure to feed into this reporting.

Deputy T.A. Coles:

Okay. That is good. At our last hearing, you confirmed that discussions have taken place between the charities that support those in homelessness and in regarding the acquisition of homes for those with particular need. Please can you provide an update on the progress of these discussions and any actionable steps that are there taking place?

The Minister for Housing:

Andium have purchased ... I do not know how many they are at, at this point.

Critical Support Team Manager:

One transferred.

The Minister for Housing:

One transferred and keeping an eye out for others that might be suitable to do that but they have political support to be looking at that and doing that. So they have gone ahead with one and they are in constant communication with the Housing Advice Service to make sure that we get the people who need that and also the package of support that they would need around that potentially from other government services as well.

Deputy T.A. Coles:

Any response to the panel’s follow-up letter from the last hearing? You confirmed that the focus of the Housing Advice Service at this time is to strengthen the relationship with voluntary and community organisation supporting young people who are homeless or at risk of homelessness, such as J.A.Y.F. (Jersey Association for Youth and Friendship). You also noted ongoing work to improve referral pathways, standard operating procedures and personalised housing plans. Can you describe what progress has been made since these comments were made and provide an update on the current status of those workstreams?

The Minister for Housing:

I will do a one-word answer that says “lots” and then hand over to Heather, if that is okay.

Critical Support Team Manager:

I will also say lots. There has been a huge, huge development around our standard operating procedures, our liaison network, our really healthy relationships with all providers and the support that we offer holistically, not just around income support and various other things. We really are getting to know the residents within all the accommodation that we support and the colleagues and educating them around the benefit system as well and making sure that everyone is receiving what they are eligible to receive and working in a really bespoke way to make sure that outcomes are much more focused around the individual and what they want. It is difficult to give you an absolute. We have 27 standard operating procedures drawn up, but our digital hub is looking much healthier in terms of what we do, why we do it, and the way in which we conduct ourselves in the community. Hopefully that answers.

Deputy T.A. Coles:

Is this the Tenancy Star outcome tool or ...

Critical Support Team Manager:

Part of it. The Outcome Star, the Home Star and the Pathway Star are the ones we are focusing on, but they are evidence-based tools to track outcomes, which we lacked before. We are working with Shelter Trust, various other agencies to onboard in this Outcome Star tool to make sure that we are tracking those outcomes and giving some real ... it tends to a really guided conversation that really supports people with all of their needs so the person is at the centre of that and we are talking about all of the needs around them.

Deputy T.A. Coles:

Have you had any early outcomes and feedback from that?

Critical Support Team Manager:

It is too early to give any outcomes or feedback but the fact we have this onboarding - we are working with other agencies to roll it out as well - is a really positive thing. In effect, one individual will have one star rather than one star with every agency that they go to, so we are working in a much more joined up way.

Deputy T.A. Coles:

When do you expect the full implementation of the Tenancy Star tool to be rolled out?

Critical Support Team Manager:

The full implementation will be by September this year. Therefore, we will include it in annual reporting next year.

[11:00]

Deputy H.L. Jeune:

Do those organisations and agencies that use the star have to already, for example, be registered with the Care Commission? Is it all linked as part of that because of that wider care model?

Critical Support Team Manager:

I would not say it is linked to, but it is certainly a wonderful tool to evidence individual's needs. It is not linked to Care Commission, but we will be in a position where we are able to train out and give licences for the star as well and offer a third-party licence too. Again, one person, one star, all the different agencies and supporting in that way.

Deputy H.L. Jeune:

Would those also have to be registered with the Care Commission to be licensed?

Critical Support Team Manager:

Would not have to. No, not at all. It is not intrinsically linked to ...

Deputy H.L. Jeune:

It is not intrinsically linked.

Critical Support Team Manager:

No.

Deputy H.L. Jeune:

Okay. I suppose my next question on that would be about the ... that is useful, but would it become a mandatory part of the organisations who are dealing with homeless that would be part of this Outcome Star, and it becomes a mandatory part of the discussions with ...

Critical Support Team Manager:

Yes, I do not think it will become mandatory, but it is something every agency should be striving to use to make sure that we are tracking and supporting people as appropriate. I cannot envisage any agency would say: "We are not going to use that really helpful tool to support the individuals that we are supporting." There are not many of these sorts of tools out there so when we do find something, we embrace that and sell the benefits of it. We will be in a position to offer the licences out and support the sheltered accommodation providers in establishing that.

Deputy H.L. Jeune:

The Homelessness Cluster is supportive of this, and everybody in that wants to be part of the ...

Critical Support Team Manager:

It has certainly been talked at the Homelessness Cluster, not to the absolute detail of who is onboard and how we are going to move this forward because it is a tool that is already being used. The next step will be with working with 2 particular providers in joining that up and then we are going to extend it to other government agencies as well.

Deputy T.A. Coles:

That moves us on for what would have been our final question. We have rejigged our question plan around but, Minister, you will soon be discussing the budget for 2026-2029 with fellow Ministers, making a case for funding. Are you able to provide an insight into the areas which you will be prioritise your funding and will there be any provision aimed at incentivising the use of empty homes?

The Minister for Housing:

On the last point, I do not anticipate so. There, I think, will likely be a conversation about funding of the Rent Tribunal and just solidifying that as something that becomes a business-as-usual thing in the budget over time. Apologies to be cryptic but I am probably more interested in talking about long-term funding associated with projects that have been referred to in the Assembly beforehand, which may sit in the budget at some way that is not clear to me yet how that will be the case.

Deputy T.A. Coles:

Okay.

Deputy H.L. Jeune:

That was very cryptic, Minister.

The Minister for Housing:

It was. I am so sorry. I am desperate to reveal more but it is not for me to do so yet.

Deputy T.A. Coles:

Who is it for the reveal?

The Minister for Housing:

The Chief Minister, who has my full support in this regard.

Deputy T.A. Coles:

Wonderful. During your appearance at the “Housing ... crisis averted?” event, you expressed a willingness to work more closely with the private sector to deliver high quality, affordable housing. What concrete steps are you currently taking to foster this collaboration and what role do you see the private sector playing in the future housing strategy?

The Minister for Housing:

I cannot remember exactly how I would have said it. That does not sound like Sam Mézec language; that was paraphrased. I cannot remember in what context that point would have been made but it is already a feature of what we do that we work closely with private sector developers who are looking to provide more housing. They have obviously got to do that within the confines of the Island Plan. They want to know that when they make a planning application, it has got the best chance of success. They will want to come and talk to various people, including sometimes us, to just be sure that they have understood future housing need projections accurately, that they have understood how the affordable housing contribution sits into that as well and just make sure that they have got things right and know what they are doing. Our people are always happy for those conversations to try to enable that when they are trying to provide good, decent homes for people in Jersey and perhaps if they are not quite on point with what they are thinking of at that point to maybe say: “You might want to be aware of X, Y and Z.”

Deputy T.A. Coles:

Thank you.

Deputy H.L. Jeune:

Thank you, Minister. We will now go on to the main area that we are focusing on at the moment as Scrutiny Panel, which is the Residential Tenancy Law and, as I said before, we would like to invite you back for another shorter hearing on any elements that we have not covered. Of course, we have got a set of questions but we may or may not be able to cover everything in this session so we will move those on to the next session and, of course, we will give you time at the end if there is anything you feel we have not covered; we can give you that before we wrap up in an hour and a half. Just to start, since you have launched the draft Residential Tenancy Amendment Law, what feedback have you received from stakeholders, the public and other relevant parties regarding its provisions and implementation?

The Minister for Housing:

A mix. The thing is what is in the proposed Residential Tenancy Law amendment is not a surprise to anyone because I have been open for quite a while about what it would include. I did a statement last year that gave the high level of what those changes would look like so when the draft law was proposed, they were not a surprise to anyone. It was more that those who were really interested

now had the opportunity to go through it line by line and see if there was anything that had not occurred to them or if it is written well enough or taken into account various bits. In a sense it was not a moment that spurred lots of immediate reaction because none of it was surprising. In the run up to lodging it, we had engaged with various stakeholders to sit them down and say to them: "This is what the proposals are going to look like", and specifically: "This is what we think your sector, or your organisation, will be interested in." We met with the Hospitality Association. We met with the Chamber of Commerce. We met the Estate Agents' Association, the Bankers Association as well and various Parish Constables and Parish staff too. Feedback from those organisations was overwhelmingly positive. Lots of them, when you say change, straight away that is going to get people nervous. They want to know if it is good change or bad change or how it affects them so because I think we tailored it in those sessions to what we thought those organisations would be most interested in, we were able to be reassuring. I forgot to mention Farmers Union. They were on that list as well. Hospitality Association, Farmers Union, et cetera, they are interested in what it means for worker's accommodation so we could talk about that. Because it was tailored to them, that was a good opportunity for both of us to hear from each other. Feedback from that was very positive. Feedback from various charities who they have not formally put statements to me about their feedback, but we talk at the Homelessness Cluster, for example, frequently and they are pretty supportive as well. There have been some who, of course, have not been supportive, and that was entirely predictable. It was exactly who I thought it would be but, if I may say, there has been an element of feedback that I have found deeply frustrating, which is I have seen ... and this is normally in media coverage and that kind of thing where a journalist has gone to a particular character for a line on something, and I do find it frustrating when I see mischaracterisations of what the law does. I have been frustrated when I have seen characterisations of this proposed law saying that it will make it harder for landlords to get their properties back when they need to, which I do not regard as being an accurate reflection of what the law does. So while there has been loads of really good feedback, there has been an element of very frustrating feedback from it.

