



Environment, Housing and Infrastructure Scrutiny Panel

Draft Residential Tenancy (Jersey) Amendment Law 202-

Witness: The Minister for Housing

Monday, 9th June 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

Deputy D.J. Warr of St. Helier South

Rt. Hon. M. Tomlinson K.C. (Independent Adviser to the Panel)

Witnesses:

Deputy S.Y. Mézec of St. Helier South - The Minister for Housing

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

Mr. T. Millar - Policy Principal

[09:00]

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

So, welcome to the final public hearing of the Environment, Housing and Infrastructure Scrutiny Panel's review of the Draft Residential Tenancy (Jersey) Amendment Law. The panel has been undertaking this review to assess whether the proposed changes are fit for purpose and strike an appropriate balance between the rights and responsibilities of both landlords and tenants. Throughout the review we have received roughly 300 responses to our call for evidence from a wide range of stakeholders, including private landlords, estate agents, businesses, charities and tenants,

both through a dedicated survey and public engagement events held across the Island. Today's hearing will allow the panel to raise its final questions with the Minister for Housing before concluding our work and preparing our report for the States Assembly. 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 ensure that all electronic devices are switched to silence. For the purpose of the recording and the transcript, I would be grateful if everyone who speaks could ensure they speak clearly into the microphone. So, first of all, I would like to start with 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:

Deputy Tom Coles, Vice Chair.

Deputy A.F. Curtis of St. Clement:

Deputy Alex Curtis, panel member.

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

Deputy David Warr, panel member.

The Minister for Housing:

Deputy Sam Mézec, Minister for Housing.

Head of Strategic Housing and Regeneration:

Natasha Day, Head of Strategic Housing and Regeneration.

Policy Principal:

Tim Millar, Policy Principal in the Strategic Housing and Regeneration team.

Deputy H.L. Jeune:

Thank you. Today with us we have our independent adviser, who has been helping the panel with our review and who will be providing us with the report after this meeting in the next few weeks. So ...

Mr. M. Tomlinson:

Chair, thank you. My name is Michael Tomlinson. I am a barrister practising at 3 Paper Buildings and I have been appointed by the panel as an independent adviser.

Deputy H.L. Jeune:

Thank you. Michael we would ask to come in at certain moments if there are any questions that he would feel that he would like to ask after hearing the Minister's responses. We have 2 hours for this meeting. We have a lot of questions, Minister, and I would like to kick off with the first one. Within your common strategic priorities, you committed to deliver a new Residential Tenancy Law to improve arrangements for both tenants and landlords. The principles of the draft proposal, though, says: "A law to amend the Residential Tenancy Law 2011, including to improve tenants' rights under residential tenancies." Given that the draft law is intended to improve conditions for tenants, why were landlords not also explicitly included within the principles, particularly if, as I understand it, you believe the law is also improving for landlords as well?

The Minister for Housing:

I think that is a political nuance and I kind of think it goes without being said that if you are providing a better rental market then good landlords will automatically benefit from that. I think it is axiomatic that if you are providing clarity for how tenancies can be managed and, importantly, how the trickier circumstances can be dealt with, like asking a tenant to move on, then that clarity and certainty also will extend to good landlords. But I do have to make the point clear that a big part of the law is ... or a big part of the point of the law is to try to tackle some of the poorer behaviour that I do see on a day to day basis.

Deputy H.L. Jeune:

Thank you, Minister. Going specifically into more of the areas around the amendments, the Draft Residential Tenancy proposes a rent stabilisation measure that will cap annual rent increases to no more than 5 per cent or R.P.I. (Retail Price Index) rate, whichever is lower. The panel has received considerable evidence from members of the public, local organisations and key stakeholders expressing concern that the proposed rent cap could negatively affect the private rental market, potentially leading to a reduction in rental housing supply. How do you respond to these concerns, Minister?