Deputy H.L. Jeune:

We will delve into some of those elements in the questions later but just you touched on, for example, you said that you were ... and as we know as a panel we had several briefings that you were open with what the content would be but it did take quite a long time to get to the lodging point, so were there any specific elements that changed?

The Minister for Housing:

Yes, there were various bits and pieces. I had hoped to include something in the Residential Tenancy Law itself that would have laid out the process for residents of a rental property who were not themselves contractually the tenant but who might be the spouse of the tenant or the adult children of the tenant for tenancies to transfer to them if the lead tenant passed away or that kind of

thing. I wanted to do that to make things easier when people are going through a time of grief, et cetera. At the last minute, we found that there were complications with how that would sit in a potential residential tenancy law versus where the law of wills and succession might cover that kind of thing. That had to be a last-minute change to that. There was feedback I got from the Landlords Association about the distinction between what could potentially be mandatory grounds for eviction versus discretionary grounds for eviction. That was something that until that point had not featured in our proposals, but it was something that features in the Renters Rights Bill in the U.K. (United Kingdom), which is obviously something that we have paid close attention to. I made a relatively last-minute decision to say: "That is not a bad idea. Let us see if we can put that in here and hopefully that will give some reassurance to landlords about their ability to reclaim their properties as well." There were a couple of moments like that where we had to pivot slightly, and those can be very fun when they crop up at a moment you are not expecting and you have to find a creative solution to that but, yes, in particular the mandatory and discretionary grounds for eviction was the last thing in that journey that meant lodging was potentially a couple of weeks later than it might otherwise have been.

Deputy H.L. Jeune:

Thank you, Minister. I will hand over to Deputy Warr.

Deputy D.J. Warr:

Nice controversial subject of rent caps. The proposed rent caps set at 5 per cent or R.P.I., whichever is lower, has raised concerns in several public submissions. Could you explain the evidential basis for the proposed rent cap and provide any further detail on how this was determined?

The Minister for Housing:

The first step, evidential basis, is that there are various iterations of this kind of thing that exist all over the place, that exist in various different formats with various different rules, some of which have turned out to be very successful for providing healthy rental markets in the long term. There are places in Europe that demonstrate that. There are others that are formulated in a way that perhaps have not been as successful and cause unintended consequences. Scotland is potentially an example of not a great version of that, so that evidence as to whether this kind of thing is successful or unsuccessful ... there is a lot of evidence to take from that to see what is possible and what could work in a Jersey context. Finding what would work in a Jersey context, we looked at what currently exists as practice, what letting agents might already be recommending to their ... I do not know if "recommending" is the right word but what they might facilitate for some of their clients, et cetera. We found that there was a bit of evidence that there is some practice that already exists in Jersey where some tenancies already have an R.P.I. or 5 per cent, whichever is lower, system built into it. We engaged with members of the Economics team in government as well to say: "Here are various

different iterations of how they work. How do they rank? Where do they score highly? Where do they not score so well?" So, we looked at all of that as well.

Deputy D.J. Warr:

Okay. Thank you. In response to Deputy Renouf's question during the last States sitting regarding the impact of the rent cap on private sector investment, you mentioned that historical data from the past 20 years was taken into consideration in formulating the cap. Could you please provide more detail on the dataset used and clarify whether it served as part of the evidential basis of the policy or was primarily used for stress testing its potential impact?

The Minister for Housing:

R.P.I. stats are produced by Statistics Jersey and we have evidence of that going back I do not know how many years, but we can see from that what R.P.I. has been in previous years and it has not often gone above 5 per cent, but it has done so a couple of times and that has tended to have been for a short burst when that has happened.

Deputy D.J. Warr:

Okay. You also mentioned that 5 per cent cap would only have been reached on 2 occasions in ... yes, you have just made that point. Can you name the dates? I am guessing it is going to be 3 years ...

The Minister for Housing:

Two years ago, was one of them.

Deputy D.J. Warr:

One was 2 years ago. I know the other one was presumably some time back.

The Minister for Housing:

1991.

Deputy D.J. Warr:

1991. Right.

The Minister for Housing:

Yes, 1991. Both in my lifetime, but only just.

Deputy D.J. Warr:

Only just. Thank you. What was I going to say? Really, I mean my question is: is there any concern that under ... we have seen obviously Ukraine and Russia; we have seen a lot more volatility now. In your opinion, is 20 years historic data still relevant in today's climate where we have increased volatility.

[11:15]

The Minister for Housing:

I hope it is. Seeing the news as well India and Pakistan last night, it is not particularly reassuring for a whole host of reasons unfortunately. Nobody knows what the future holds. Nobody knows what the long-term future trends will be. We are not clairvoyants; we cannot predict that. I do not think that can be a good reason for not acting now in what we think might at least be the medium-term state of affairs, as they have been for all but 2 occasions in my lifetime. But there is a clause in the proposed law that does give the Assembly regulation-making powers to alter that, so it will not be a difficult thing to change if we find that world circumstances change and there is a clear need to adjust this. We will relatively easily be able to do that.

Deputy D.J. Warr:

You would bring that to the Assembly or that would be brought by the Minister for Housing of the day ...

The Minister for Housing:

The Minister for Housing would bring that but if an ordinary ...

Deputy D.J. Warr:

Back-Bencher.

The Minister for Housing:

That is the wrong way of putting it. If an extraordinary Member of the Assembly wanted to provoke that debate, they, of course, have got the right to ask the Minister for Housing to do that work and, if a majority of the Assembly supported them, that would necessarily follow from that.

Deputy D.J. Warr:

Okay. During your appearance at the "Housing ... crisis averted?" event, you confirmed that the rent cap mechanism has been tried and tested in other parts of the world. Are there any jurisdictions that have tried a rent cap but due to unintended consequences have reversed or modified them?

The Minister for Housing:

That is a good question. Different jurisdictions have lots of different experiences of this. I think it was Berlin had a very short experience where they tried toughening their rent controls. They have had a version of rent control for decades. It is one that is regarded as reasonably successful but because of whatever circumstances they were going through at the time they attempted a much stricter version of that. I believe that it was kicked out after a judicial process. I think they thought the local authority that implemented it had gone beyond their constitutional rights, so it is not obvious whether that would have had a good long-term impact, whether it would have had unintended consequences, but it was obviously highly controversial. Scotland has had an emergency rent capping system in place, and I think it is one that is reasonably regarded as having had some unintended consequences. We have specifically learnt lessons from that system and that is why what we are proposing does look different to what Scotland tried. If you only took a momentary glance at it you would think they are similar, but they are not similar when you get to the detail.

Deputy H.L. Jeune:

Can you maybe expand on that a bit?

The Minister for Housing:

Of course, yes. In Scotland ... forgive me if I have got some of these numbers wrong because I am not the Deputy for Scotland, so I do not know all of them off the top of my head. I think their system is something along the lines of rents are capped at 3 per cent and if a landlord thinks that they have got justification for a higher rent increase, they have to proactively apply to their local body - I cannot remember if it is a tribunal or a commission or something like that - for permission to go above that with evidence as to why, but even then the maximum they can go up is 6 per cent. That is different to what we are proposing here because the landlord does not need to seek proactive permission from a state body to propose a higher rent increase. It is a reactive system. If the tenant feels it is unjustified, they can appeal it, but there is no limit. If they have a particularly drastic circumstance that they think does require a particularly drastic rent increase that goes above 5 per cent or whatever, there is a route for them being able to do that and it is down to the tenant to proactively appeal it if they think there is a problem. That is manifestly different to what Scotland has, although if you only briefly looked at it, you would think they were fairly similar.

Deputy T.A. Coles:

Do you know if Scotland has periodic tenancies or fixed-term contracts as well?

The Minister for Housing:

I believe they have got periodic tenancies, yes, I believe so, yes, as England will soon too.

Deputy D.J. Warr:

Okay, I will move on to the next one.

The Connétable of St. Mary:

I will just clarify that. Are you saying the 5 per cent cap is not a cap one can apply?

The Minister for Housing:

It is a cap in ordinary circumstances, so as in ordinary for Jersey, if R.P.I. is 2.5 per cent, then the cap for that year is 2.5 per cent. If R.P.I. is 6 per cent for a quick moment, then the cap is 5 per cent because that is what the law says it was. But if, for example, a landlord wants to go above that because they think they have got a legitimate reason, they have invested thousands of pounds in the property that has drastically increased its market value, or they happen to have not increased rents for the last however many years so that they have fallen drastically behind market rate, and they say a 7 per cent or 8 per cent increase would take me to about where it ought to be, they can do that. They do not need to ask for anyone's permission to do that. They can simply say to the tenant: "Sorry, you will not like this, but for these reasons I think I need to do this", and if the tenant does not believe those reasons are honest or legitimate, they can appeal it to the Rent Tribunal. But the Rent Tribunal will be impartial in judging that. So if it turns out that it is fair and that the landlord is being correct in what they are saying, then they can uphold that rent increase, or if they think the landlord is pushing it beyond what is reasonably justifiable, they can say no, it ought to go back down to this point instead.

The Connétable of St. Mary:

I will ask more when it comes to the Rent Tribunal because I had an earlier question.

Deputy D.J. Warr:

So I get your point about the flexibility on this increase, so what modelling has been undertaken on the risk of disinvestment as a result of the rate caps, and were any offset measures explored to mitigate this?

The Minister for Housing:

Honestly, I do not believe it is possible to do that work because I think it would be attempting clairvoyance. We simply do not know, and there are all sorts of things that would come into that.

Deputy D.J. Warr:

You spoke about Scotland though; there is evidence from other jurisdictions.

The Minister for Housing:

That is historic, that is not forward-looking.

Deputy D.J. Warr:

Yes, but how the reaction is, you saw how the reaction was.

The Minister for Housing:

Indeed, and we are not copying them, so I cannot say for definite that the Jersey model that we are proposing in Jersey will definitively have these consequences because none of us could possibly know that. But what I can say is I can look at what various research has been done around the world in different guises, and the thing that comes up time and time again, there is a report from the O.E.C.D. (Organisation for Economic Co-operation and Development) called *Brick by Brick* from 2021 that said soft forms of rent control, as long as they are combined with supply measures, can be a very positive thing. If there is one thing Jersey is doing at the moment, it is supply measures. So I can refer to that kind of evidence that gives me reasonable confidence that we are doing the thing that you are meant to do to offset those potential negative side effects.

Deputy D.J. Warr:

Okay, so in light of the potential risk of disinvestment, will the Government be tracking data on landlord behaviour, specifically whether there is an increase in the number of landlords choosing to exit the rental market, and how will this data inform future policy decisions?

The Minister for Housing:

Yes, is that picked up?

Head of Strategic Housing and Regeneration:

Yes, with the licensing scheme, we now have an overview of the rental market in Jersey, and you will see in the Minister's proposals that we are proposing to collect rental data, possibly alongside the licensing scheme. So that is going to give us a richness of data that we have not had before. It will take time to build that dataset up, it will take time to see any trends, but what we have already seen through the licensing scheme is that we have got a very healthy rental market in Jersey. I think it is about 18,000 licences that have now been issued, so there is a base to work from when the next round of licences come, which will be next year, and we will be able to see whether or not there is a marked increase or decrease in the number of licences that have been issued.

Deputy D.J. Warr:

Obviously, that will be without the new law being instigated, or having been instigated?

Head of Strategic Housing and Regeneration:

So the licensing scheme exists.

Deputy D.J. Warr:

But this proposal, the amendment of the R.T.L. (Residential Tenancy Law), will not have been in place though, when the next load of data comes out?

The Minister for Housing:

I am hoping it will.

Deputy D.J. Warr:

Okay. All right. I am not able to comment on this side of the table, am I? Given that landlords may reference advertised rents to justify increases, but the Rent Tribunal will rely on rent data to assess proportionality, what steps have been taken to ensure consistency in how market value is interpreted?

The Minister for Housing:

We will collect data from these proposed changes, and then the Rent Tribunal itself will, as we construct that Rent Tribunal, have to come up with processes for doing that.

Head of Strategic Housing and Regeneration:

The appointment of tribunal members will have careful regard to that person's skills and experience and understanding of the rental market in Jersey. Over time, as I say, we hope to build up the dataset of the rents paid. There is always going to be an element of judgment around the property, the amount of rent that is paid, what reason may have been applied for the rent increase. So, if improvements have been made to the property there is always going to be a careful judgment there as were those improvements necessary just for an adequate health and safety standard of those homes or was it a legitimate improvement that then warrants a certain level? There is an element of discretion and subjectivity that will naturally exist in the Tribunal's determination, but that is the same for a landlord's judgment as to how far they increase their rent.

Deputy H.L. Jeune:

Is that data collected about the rents to be made public, or would it be something behind the scene that only the Rent Tribunal will be able to access?

Head of Strategic Housing and Regeneration:

So, the discussion at the moment is that we are looking to work with Statistics Jersey to provide an enhanced statistical report, much like we have with the House Price Index for the overall sales market in Jersey. We would be able to provide a similar report in relation to the rental market, but there is a lot to still be discussed in terms of the cycle of data collection, carefully balancing the

bureaucracy that that then may create upon a landlord having to submit the information, against what would be the most beneficial quantum and frequency of data to provide a reliable report of the overall housing market in Jersey or the rental market in Jersey.

Deputy H.L. Jeune:

At the moment the law says that landlords would take market value to set the rent and take it from there to be able to help them with how they see their rents, but then the data eventually will be set so that then it will come through from the licensing scheme collection data.

Head of Strategic Housing and Regeneration:

Yes, a careful judgment will need to be made as to whether or not it would be beneficial to issue live rents data to the Tribunal. There is a risk then you have apartment one being pitched against apartment 2 in terms of the rent values, but there could be different reasons behind those rent values and different objectives of the landlords. So I do not think at this time we would be looking to give raw data to a tribunal because it would not necessarily be beneficial. But that overall report, as and when it becomes available and as the richness of the data improves, will be helpful. But I think it is accepted that, from the outset of the Tribunal's establishment, we would be relying quite heavily on professional expertise and judgment of the composition of the Tribunal.

Deputy D.J. Warr:

So the next question is: given the tenants need to be aware of the R.P.I. rate to ensure they are being charged correctly, what plans are in place to educate tenants and provide them with the necessary information and skills to review and understand their tenancy agreements?

The Minister for Housing:

So there has already been a document produced, a Q. and A. (question and answer) for landlords and tenants alongside it. Depending on where we get to with the R.T.L. and if it goes in, in its pure form or if there are changes, et cetera, we will have to think about what communications we do on top of that to get those messages out there as clearly as possible. But the R.P.I. is produced quarterly anyway, they have got their process for doing that. If landlords are specifically using it to determine or to influence how they charge rent, when they inform their tenant 2 months in advance that their rent is going to go up the tenant will be provoked at that moment to go: "I can quickly check, does that correspond with the reality now?" I know when I get my rent increases I have just seen the latest R.P.I. figures, so it is pretty hard to get away with misrepresenting that.

Deputy D.J. Warr:

Okay, I think that is good.

Deputy H.L. Jeune:

Thank you. We will move on to periodic tenancies. Could you explain your reasoning for why consecutive fixed-term tenancies are to be phased out under the draft law and what benefits do you anticipate this change will bring to tenants and to landlords?

The Minister for Housing:

The invention of a system of repeated fixed-term tenancies I believe was a mistake in history in the U.K. that was done under the Thatcher reforms, which I think had a wholly negative impact on renting in the U.K. Jersey subsequently made a mistake in copying that. You look at lots of other jurisdictions, the use of fixed-term tenancies repeatedly renewed over a long period of time is not the way that housing is provided to tenants on a long-term basis and it is something we should move away from. It is normal in many other places that periodic tenancies are used and that there is a clear framework for how they will be ended, and jurisdictions do that in lots of different ways and some have much stricter versions, some have looser versions. The U.K. has learned that it was a mistake to have done the previous model, which is why, not just the current Labour Government but the previous Tory Government were determined to abolish that and move to a purely periodic tenancy arrangement.

[11:30]

I think that would create a better culture for renting in the Island where there is not a constant shadow hanging over tenants who rent their homes to know that once a year or once a term an opportunity will come up for them to lose their home for no reason whatsoever without adequate notice. Not even that but potentially, if they want to keep it, have to constantly engage in a renegotiation for it that will be very difficult for them to do and will be a negotiation in which they do not particularly hold many cards in that. So a periodic tenancy arrangement is normal and it ought to be what we do. I am however saying that it ought to be possible to still use a fixed-term arrangement but I believe that the way that I am framing it is that those will tend to be used when there is a specific reason for them rather than they just become a standard practice, automatic, this is just how you do tenancies in Jersey, because they will not be able to be renewed under that. So it would be more likely that fixed-term tenancy would be offered when it is clear that the tenancy can only last for a fixed term. If a landlord knows: "I am selling the property in 2 years", you may as well just do a 2-year fixed term tenancy. Then you have both got certainty and you know, come the end of that, that is it. You have basically got 2 years' notice to know that you have got to find somewhere to move on to after that. You might know: "I am gearing up to downsize and I want to move into that property but I am not quite ready yet, I need a couple of years for it." There would be reasons for doing it rather than: "I want a tenant to live on a long-term basis in that property and pay rent in exchange for that." If that is going to be a long-term arrangement, you would be more likely to use the long-term version of

that. But, to give greater assurance to landlords that, at the outset of embarking on what might hopefully be a very positive long-term contractual relationship with a tenant, if they want to have at the start a kind of probation period before deciding to go into a periodic tenancy, then they would be within their rights to use that fixed-term as a one-off to get to the end of that to work out that, yes, the tenant and landlord match one another and are happy to carry on. If they do not, either side can end that with no grounds needed to do that and can then move off. So I think it strikes a balance that enables us to move away from the bad system that we wrongly copied from the Thatcher era and that the U.K. Government and both leading parties clearly think needs to be reversed. It is a route for us to do the same thing, and I think that will be to the benefit of both landlords and tenants.

Deputy H.L. Jeune:

You were just talking, Minister, about the fixed-term agreements that I think in the law are called varied agreements. So I think it is, unless the agreement is varied ... so a question would be what would that threshold be to qualify for that variation? For example, you were saying it is up to 3 years but maybe there is a situation where it could be we know in 4 years' time. Would a landlord be able to say very clearly at the beginning: "Okay, well we can do fixed term for 4 years because we know that this is happening at the end of the 4 years." Your contract is only for 4 years, or whatever the situation is that that is, or will it have to be 3 years?

The Minister for Housing:

It will have to be 3 years.

Deputy H.L. Jeune:

The cut off is definitely 3 years.