The Minister for Housing:

I think that what is proposed is about as moderate as you could possibly get in the form of any kind of interference in how rents can go up during residential tenancies. I think a point that does not seem to have been understood by some who have commented on it is that these are passive proposals. They are not like what exists in other jurisdictions where if a landlord wants to raise their rent they have to go and ask permission from the Government to do so. This is to be in the first instance dealt with by landlords and tenants as they see fit, but with a safeguard that if rents are to increase above those caps, then at that point a tenant has a right to appeal it and that appeal is based on 2 specific exemptions to that cap. My view is that by putting that in law by and large people will just get on with it themselves without needing supervision on it and be fine with it. When a

landlord needs to propose that rent goes up by above those amounts, because properties ... rent has fallen behind market rate or landlord has invested in the property, et cetera, by and large I presume that tenants will be accepting of that because they will be able to see with their own eyes that what the landlord is trying to do is legitimate and that if they try to appeal it, if it is clear that the landlord is in the right, well, their appeal is not going to stand any chance. So there would be no point in going ahead with it. The only times that it would ... that a tribunal would side with the tenant is if the landlord has attempted to raise rent at an unjustifiable rate when they have not put that kind of investment in the property and the rents have not fallen behind the market rate. I think if you as an individual landlord have a model that is based on raising rent at unsustainable rates for your tenant without putting that investment in and without basing it on market rates, then that is not really a model that we would want to be supporting.

Deputy H.L. Jeune:

Thank you, Minister. If the draft law is approved and landlords choose to exit the market, causing a contraction in the private rental sector as they have talked about, what monitoring mechanism will the Government put in place to track the effects on tenants and remaining landlords and what mitigation strategies will be available to address any resulting shortfall?

The Minister for Housing:

Well, the first thing to say to that is that we have ... if landlords are exiting the market, those homes do not disappear into thin air. They can be bought by other landlords who are perfectly happy to deal with these proposals, or they can be bought by people who are aspiring to own their own property that they live in. Both of those are good outcomes. The ways that we can measure this are twofold. Firstly, we have the Rented Dwellings Licensing Scheme, which is relatively new to Jersey, that we did not have previously. So we would pick up through that when licences are not being applied for where they previously have done. Of course, we also now have the stamp duty surcharge, which means in the Royal Court transactions we are now picking up when a transaction is by an investor. So we can track how many are being bought by new landlords or existing landlords adding to their portfolio, and those sales going through that we can track those as well.

Deputy H.L. Jeune:

Thank you.

Deputy D.J. Warr:

Sorry, 2 questions. Just one to go back on to the first point about the 5 per cent, do you believe there is a risk by being explicit with your 5 per cent ... do you think that because you are being explicit, that has actually introduced risk into the market and is why landlords are concerned? I

appreciate all the arguments you have made, but the fact that you have been explicit with a number, does that not concern you, the response that has been given to us?

The Minister for Housing:

No, I think the onus would be on them to justify why they would have the right to put rent up by very inflationary rates when they are not investing in properties and rents in their properties have not fallen behind market rate. I think the onus is on them to say why that is a justifiable practice.

Deputy D.J. Warr:

Okay. The second question is really around the contraction in the market. I know you say a new landlord may well come in and take over the property, but obviously in the meantime you have this situation whereby someone has to vacate the property, the property becomes vacant. What happens to those people who are tenants? They have to go and find another property before the property is sold, and so you have this gap between buying and selling, which makes people effectively homeless. Is that not of concern to you?

The Minister for Housing:

That happens every day already under our current system that a landlord is entitled to sell a property and seek vacant possession in order to do that.

Deputy D.J. Warr:

But the concern in this is the risk, which you could say is if you saw more people doing this you could end up with a bigger homelessness problem.

The Minister for Housing:

If there is a massive spike in properties being sold, then we will see lots of transactions and we will see lots of movement in that time. I personally do not buy it that that will be the case, especially given there are transitional measures in this law that will allow existing tenancies to continue as they are until they naturally expire and then they can be renewed on to a subsequent new initial term. So before the full brunt of the proposals are felt by some landlords, that is going to take years in some instances for that to be the case. So I simply do not believe the doomsday prediction that there is all of a sudden going to be a massive spike in homes on the market, especially when we look at the state of the market at the moment where house prices, particularly for small homes, have come down in recent years by the biggest amounts that they have since records began, which means that is quite good for those who are wanting to buy their first home. So with every challenge there is also opportunity and we may well see some tenants be able to become homeowners if there are more properties on the market and prices coming down.

Deputy H.L. Jeune:

Thank you, Minister. The panel welcomed the publication of the policy paper underpinning the proposed rent stabilisation measure. For the benefit of the public, Minister, could you briefly explain why this specific approach was chosen?