The Minister for Housing:

If you are offering someone a home for 4 years I think you should offer them a periodic tenancy, is my opinion. I do not know if Tim or Natasha wanted to elaborate on any of that.

Policy Principal, Strategic Housing and Regeneration:

I think that is 100 per cent right. The maximum is 3 years, it could be less, it could be 2 years, could be one year, but the maximum is 3 years. If you were in the market for a 4-year or a 5-year tenancy then you may as well offer a periodic arrangement; that makes sense. Even with the periodic arrangement, there are still a number of statutory reasons in the law that you can end the tenancy, so you are not trapped in that sense as well.

Deputy H.L. Jeune:

With pre-existing agreements now, which potentially could be called fixed-term agreements, would landlords now, if this passes, start the fixed-term agreements again, even though it is prehistoric, within this law? Could they be able to go: “Okay, let us start this again where we could say it is up to 3 years”? I know that is not what you would want to see, but that could technically happen?

The Minister for Housing:

Yes. If, however, nothing was done, no conversation was had, no new contract was presented for signing but they both wanted to carry on, then they would carry on as a periodic tenancy. That would be presumed to be the case. But for the purposes of transitioning to the new system, we would allow existing fixed-term tenancies to carry on and, at that point, as a fresh relationship under the new law, it would be possible to do the fixed-term then. I do not know why you would want to but it is theoretically possible.

Deputy H.L. Jeune:

No, but just so it is understood, the landlord would have to make that specifically as a contract with the tenant, otherwise these amendments would mean that it would automatically fall into an open-ended, periodic tenancy because of that relationship in the past.

The Minister for Housing:

Yes.

Deputy H.L. Jeune:

Okay. How would this continuation work? It will just happen, the contract would not necessarily say that because the contract could have been written several years ago, it would automatically go into a periodic tenancy so then there are elements within that that is not really written in the contract but it is assumed now because of the law; is that the idea? I am just thinking of the practicalities of how that would work.

The Minister for Housing:

Yes. The provisions of the law prevail where the provisions of a written contract are not compliant with that law.

The Connétable of St. Mary:

If I could just make the point that some tenants like the comfort of being told they can have a 3-year tenancy. It gives me an element of reassurance I can have that and professionally I can have that, and so we just want to make the point it is not all one way.

The Minister for Housing:

That is great until your relationship breaks down. It is great until someone in your household passes away. It is great until you have a child. It may well provide people comfort. That comfort will dissipate very, very quickly when their life circumstances change. Just very recently I was speaking to a constituent, her and her partner had lived together for a year in a fixed-term contract perfectly well and perfectly happy, had the opportunity to renew for another year, thought: "Great, we will get another year guaranteed in this home, let us sign up for it." A month into it, they broke up. The lead tenant was the woman there, suddenly finds that she has got a contractual liability to continue in that property for 11 months on one income where she thought she would be doing it on 2 incomes, and to negotiate her way out of that was forced to pay substantial fees and find a new tenant to assign it to. So she thought it was great when she signed up to it and that changed very quickly when her personal circumstances changed. My law would fix that for her, from that situation.

The Connétable of St. Mary:

Okay, the tenant's personal circumstances; just making the point that sometimes tenants do like that.

The Minister for Housing:

Indeed, and they will like periodic as well because they will get significant protections in that too.

Deputy H.L. Jeune:

Talking about the periodic, of course you have outlined that landlords, when they serve notice to terminate a tenancy, there is grounds for serving the notice. Then there is this list specifically. During the development of the law, were there other additional grounds for eviction proposed by landlords or stakeholders that were ultimately not included and, if so, why were they excluded?

The Minister for Housing:

Yes, I can think of one in particular and there was one that was suggested to me that it ought to be a ground, if the landlord wanted to, within their own portfolio of properties institute some kind of right-sizing realignment. If they a property with empty bedrooms, they would prefer a family into it. That was proposed to me and I rejected it on the basis that I believe private sector tenants ought to be allowed to pay for spare bedrooms if that is what they believe they want to do. I do so because I need an extra room for all of my guitars, for example. I should have the freedom to do that as a free person and I thought that that as a ground was not right to impose on them.

Deputy H.L. Jeune:

Was there any that you had put forward but eventually decided that was not on your list as what you put forward?

The Minister for Housing:

No, not when the list was formally iterated. In my mind I went through millions of different iterations of how far I might go on this, how far I might go on that, but that was all kind of before putting pen to paper on it, and I have not really fluctuated on this since then.

Deputy H.L. Jeune:

Are there other jurisdictions that have a similar way of providing a list of reasons that landlords could use for serving notice? Is this normal practice?

The Minister for Housing:

I believe so. I do not know if Tim is able to cite any in particular

Policy Principal, Strategic Housing and Regeneration:

We had regard for Scottish legislation, for U.K. legislation, and looked at their reasons for notice. We took a balanced look across the piece. We also had regard for what the Islanders of Jersey came back with in the public consultation as well in terms of reason for notice, and that was a lot of landlords putting forward practical reasons why a tenancy might need to be ended. So we had regard for those as well. We also consulted with the Jersey Landlords Association on our reasons for notice. So we think that the list of reasons for notice that we have is balanced, is proportionate, and can meet most reasonable circumstances, would be my view.

Deputy H.L. Jeune:

Thank you. The panel has received a number of submissions from tenants on the proposed notice provisions and many have expressed concerns about the clarity and application of the definitions for grounds under which notice to vacate could be served. While Article 7 of the draft law would make an offence punishable by up to £10,000 for a landlord to knowingly or recklessly give a false or misleading reason for ending a tenancy, how will that be proven in practice?

The Minister for Housing:

There are lots of ways that you could prove it. If a tenant believes that it has been done wrongly they have probably already got some evidence. If they are told that they are being forced out of their home because the landlord intends to sell the property and then they move out of the property and a week later find it on places.je advertised for rent again, they might think something fishy has gone on. That is perfectly good evidence, I would have thought. If they can see with their own eyes that the renovation of the property they were told was imminent is not happening, they will be able to see that with their eyes. There are various different ways that would be able to be evidenced depending on the circumstances.

Deputy H.L. Jeune:

Then, when the tenant has got this evidence, where would they go to take that kind of evidence to?

The Minister for Housing:

Is that Environmental Health?

Head of Strategic Housing and Regeneration:

Yes, so at the moment, the Regulation Directorate's Housing and Nuisance Team provides advice and support to tenants, but they do not hold the power to undertake investigations under the Residential Tenancy Law. So there has to be police involvement. I understand that they have an established relationship with the police but drawing off of the offences of the existing Residential Tenancy Law are infrequent. As part of the enactment of the legislation, the phases that we go through - we have engaged in regulation - would be seeking to propose regulations that would establish powers of entry and investigation that would then enable the Regulation Directorate to pursue cases independently without relying on police involvement. As you would appreciate, relative to other crimes, this is quite a nuanced area that benefits from specialist input that you would receive from a housing officer working in Regulation. So that is what we would be looking to pursue should the States Assembly agree the principles of the legislation.

Deputy T.A. Coles:

So it will not necessarily directly protect the tenant at that point from being removed from the property. It would be a consequence after the fact that they would then go to, in this case would be the ...

The Minister for Housing:

If they, at the point of notice being issued to them, believed that it was not genuine, their first port of call would be to say to the landlord: "I am not so sure about this; could you prove it?" and if the landlord cannot prove it, they could say: "Well, I do not think this is legitimate so I am tempted to hold out on this and if you really are sure that it is right and you have the evidence for that, either show it to me or take me to the Petty Debts Court". So that would be the protection at that point for it. If the landlord said: "Yes, here is my correspondence with the lawyers about me intending to sell this property in 4 months' time", the game is probably up at that point and you know that it is genuine, but the tenant would ... if they were to stand up for themselves, there would be a route at that point to defend themselves.

[11:45]

Deputy T.A. Coles:

So it is about standing up to your landlord until they get the legal power to remove you. That is the protection you are saying is ...

The Minister for Housing:

Yes, but it should not get to that point because, if the landlord has evidence that the grounds that they are invoking are genuine, a tenant would be pretty stupid to hold out against it when they have been shown the evidence by the landlord. But perhaps that is a reason for landlords and tenants to be much more open with one another about it. If a landlord has plans for the home that the tenant has made for themselves they should be as open as possible about it and give the tenant as much notice as possible about the landlord's future intentions and that would avoid much of this anyway.

Deputy H.L. Jeune:

Would regulation, for example, if that is where it goes, provide guidance what kind of evidence landlords should provide to help them? I am just thinking, for example, that there may be a legitimate reason for a landlord to want to try to sell their property, but of course at the moment, for example, we know it is quite hard to shift especially one-bedroom flats. So you could have all the intentions to do that, but when would the cut-off be of how many months on the market before you go: "I do not want to lose money on this because I am still paying a mortgage, I need to get back in the rental market"? When would that be, because I would imagine that is where landlords would get nervous about what kind of evidence and where would that cut-off point be; it being malice to try and get rid of a tenant versus it being a genuine attempt to do something with your property but then it does not work out.

Head of Strategic Housing and Regeneration:

Yes. I think it is very difficult to provide specific guidance as to how the law would be applied because there are infinite scenarios based on what is going on with the existing property, what the landlord's intentions are, but it will always be a scale and degree. I think that just the very existence of the provisions and the offence in the legislation should act as a natural deterrent for landlords to abuse the provisions by using them to mask what is just trying to evict the tenant. I think with the support of the Regulation Directorate some consideration may be in additional codes and guidance to support as the law goes on if there is a clear pattern of uncertainty as to when an offence may have been created. What evidence the landlord should be thinking of making sure that they have, what evidence a tenant might sensibly collect in order to further their case, then of course we could look to prepare that. But because there are infinite scenarios that you could be dealing with here, based on the tenant's circumstances and the reason being deployed, it is really difficult to say what scale and degree would trigger an offence under the legislation.

Deputy H.L. Jeune:

Yes. Moving a bit on to eviction notice period, the draft law proposes that tenants may leave with one month's notice and no reason, while landlords must provide grounds for provision - so this evidence that we are talking about - and give between 3 and 6 months' notice. Minister, can you explain the rationale for this difference in notice requirements?

The Minister for Housing:

Yes, and I maintain that this difference is fundamental. It is absolutely vitally right that when we are talking about the roof above your head and all of the well-being that comes from that, that tenants ought to have flexibility to find the right solutions for them when they need that. At the moment, it is already the case under periodic tenancies that a tenant can give one month's notice without having to give a reason. They can also do that as counter-notice when they have had notice served on them; they can leave early of their own volition if they find a better offer elsewhere, et cetera. It is vitally important that we maintain that because in the process of a landlord giving notice to a tenant, if there are bumps along the way and it does not quite go to plan, the worst things that a landlord can suffer from that will be a void of not having rent being paid when they otherwise were hoping it would, or a tenant staying longer than they had planned while they still receive rent for it. The worst thing that can happen to a tenant is that dominoes start falling and their life can end up being wrecked from it. If you are required to give a long notice period as a tenant to leave somewhere, you will have to make judgments about what you do to move to your next home and things can go wrong in that process. If a tenant has to have a longer notice period and then they find the perfect home for them, they then have to make all sorts of calculations that they should not have to make about whether they pay 2 lots of rent for several months, whether they break a contract, which is obviously not something we should be encouraging, if they are looking to buy a home and they get gazumped at the last minute or the agreement falls through but they have already issued notice, it can lead to all sorts of dominoes falling that can have a seriously detrimental impact to a tenant's well-being. If there are swathes of conditions put on tenants there, they are in an extremely weak bargaining position for that. So the example I used before about a relationship breaking down and a tenant not being able to afford rent on a single person's income when they had planned to do it as a couple, if there are conditions imposed on that tenant they are in such a weak negotiating position and can have all sorts of fees forced on them, that can set back people's life progression by years if they are having to eat into their savings or that kind of thing. So it is vital because it is about the roof above their head and their well-being and the dominoes that can fall as a result. Tenants need that flexibility and it is fundamental.

Deputy H.L. Jeune:

Thank you. Specifically in the draft law, it includes serious and repeated nuisances as grounds for a 7-day eviction notice, so we have gone from that wide notice on those, but then very specifically in these serious and repeated nuisances. Is there a definition for what a serious nuisance is?

The Minister for Housing:

If either Tim or Natasha want to ...

Head of Strategic Housing and Regeneration:

Yes, there is not a definition, although it is an area that we spent quite a lot of time discussing with Law Officers and our drafter. In the case of a tenant's illegality, there is going to be clear evidence that there has been police involvement and I think that is an area that we really honed in on, is that there will be evidence of police involvement to corroborate that some sort of crime or illegality, repeated nuisance, so complaints to Environmental Health and noise audits, that there would likely be some involvement of a service that could corroborate. But I will pass over to Tim in case there is something specific that he wanted to add on to that.

Policy Principal, Strategic Housing and Regeneration:

No, I think that is broadly right. We also made it the case that it was serious nuisance as well so that you could not be evicted for what would be considered relatively minor issues. The bottom line is, and often when it comes to eviction, there is a court process and the court can look at the circumstances on a case-by-case basis. It will also have the ability to consider whether something is considered serious as well. So that in-built protection is always there as well.

The Connétable of St. Mary:

Sorry, on the question of nuisance, I note that the previous law is going to be amended by the deletion of the present ground, which is whether tenants cause or put a nuisance in the residential unit, et cetera, with already interference with the reasonable peace, comfort or privacy of any neighbour of the tenant. That, in a way, has been replaced by this serious notice, but under the serious notice provision you have to have police involvement and the police have to have attended the incident I think. What I am really saying is why was the old or the current provision about continuous nuisance, which is perhaps the most common cause for wanting a tenant out I would have thought, being deleted?

Policy Principal, Strategic Housing and Regeneration:

I will take a look back on that. I do not have an answer immediately to hand.

Head of Strategic Housing and Regeneration:

That was an area where we had to ensure that there was consistency across the legislation, so by including the new definition there was an explanation of what that nuisance was elsewhere in the legislation. We decided to modernise the framing consistent with what the Minister was proposing and the reasons to end the tenancy. That is "continuous" and "serious" do mean different things but

they could also mean the same thing, and a continuous nuisance, but which is low level, is that a fair reason to evict a tenant? Leaving the rubbish bag outside of the door, that may be a continual behaviour but is that a sufficiently serious behaviour to warrant the eviction of a tenant?

The Connétable of St. Mary:

The court will take a view on that, will it not, of course?

Head of Strategic Housing and Regeneration:

Yes. So I think it was just a judgment made but ultimately where that has affected existing provisions in the legislation it was to make sure that our provisions were consistent in how we were describing the tenant behaviour, to answer why that was changed.

Deputy T.A. Coles:

On this, just to get the process clear, so the landlord would have to gather the evidence of a serious and repeated nuisance, submit that to the Petty Debts Court or Magistrate's Court to request an eviction order, which would then have to be executed within 7 days for the tenant to leave?

The Minister for Housing:

No. So this is reasons for notice; that is different to eviction. This would be what the landlord would serve on the tenant. The tenant then has a choice: do they comply with it? If they think they have been caught bang to rights they ought to, because they are not going to get a lot of sympathy in the Petty Debts Court if it got to it. But if they did not comply with that, then the landlord has the grounds to go to the Petty Debts Court and formally seek an eviction order. My view is that, because we are talking 7 days here, that means a landlord in a serious incident can get to the point of Petty Debts Court quicker than they might otherwise before - if they needed to before - because under the current rules of no grounds notice, it is 3 months. So a landlord might attempt to use 3 months, even though they are pretty desperate, this would hopefully make them feel like they can get to the Petty Debts Court quicker when it is serious. Then the Petty Debts Court would deal with that as an eviction application.

Deputy T.A. Coles:

So it is a shorter notice period, then that allows it to then get to the Petty Debts Court. But if you have got evidence from the Regulation team for a noise complaint then that would then fall under a grounds of a mandatory eviction; is that one of those, because you mentioned that before?

The Minister for Housing:

I believe so, but Tim might be able to help me out on that, how the mandatory element of this applies.

Policy Principal, Strategic Housing and Regeneration:

Yes, that would fall under the mandatory heading.

Deputy T.A. Coles:

Is it right to assume then that in that table of the 7 days notices that those would be the criteria for your mandatory eviction process? So you have your table of eviction periods ...

The Minister for Housing:

Notice periods.

Deputy T.A. Coles:

Notice periods, which say 7 days. So is it right to assume that those 7-day notice periods may then be considered the more mandatory reasons for evictions through the Petty Debts Court?

The Minister for Housing:

I think they are specified, are they not?

Head of Strategic Housing and Regeneration:

The reasons are specified at Article 11. I am happy to read that if that helps: "The court must order the eviction if it is satisfied of the matters under paragraph 2", which is that: "The tenancy has ended and the tenant has not given vacant possession and that the landlord has ended the residential tenancy under Article 6F for any of the following reasons: change of use; renovation; use by the landlord or family; use by a landlord's helper; tenant for essential status; tenant's employment and work permit or visa; or tenant's residential status from incorrect information." As the Minister says, we derive much of that from discussion with the J.L.A. (Jersey Landlords Association) who contacted the Minister with the suggestion about introducing mandatory grounds. It would not include matters that are subjective and particularly ones that would draw on the human rights considerations that a court would naturally consider. If there is an accusation of something in relation to the tenant's behaviour, for example, there is always 2 sides to an argument and the Petty Debts Court plays a really important role in the middle of that to decide an outcome that fairly reflects the situation, having regard to the opinions of both parties.

Deputy H.L. Jeune:

In this respect, it is similar in a sense to the Rent Tribunal, in the sense that it is after the fact. So then notice has happened and the landlord has given that notice and what they could believe to be evidence for that notice, or maybe not, and it is then up to the tenant to go to the Petty Debts Court, for example, or where would they go to complain? They would go to Regulation, I mean where are the specific areas that tenants could go to complain about these different levels?

[12:00]

Because of course you have got the serious nuisance or repeated nuisance, tenants themselves may push back on that 7-day notice too, so I am just trying to understand for both landlords and tenants what is after the issuing of a notice period with the relevant evidence for those different 7 months, 7 days, or one month, or 3 or 6 months, whatever you have got the table there, where do they go then?