The Minister for Housing:

Well, I do not think it would have been completely right for me to have dreamt up some system and imposed it and said: "This is down to my brilliance and I promise you it will work." It would be right to test it and be right to look at what options there were. When I started this I was not 100 per cent settled on what I thought the exact right mechanism would be. I wanted it to be credible and I wanted the views of others to input into that process, and so I think by going through a multi-stage process involving the economics unit, looking at some options, relooking at options once other things had been considered into that, I think ultimately meant I had greater confidence that I was picking a version that I felt would do what it needed to do for Jersey. I did fluctuate in my position during that process because of what I was reading in front of me and I did not start with one position and end with exactly the same position without moving in between it. I took in all of it and that was very useful to me.

Deputy H.L. Jeune:

The draft law includes a power, Article 24(1)(1b) to be precise, to specify a different maximum percentage for annual rent increases, which we understand is intended to allow the States Assembly to raise or remove the 5 per cent cap in periods of high inflation. However, the provision is not limited in that way and appears broad enough to also permit a reduction of the cap below 5 per cent. Can you confirm whether this is the case and whether you envisage any circumstances in which a reduction might be considered appropriate? If not, would you agree that clarifying this point could provide greater reassurance to landlords?

The Minister for Housing:

Well, I think it is a given that if you are setting regulation-making power for the Assembly to adjust that cap that it cuts both ways. In my lifetime inflation has been relatively low. When I talk to my parents, they remember it being very much higher than it currently is, so that clause is there as a safeguard just in case our entire economy and how things work in future years does change or goes back to what previous generations have experienced and we will need the flexibility to respond to that as and when it is right. That is for the States Assembly to do, not an individual housing Minister. What was the other part of the question, sorry?

Deputy H.L. Jeune:

It was just if not would you agree with clarifying this point. I think it is because the Article specifically talks about increase, it does not talk about decrease, and we are just saying whether that is clear enough for those reading the law to know that it goes both ways.

The Minister for Housing:

Okay. I do not have that particular Article in front of me. Does it specifically say ...?

Deputy H.L. Jeune:

It says amending Article 7A to specify a different maximum percentage at which the annual increase in R.P.I. is capped, and then in brackets: "For limits on rent increases during the total duration."

The Minister for Housing:

Okay, yes. I think that is clear. It means either way.

Deputy H.L. Jeune:

Thank you. The draft law does not currently include a statutory review to reassess the effectiveness of the rent cap over time. Given the potential for economic volatility or worsening house pressures, has consideration been given to including a formal requirement with a periodic review of the rent caps impact?

The Minister for Housing:

No, I have not considered that, no.

Deputy H.L. Jeune:

Why not?

The Minister for Housing:

I do not believe it is necessary. I think that this is something that would naturally happen anyway. Honestly, I do not think it is particularly useful for the public sector generally to artificially hold reviews on things when everybody knows they do not need to be reviewed and everything is fine at the moment. I think it would be a better use of our time and resources to address that kind of thing as and when it appeared to be an issue that needed to be addressed. I think a tick-box exercise may not necessarily be the best use of resources.

[09:15]

Deputy H.L. Jeune:

So when either the Minister or a member of the States Assembly would be proposing this increase or decrease with the R.P.I., would that be the moment then to basically provide evidence for that?

The Minister for Housing:

Yes, definitely. You would have to if you were putting forward those regulations. You would want your report to that to be as robust as possible, but it might also cut the other way in that if there was a suspicion that this metric was out of date at that point, you might unilaterally want to decide to do that review before concluding whether regulations needed to be brought or not. You might do that exercise and say no, it is fine, and let us not bring anything to change it. So you could cut either way there.

Deputy H.L. Jeune:

Minister, Article 7D allows a rent increase above the cap either because the current rent is significantly below market value or because the landlord has made investments with benefits to the tenant, which you have said already. Do you consider the present wording sufficiently objective for both tests and what criteria or guidance will ensure these judgments are applied consistently?

The Minister for Housing:

Well, the guidance will be the key part to that. So once it is settled one way or another whether the Assembly is happy for this proposed system to come into force and whether it is happy that the rent tribunal in the form that it is proposed is appropriate for the Island, then before the commencement of all of that it will be our job to put that guidance together. That will mean consulting with people who are potentially wanting to use the system to try to make sure it is as clear as possible in that. We will have time to do that before this comes into force. So there will be a period where we can bring people in and look at that and say: "Does everyone agree that that is clear enough to proceed with?" Then I would make the judgment to proceed at that point.