The Minister for Housing:

Someone correct me if I am wrong in this, I am not sure it is specified that it is a requirement at the point of issuing notice to give evidence at that point. So it is not required at that point. That is not necessarily a bad thing because a tenant may receive it and just take it for granted and say: "Yes, that is right, that is true, there is no case here." If a tenant thinks that is not justified or not correct, they would initially gently push back against the landlord to say: "I am not so sure about this. What is happening here?" Then it is down to the landlord to decide what to do. Again, there is no compulsion for the landlord to provide that evidence, but they would know that if they are not giving that evidence they are probably making an argument more likely. If they have that evidence, they can choose to show it to the tenant and the tenant will look at it and, if it is good evidence, they will know the game is up and, if they were sensible about it, would comply because they would realise that the notice has been issued perfectly and lawfully upon them. If they thought that the evidence was faulty or unjustified, again initially they would have to make that point to the landlord to say: "No, I am still not persuaded by this. I still think you have got things wrong." It might even involve counter-evidence if such a thing is applicable under any of this. Then I guess at that point it is then down to the tenant to either completely reject it and say: "I reject this; you are going to have to take me to the Petty Debts Court if you really want me out", which is a hell of a bluff to call. But, likewise, the landlord could say: "No, I have done this by the book, I am confident in my case here, so I will take you to the Petty Debts Court if you do not go." Either side can crack at any point in that or, if not, it will end up in the Petty Debts Court. But just to finish off that point, a lot of that is kind of what would already happen now, it is just that it is no fault and no reason. So a tenant could receive notice under the current rules, they may perfectly well know that the notice they are being given is totally unjustified, immoral and wrong, being done as punishment of them for doing things that are completely reasonable or what have you, and the only tool they have to defend themselves is to stick it out and hope the landlord caves in. But, at the end of the day, the landlord does not have to cave in, they can go to the Petty Debts Court and the notice has been issued lawfully because Article 6 of the current law says it can be issued for any reason whatsoever. So it is already the case that there can be that back and forth in the run-up to getting to the Petty Debts Court between landlord and tenant, but hopefully this new system provides much greater clarity about reasons for

it and the prospects of evidence coming into it that it will encourage both sides to behave themselves because they will know, if it does get to court, it is going to be a lot more clear cut.

Deputy A.F. Curtis:

So just given that it is more likely that the grounds have to be valid now, there have to be grounds and they have to meet the schedule of reasons and be valid, you mentioned, Minister, an example where a tenant knows they have been caught: "You got me, I have been having parties until 4.00 a.m. in the morning every night", whatever it might be, and you would expect them to reasonably comply because they have been caught. In the event that they are more than happy to string the process along, as many administrative processes in the Island often are, what is the recourse to a landlord who takes him to Petty Debts to deter somebody just stringing the process on? Are there penalties, are there reasons for a tenant to be dissuaded from being vexatious in their approach and forcing every piece of administration, are there charges back on the tenant?

The Minister for Housing:

Yes, I think you can get a costs award. Is that right, or have I got that wrong?

Policy Principal, Strategic Housing and Regeneration:

Are you talking about a tenant breaching the terms of a contract and stringing a landlord on by continually having parties at 4.00 a.m.? If they are doing that, a landlord can give that tenant a reasonable amount of time to stop doing that. But, if they do not stop that egregious behaviour as it is, after being given a reasonable amount of time, then the landlord is within their rights to evict them and that is what they could do.

Deputy A.F. Curtis:

So I guess my question is: it is within the landlord's right and, Minister, you would hope that the tenant would go: "You have got me; I will leave." What is to deter the tenant from frustrating the process and dragging the landlord on and the neighbours of that property for weeks if not months by frustrating ultimately the courts, for example the Petty Debts Court, and that requirement. Is there a deterrent within that to say, should the landlord be found to have been correct in issuing a request to vacate and the tenant frustrates the process, then there is a further penalty on the tenant, is perhaps my question?

Head of Strategic Housing and Regeneration:

I do not think there is anything under the existing legislation that would be able to do. You are going to have a seriously problematic tenant if that is going to be the case and that would be recognised the rent, at the very least, will be payable for the period of time that they continue to occupy that property even if they had not been paying rent. The Petty Debts Court would have to determine the

most appropriate outcome in terms of any compensation that would be due to the tenant in the event that it was a lawful eviction in accordance with the notice periods and the notice reasons that had been issued and, again, in light of the evidence. I guess some support to a landlord in building their evidence base, and going back to the point you were saying before about how does that evidence base become developed, in those particular reasons for any tenancy the law does require the landlord's written notice to either stop certain activity immediately or to do something to correct the breach within a period of time. So it is trying to create an evidence trail, if you like, of the landlord trying to act reasonably with the tenant. If there was no evidence or clear evidence that the tenant had gone against that written request, that reasonable request, that all supports the landlords in their case for the Petty Debts Court that they had continued to try to act reasonably with their tenant to the point that they had to bring the case to the court.

Deputy H.L. Jeune:

Thank you. Moving on, the panel has received submissions regarding the application of the proposed law to lodging houses. Given that the guide to the draft law details that this is self-contained units without a clear stipulation that the occupier is a lodger or boarder, the tenancy may fall within the scope of the draft law. Does the Government intend to clearly define this distinction?

The Minister for Housing:

I think it is already defined, to be honest. This law will not extend the scope that the current Residential Tenancy Law covers. So, if you are covered by it already, you will still be covered by it.

Deputy H.L. Jeune:

Thank you for that clarification. Moving on to fees and charges, what was the rationale behind the decision not to include a cap on fees and charges relating to a tenancy or tenancy agreement, like agent's fees, service charges, or administrative costs? Will this be included within any future or secondary legislation?

The Minister for Housing:

If we were to go into that territory, I think that would be a very substantial exercise. There would be a lot of market research and testing that we would need to do for that. That would be potentially a very distorting thing and we would be imposing on the free market what you can and cannot charge for. I am not saying that is the wrong thing to do, and I think in the U.K. there has been some looking at this anyway. Maybe one day in the future there will be some desire to look at that but, in the first instance, for the purposes of getting some substantial improvements moving forward, which has always been my priority with this version of the law, I think introducing transparency as a basic requirement is something that nobody can reasonably disagree with. If it is clear, it is in the law, it is defined, that provides tenants from hidden fees and charges coming forward at times where they

are otherwise desperate, which I have had anecdotal evidence of happening where people have desperately needed to leave their homes, they have negotiated it, thought it is all good, and right at the last minute been told there is another £500 fee on that. It is not in the contract but if they say no then everything that they worked towards is just going to get thrown in the bin, so they have got no choice but to pay it. This will hopefully end that.

Deputy D.J. Warr:

I am spotting the questions, my question is question 36. So, Chair, I will let you carry on with that one.

Deputy T.A. Coles:

My concern on part of this is obviously around the things like service charges, if they are not currently defined as part of the rent collection, that all of a sudden that they might then become an additional charge that the tenant is expected to pay. Of course, the service charges can be increased by above R.P.I. because it is down to an association that the landlord is a part of and not the tenant. So, would that then be possible that the tenant could be subjected to: "You are responsible for part of the service charges", and so that might increase by more than R.P.I.?

The Minister for Housing:

Yes.

Deputy H.L. Jeune:

Is there, within these amendments, how to notify or a reasonable way to notify tenants if, for example, I would assume in a current contract or in a contract, even a periodic tenancy, there would be the fees and charges would probably be laid out as such. But obviously, over time, especially if you are in a long-term rental, those fees and charges would change, but you are not necessarily changing the contract because obviously it is a rolling contract. What would be the best practice for a landlord to notify those changes in the fees? Is it laid out in the amendments? Is there guidance on how to do that?

The Minister for Housing:

Yes, does either Tim and Natasha want to attempt ...

Policy Principal, Strategic Housing and Regeneration:

Not specifically. What we focused on is making sure that if, for example, there was a service charge associated with a rented dwelling, that would be set out as a fee or a charge that a tenant could expect to pay over the course. But I do accept that sometimes over time these change and go up. But at least a tenant would know that it is coming, would know that it is possible, and it would not be

a complete surprise, which is the idea behind transparency. But I am sure in the fullness of time we would hope to obviously develop guidance around that kind of thing and best practice, but it is not there at this point.

Deputy H.L. Jeune:

Okay, so of course because this is I guess a concern that landlords could attempt to increase non-rent charges as a means to increasing rental costs, so of course this could be the place. So, when you are saying there could be over time guidance, what kind of timeline are we talking about? Is this something that is coming straight after these amendments, if they were to be agreed to come? Because this feels a little bit open-ended in the sense of like a period of tenancy, open-ended in an area that could be could be unintentionally abused from one side or could be openly abused on the other, it could be either/or.

Policy Principal, Strategic Housing and Regeneration:

It is really difficult to hang specific timelines around this, especially when our focus is about rightly getting the law over the line, making the amendments as necessary, getting it through to commencement. But we would hope to have guidance shortly or as soon as feasible possible after the law is there. We can work on guidance as we go. We are already recording issues that are worth focusing in on in the future around the draft legislation. But it would be really difficult to put a timeline to say that, yes, as soon as the law is published we will have guidance ready to go. I do not think that would be realistic or feasible from our perspective.

Head of Strategic Housing and Regeneration:

As part of our planning, which we spoke to you about recently in a private briefing, is that once the States Assembly have agreed the legislation, there will be a period of time before the law becomes enacted. In that time, a quite significant focus is going to be on preparations for the transition. So there is a lot in the legislation that will need to be made clear to individual tenants and their circumstances through good communication, by good and regular communication as the law gets ready to be switched on, but also, once it is switched on, making sure that the transitional provisions themselves are absolutely clear. But, importantly, making sure that everybody understands what they should be expecting from a tenancy agreement, a new tenancy agreement, when they are required to have one. So keeping in mind as well that the provisions of the legislation depends on how you are entering the legislation as to how immediately those new provisions are going to apply. So I think we will factor it into the transitional preparations to make sure that the areas of greatest risk or the areas that we think both tenants and landlords are going to need the most support to understand what the law means for them, we will make sure that there are good communications as the law is switched on and early days of its implementation.

[12:15]

Thereafter, as the law beds in, I am sure it will become clear where landlords or tenants are struggling to get their head around a certain element, and we would then be factoring that into maybe a package of specific guidance to support people with the implementation of law in the long term.

Deputy H.L. Jeune:

Thank you. On that, I would like to turn to the Connétable to talk a bit about the Rent Tribunal and transitional as well.

The Connétable of St. Mary:

Yes, okay. On to the Rent Tribunal. It will not be in being, in function being at the time that the law is passed, so do you envisage before the law becomes operative, the amendment becomes operative, that the Rent Tribunal will be up and running?

The Minister for Housing:

No, it will not be up and running. It will be on the road to be up and running I am hoping.

The Connétable of St. Mary:

So why the delay? What is the thinking behind that?

The Minister for Housing:

Because you are creating the Tribunal from scratch and there is only so much effort we can put into getting ready to establish that Tribunal before we have got permission from the Assembly to do so. I cannot go offering people jobs on the Tribunal before the law has been passed.

The Connétable of St. Mary:

So the rules as to increase of rent, et cetera, to which you might be able to apply to the Rent Tribunal in due course, will not be available immediately?

Head of Strategic Housing and Regeneration:

Just to clarify, so there is a difference between the point at which the law is agreed by the Assembly and the time at which the Minister enacts the legislation, so we made a key choice to not pursue an Appointed Day Act that is specified and locked into the legislation to make sure this flexibility to do, as the Minister says, once he has got the legal *vires* to appoint a tribunal, designed at the very least, and then it really depends on how much time we have at that back end because you will be aware that early next year you will be getting close to the pre-election period, and the Minister becomes quite limited as to what he can and cannot do. So a decision will have to be made I think closer to

the time as to the sequencing, but the Minister is quite right, you cannot appoint a tribunal if you do not have the legal basis to appoint them. So, there might be a sequencing even within a 24-hour period where the law becomes enacted, and it could even be in the same States debate, for example, on the same day that the Minister signs the order, you debate the appointment of tribunal members and it happens quite neatly. But it really depends on where we are at that point in time. I do not think there is any intention to have any particular lag between having the law enacted and the Tribunal stepped up, because, as you highlight, there is such a dependency on the functioning of the rent stabilisation on having the Tribunal available. But, again, just to keep in mind that we have a soft entry into the legislation, so it is not like there is a grand switch on with the law that there may be a queue of people waiting to appeal to the Tribunal, it is going to be a gradual transition. So, if there were to be some lag in that time, I think it would be fairly inconsequential.

The Connétable of St. Mary:

Okay. Earlier in this hearing, you referred to the qualifications, et cetera, for the Rent Tribunal members, their expertise. Where will that be laid down, in the document establishing the Rent Tribunal?

The Minister for Housing:

It is in the draft law.

Head of Strategic Housing and Regeneration:

Yes, so the overarching principles are established by the draft legislation and we will be supplementing it with ...

The Connétable of St. Mary:

It is the supplementary I am bothered about really, yes.

Head of Strategic Housing and Regeneration:

Yes, so an order will be required to be prepared by the Minister working very closely with the Tribunal Service that sets out some of the finer details. But the principles of the composition of the Tribunal is set out in the primary legislation. So, for example, to have a legally qualified chair.

The Connétable of St. Mary:

Okay, and the Rent Tribunal's powers are limited to appeals on points of law.

The Minister for Housing:

The power of the Rent Tribunal is to determine solely whether rent has been increased in accordance with the rent stabilisation provisions of the law.

The Connétable of St. Mary:

In accordance to the law, okay.

The Minister for Housing:

The only route of appeal from that is on a point of law. It is not whether the Tribunal's decision was good, but whether they followed the law in making that decision; that is the point of appeal.

The Connétable of St. Mary:

Going back to the cap principle, was any consideration given to the idea that, just as the court has discretion to weigh up the pros and cons and the hardship provisions in determining eviction, why were similar provisions not given to the Rent Tribunal that they could establish whether an increase of the 6 to 7 per cent in certain circumstances might be right or are you envisaging that?

The Minister for Housing:

I am not sure I understand, sorry.

The Connétable of St. Mary:

The rent cap, what I am saying is: could the Rent Tribunal not be given the power to go beyond the rent cap in certain circumstances, given the discretion?

The Minister for Housing:

Are you suggesting that we would not have a rent cap but the Tribunal would have greater flexibility to determine what is fair and right?

The Connétable of St. Mary:

That is right, there would therefore be a ceiling.

The Minister for Housing:

I would be against that because, firstly, I think it would certainly lead to a lot more cases going to the Rent Tribunal because the grounds of what is considered fair and justifiable would be completely subjective at that point. Yes, I think giving them the autonomy to determine that, they would be inundated and tenants would not necessarily know what the threshold point is at which they should start being annoyed at what is being proposed to them. If inflation is 2 per cent and a landlord says: "Your rent is going up by 2.1 per cent", is that the point at which a tenant under that proposed system goes to the Tribunal? It is clear under our version that, yes, they could, but if you gave the autonomy to the Rent Tribunal to decide what is right and fair it becomes a free-for-all.

The Connétable of St. Mary:

It could be built in, I suggest, but I am not set to go that way. I really asked whether you considered that and you replied, thanks. I have got a couple questions really on the interaction between the Rent Tribunal and the Petty Debts Court and Royal Court, but there is in fact no interaction. You said earlier on I think, Minister, that the present procedure for eviction is going to continue on different grounds but similar. So I am right in saying that, am I?

The Minister for Housing:

Yes.

The Connétable of St. Mary:

There is no change in the jurisdiction.

The Minister for Housing:

Yes.

The Connétable of St. Mary:

If I can go back a stage, there are certain aspects which I think will be put in a present tenancy agreement. To take one of your colleagues' proposition regarding animals - I mean annoying household pets for instance - if a standard tenancy agreement may well include not to bring perhaps a dangerous animal, if that is in a present lease, a tenant ignores that, how is that covered as a ground for eviction in the law?

The Minister for Housing:

They are breaching the tenancy agreement.

The Connétable of St. Mary:

Just a breach of tenancy agreement. Well, thank you for clarifying that. So in fact some of what I was asking earlier about continuous breach of right of enjoyment could be included again, and straying slightly, is that going to be your standard tenancy agreement which is yet to be revitalised? Sorry, got on to a different question I think, sorry. How far have you got with that really?

Head of Strategic Housing and Regeneration:

I do not think we will put a lot of effort into redrafting a standard tenancy agreement until we know how the law has been settled.

The Connétable of St. Mary:

Okay, I withdraw that, thank you. Again, looking ahead to the Rent Tribunal functions, will they have a duty to monitor increases so they are in a position to collect data on rent increases to determine what is a fair amount?

The Minister for Housing:

We will get their decisions reported to us so we will know what they are up to.

The Connétable of St. Mary:

So it will not be their own function, it will be done by statistics?

The Minister for Housing:

Statistics, yes.

Head of Strategic Housing and Regeneration:

So there are 2 separate things there. One is the collection of rental data, which we discussed earlier that we have not yet developed a process, but, yes, we do envisage collecting fairly regular information on rents charged so that we have an understanding what the overall housing rental market is doing. In relation to judgment decisions of the Rent Tribunal, it will be a requirement for the chair to produce an annual report and we will have an understanding of the pattern of decision-making that is occurring there. I guess it would be those 2 things in combination that the States Assembly and the Minister would take into account if they were contemplating any necessity for changes.

The Connétable of St. Mary:

Okay. I am mindful of the time, Chair.

Deputy H.L. Jeune:

Yes, I think we could ask the Minister for maybe 5 to 10 more minutes. Is that possible?

The Minister for Housing:

That is fine by me. Is that okay?

Deputy H.L. Jeune:

I will say 10 minutes.

The Connétable of St. Mary:

I think most of the questions are self-evident in that, and we have not answered them in our thing actually. So there were questions about the interaction between the courts and the Rent Tribunal,

they are clear cut I think. Do you envisage the court process being used much more as a result of these provisions?

The Minister for Housing:

Again, I am not a clairvoyant. I simply do not know and I do not have a basis for making that kind of prediction. To be perfectly honest, I think that what we are proposing, because it caters for more specific circumstances, it provides clarity on what happens within those, I kind of think there is less room to argue. Because the consequences are set out more clearly, it is going to be just an evident thing that both landlords and tenants will have easier access to understand what their rights are and so that enables both sides to know they are doing things by the book because the book is better written. I hope that that would lead to avoiding needing to invoke the authorities to resolve things. I cannot know that for definite but that is my hope.

Deputy H.L. Jeune:

I have a question on the composition of the members of the Rent Tribunal. Will there be any safeguards put in place to manage conflict of interest, of course both from a landlord side but also from a tenant side, and how will that look like?

The Minister for Housing:

That will be part of the documents that are written to build up the processes for that Tribunal. But, yes, conflict of interest is a fundamental thing to have dealt with there.

Deputy H.L. Jeune:

So it will be after the agreement, so the States Members will not necessarily see those kind of details. Would we see a terms of reference ahead, or at least the bare bones of the terms of reference, to understand the kind of membership and the composition and how that would look like, how many times it would be meeting, a little bit more detail of the Rent Tribunal, when would we see that?