Deputy H.L. Jeune:

Would this guidance be updated as and when as the law is rolled out?

The Minister for Housing:

Yes, I would presume so because at this point we have absolutely no idea how much the tribunal would be used. Ideally, it would not be used at all, but you never know. So I think after a period of time of cases going through it would be right to assess the success of it and whether anything does need to be tweaked on that basis.

Deputy H.L. Jeune:

Before we head to the rent tribunal questions more specifically, the subcommittee of the Jersey Law Society raised a question about introductory or concessionary rents. Some landlords have a reduced introductory rent for an initial period, say for 3 to 6 months. The 5 per cent cap would pose a barrier to landlords having such an introductory rent. Do you have a view on this point?

The Minister for Housing:

I personally do not hear much feedback about that as a standard offer in tenancies. In fact, honestly, I do not ... I cannot recall hearing of one instance of that. The only ... yes, has that come up?

Head of Strategic Housing and Regeneration:

We have seen the feedback and I certainly considered it myself. I think we would have to take some Law Officers' advice to be sure, but if it was contractually bound by the expected rent for the life of the tenancy, that is the rent. If a landlord decided to offer some form of discount on top of that, I cannot see that the law prevents that from happening as long as the rent is recognised as the full rent in the tenancy and then the rent could go to that amount. We are very happy to double check that interpretation, but that is how I would have interpreted that in that scenario.

Deputy H.L. Jeune:

Thank you.

Deputy A.F. Curtis:

Minister, moving on to the rent tribunal, during your recent public hearing with us your officer confirmed that the actual rent data collected through the licensing scheme as part of the provisions in this law will not be provided for use in individual disputes to the tribunal, at least not in raw form. Given obviously a landlord will be seeking to increase rent and having to prove a case, how does a landlord or a tenant or the tribunal assess at the moment ... in your view, what is the operating function of the tribunal in the absence of this data?

Head of Strategic Housing and Regeneration:

At the present time ...

Deputy A.F. Curtis:

Well, in the present and in the future.

Head of Strategic Housing and Regeneration:

Yes, in the present and in the future. So before they have that richness of data for the market overall, we do have some data on the rental market which comes through the House Price Index but we know that that is based on advertised rents, but advertised rent is a representation of a market value.

The way that we would appoint or seek to appoint the composition of the tribunal would certainly have regard to the skills and knowledge of the tribunal members. So we know that the chair, for example, would be legally qualified because they hold a certain level of responsibility for the implementation of the law, but the lay members, if you like, we would be looking for people who have property experience, who can make a well-qualified judgment on the market rent. But it depends on what part of the law the appeal is drawing from. So in the case of has your rent gone up more than once per year, that is a very straightforward situation. In the case of improvements to the property, it is not just a market value. It is the value of the improvements themselves, and so the tenant would be required to submit ... so the landlord would be required to submit evidence in relation to what has been invested in. They can use that evidence to inform their judgment as to whether or not that was a fair rent increase relative to those improvements. So I think the market value is an important dimension but it is not the only dimension that the tribunal members would consider to reach a fair conclusion.

Deputy A.F. Curtis:

I think you will have seen some of the feedback we have received has concern about the operation of assessing market value. For those who have written to us, how would you describe they could go and understand what the market value of their property would be in a year or 2 years' time? What data is available to them to make an informed decision that ultimately they will have to back up?

The Minister for Housing:

They would look at what is currently on the market, what is comparable to their offer, and use their judgment on that basis.

Deputy A.F. Curtis:

That would be advertised rents, would it?

The Minister for Housing:

Yes.

Deputy A.F. Curtis:

Okay. Therefore, do you see comparing ... for the case by the landlord, comparing advertised rents to what they would be, obviously creating a transacted rent would be a fair defence in a tribunal?

The Minister for Housing:

Yes, I would have thought so.

Deputy A.F. Curtis:

Okay. Then really more broadly, where does the value come from collecting rents data if the use of it, at least immediately, is not going to be of huge use by the tribunal and it will not be accessible by the landlord or tenant?