The Minister for Housing:

A reasonable amount of that will not be before the law has been debated and approved by the States because it is not work that we can get people to do when it has not been settled yet that the Tribunal will come into existence.

The Connétable of St. Mary:

So if it is helpful, I know that the members' names will be put forward by the Appointments Commission within their process, so I assume there will be balanced ...

Head of Strategic Housing and Regeneration:

Yes, that is right, that is built into the legislation. I would say probably the ultimate safeguard is that it is the decision of the States Assembly as to who you appoint and you would undertake scrutiny as part of your decision making in that process

Deputy H.L. Jeune:

Just on this, how the Rent Tribunal will work, of course, will the tenants or landlords incur any cost going to the Rent Tribunal? How will it work? I guess the representatives, when they represent themselves to the Rent Tribunal, or they could send other people, or just practically how would that work?

Head of Strategic Housing and Regeneration:

So I do not think it is in anybody's interest to create an industry for legal representation. The processes and procedures that we will work with the Tribunal Service to develop, we would want to make as accessible to the lay members of public as we possibly can, so there is not that dependence. Also I think the Judicial Greffier is quite clear that we do not have capacity in the legal aid system, for example, to support Islanders accessing legal support if it became a decision-making environment that required that. So we want to make it as accessible as possible. I think somebody could still seek to have representation or additional professional support in their submissions. So a landlord may undertake to get some professional input to corroborate his case about works undertaken with the property, for example, to submit that with their papers. I think it could always be a case that a tenant is naturally disadvantaged because they are less likely to have the means, which is why we would want to make the appeals process as accessible and easy to understand as possible for a tenant in an environment where they can feel comfortable representing themselves.

[12:30]

The Connétable of St. Mary:

So just feeding off the chair's question, there might be some initial fee to bring it to the Rent Tribunal in the first place, or you are not anticipating that?

Head of Strategic Housing and Regeneration:

We are not anticipating there to be any charge to bring a case to the Tribunal. The financial implications have been set out at a high level with the proposition, largely mitigated by an existing allocation of funding that the Minister sought in his previous capacity.

The Minister for Housing:

So prescient, yes.

The Connétable of St. Mary:

Transitional provisions, we have covered some of it I think. We are very happy ...

Deputy H.L. Jeune:

Are you happy, Connétable, that your questions are ...

The Connétable of St. Mary:

Well, on the transition, just going back to the basic question under transitional provisions, has consideration been given to the possibility of landlords terminating the present agreement so they would wish simply to get a benefit of a new base cost for the rent, shall I say?

The Minister for Housing:

I mean the landlords I think under the current rules are free to do that now if they wanted.

The Connétable of St. Mary:

That is what I am getting at; might this hasten it?

The Minister for Housing:

There may well be mechanisms by which they can do that. It would strike me to be quite a foolish thing to do because it would necessarily ...

The Connétable of St. Mary:

I am not concentrating on morality, I am just ...

The Minister for Housing:

And I am giving my response, which is that the reason I do not consider that much of a threat is because it would be shooting themselves in the foot and having a void where they are not receiving any rents at all for the sake of changes that are not particularly against their interests anyway, so it would strike me as senseless.

Policy Principal, Strategic Housing and Regeneration:

If I may, as well on that point, we deliberately had in the policy design that pre-existing fixed-term tenancies that are still ongoing as the new law comes in, when they come to an end, we are not forcing landlords to have to honour some of the new requirements under the new law. They are free to enter into a new agreement with the sitting tenant and set the rent level so the rent stabilisation and requirements of the new law would not apply to the old ones. So, in a sense, there is no incentive for them to get rid of an existing sitting tenant. They can start from scratch and set the rent level as they wish to under a new agreement under the new law. We took that into account

because we do not necessarily want to encourage or give an excuse for landlords to say: "The new law is coming in, I need to end the tenancy now because I am going to be disadvantaged in some way." The fact that they can start with a clean slate and set the rent levels according to the market or according to what they agree with the tenant is built into that process.

The Connétable of St. Mary:

Just to clarify if I may, if there is an existing 5-year tenancy, which has 4 years to run when this new law comes in, they are not subject to the capping of the 5 per cent during that time?

Policy Principal, Strategic Housing and Regeneration:

If it is a pre-existing fixed-term specifically, then, no, they would not be. When they enter into a new agreement the rent level can be set, and then from that point onwards under the new law then of course the rent stabilisation rules would apply, but they would not jump from the pre-existing fixed-term into the new agreement under the new law.

Head of Strategic Housing and Regeneration:

But, just to clarify, if the landlord is seeking to increase the rent because they believe that their current rent level does not represent a fair market rent, that is a permissible reason under the law anyway. So there would be no reason to seek an exception by making use of the transitional provisions because it is a lawful reason to increase the rent. It just means that the tenant will have a mechanism to appeal that to the Tribunal. So I think it is quite difficult to understand why a landlord would take such action when the law very clearly provides for those ...

The Connétable of St. Mary:

Maybe I am missing something. Going back to the capping element, for instance, which is not capped at moment, what I am really saying: is there a transitional provision which enables an existing 5-year lease to effectively ignore the cap element for the duration of the lease once the new law comes in?

Head of Strategic Housing and Regeneration:

They could do, yes, they can, but it goes to why a landlord would decide to do that beyond the reasons that were already set out in the legislation, so that would be seeking to go above market. What might drive a landlord to do that given that ...

The Connétable of St. Mary:

Displace our inflation in 3 years maybe, I do not know.

Deputy H.L. Jeune:

I was just going to say on the last, because it is the last time, opening it up for last questions.

Deputy D.J. Warr:

Yes, and all of this was around is it likely, could there potentially be a race now, if the legislation is coming in, for landlords to set fixed-term tenancies to come up before new legislation comes in, will they start 5 years: "Let us put a 5-year contract, a 5-year term in", or something like that, do you foresee that at all?

The Minister for Housing:

No, because I think that would be far too fiddly and for what benefit. Landlords would not be able to end existing fixed terms early so they can set a new fixed term; they are not allowed to do that under the current law. If they wanted to do that to a tenant, the tenant, not a great position for them to be in, but they do not have to sign it. They can say: "I will find somewhere that is not going to treat me like this. Not a great thing to force on them but the landlord does not have the right to get a renewal from a tenant so that there would be that part of the negotiation as well. And for what benefit?

Deputy H.L. Jeune:

Is there anything else from the panel? So, Minister, in the last few minutes, is there anything that we have not covered in our questions today that you would like to let us know before we pack up?

The Minister for Housing:

Not specifically. There are a few things that are proposed that we have not delved into that we are happy to go into at some point. We have not talked about how social housing interacts with this, for example. I hope that is a sign because it is so clear and obviously well thought through in the law, but obviously we are happy to do that at any point you wish us to. But I think the only thing that I have not been drawn upon so far in questions, and this is not a statement, but I was thinking about this before this hearing, reminding myself what this is all about and I was reminding myself of some of the statistics that have stuck out to me that have inspired why we have gone for lots of this. Reminding myself that between 2017 and 2023, the amount of people in Jersey in their 20s and 30s fell by 7 per cent and the fact in the Jersey Opinions and Lifestyle Survey between that same time period, Islanders between the ages of 16 and 34 registering that they are unsatisfied with life in Jersey doubled in that time. In that same survey, 48 per cent of people in qualified private rents reported significant rent increases. We have the lowest birth rates in my lifetime. I think all of those things are connected, and I think that the legislation that we have come up with is the closest to the COVID-style emergency legislation that I was involved in a few years ago. I think that if we fail to grasp the nettle on this and improve conditions for renters in Jersey in accordance with what lots of other jurisdictions have successfully done around us, I think the Island will pay the price for it and it will risk our future prosperity if we do not do it.

Deputy H.L. Jeune:

Bringing that out of being a statement into the wider things that we were talking about earlier that we touched, because of course this is our quarterly hearing as well, and we were talking a bit about the budget and what next, because of course part of that budget long term may not be under your drive. If you get these Residential Tenancy Law amendments across the line, what kind of things ... like what is your long-term vision that you are wanting to set in stone, maybe the R.T.L. is going to help fix all those things that you have just mentioned, but is there anything else that you are pushing forward that you want to put in place ahead of the next term and that long-term vision addressing the housing crisis, putting some groundwork for new legislative processes in place and what would that be?

The Minister for Housing:

Yes. The 2 things I mentioned earlier that the evidence that I have seen is that soft rent control measures are best when they are combined with supply measures as well. We have done a reasonably good job of that in recent years but we need to keep going and we need to focus that on the other areas that we have not necessarily catered for as much, family-sized homes being an obvious one. I would like by the end of this term of office that to be a clearer feature in Jersey's longer-term investment aspirations. The First Step scheme has real potential to make people's dreams come true if we are prepared to get behind it more, give it more funding, maybe tweak it as time goes on depending on what experiences people have. But I think what we have seen so far has been a successful model that works and I would like to be in a position where that is a bit more secure into the future as an offer for Islanders.

Deputy H.L. Jeune:

Thank you, Minister, and I think we end there. Thank you very much for letting us go 10 minutes extra for this hearing today. Thank you for addressing the panel's questions and also to officers for doing the same thing. As I have said, we will be inviting you to another hearing specifically on the R.T.L. amendments and specifically focusing, once we have gathered all our submissions ... we are still collecting those and those are open, for everyone who is listening online and listening later, for 16th May, open for that effort for collecting those and helping us to develop more questions for you and your officers then. So thank you very much for that.

[12:40]