The Minister for Housing:

It will not be immediate but it will over time, and this is data that Jersey has collected in the past through previous mechanisms that existed. It is a gap that exists now and when you look at the Stats Jersey chart there is literally a gap that they put in to say: "We could not get any data in this part." So it will be slow in the body of data being compiled but it will get there eventually.

Deputy T.A. Coles:

I was going to say has Stats Jersey then influenced how you are going to be collecting this data? Have they given it the ...?

The Minister for Housing:

Yes.

Deputy A.F. Curtis:

Okay. So you mentioned the composition of the rent tribunal, but in the absence of actual rent data beyond just qualifications, how will you be able to proactively assure that those members are able to assess consistently and fairly market rents?

The Minister for Housing:

We will go through a process of seeking expressions of interest for people to join that. That will not simply be me picking people randomly. There will be a process before that. I think the last time there was an attempt to establish a rent tribunal the Appointments Commission had a part in that. When that was done, there were people who I would have had confidence to have served in that role who had applied, so I presume that will be the case next time that people will be forthcoming. But ultimately the Assembly will have the ability to say no if they are not convinced that they are fair and reasonably minded people.

Deputy A.F. Curtis:

Okay. More submissions have also ... we heard from one body in a public hearing that they felt more data could be collected and this law does not go far enough in regards to the level of data. Did you consider beyond just the fact you want to tie into the rented dwelling licensing scheme more frequent data collection and both the pros and the cons you would face with that volume of data?

The Minister for Housing:

Very much I did consider that. As you say, there are pros and cons. If we have a more proactive and closer to real time version, that will involve more bureaucracy. It will involve more form filling and administration and more cost in order to do that. The body that is calling for me to do it more often is also the same body saying there should be less red tape. The version that I am proposing is the one with the least red tape. It will do the job and will do so with minimum intrusion. My judgment was that that was the right balance to take.

Deputy A.F. Curtis:

Okay. Is it the plan that that collection of data every 2 years collects the rent data for that year or would it collect the rent data for the last 2 years prior so, albeit in retrospect, you would have yearly data?

The Minister for Housing:

Good question. I had not considered that and so will consider it.

Head of Strategic Housing and Regeneration:

Yes. We are going through probably a similar process as to what we did with the rent controls metric to look at the different ways to collect the data, the type of data and how that data will be reported. We are working with our colleagues in regulation who would ultimately take on the role of managing the data collection and working really closely with Statistics Jersey because they will ultimately report on the data. So there is a lot of fine-tuning that will come in terms of how and what, and the law enables us to define that through an order later on.

Deputy A.F. Curtis:

Okay, great. Turning to some of the comments made by the Judicial Greffe in their submission, they note that the tribunal is expected to hear or would have initial capacity to hear 3 cases per month. I was going to ask was this the estimate provided by your department but I note, Minister, you just said that you have no idea how much the tribunal would be used. So could you maybe opine on whether that is a reasonable reflection and pre-building of case capacity?

The Minister for Housing:

It is our best stab at it. We will not know and that is one of the difficult things in judging these. I believe we spoke to Citizens Advice to get an indication of how often they are getting this kind of thing coming to them, and that helped influence that, to try to give a best estimate, but it can only be our best estimate.

Deputy A.F. Curtis:

Was that an estimate that came from your department to the tribunal service?

Head of Strategic Housing and Regeneration:

Yes. Yes, we worked with the tribunal service.

Deputy A.F. Curtis:

Okay. They did note that the tribunal may need to pause or slow its function if case numbers exceeds expectations. In that eventuality, if that were to happen, what contingency plans are in place to ensure continuity of service for tenants and landlords?

Head of Strategic Housing and Regeneration:

We would have to continue to work really closely with the Judicial Greffe and we have built quite a good working relationship with them. I think in the early days of the tribunal being functional we would have to monitor it very carefully, but of course there will be a softening of the use of the tribunal because of the transitional provisions that will take some time to filter through. So we do not expect that it is going to be a case of the tribunal becoming established and then becoming overwhelmed with cases. At the very least, the transitional provisions is going to soften its use over the introductory years, if you like, of the law. So, therefore, we should start to see it with good foresight that the use of the tribunal is increasing and we could work with the Greffier to develop any additional business case that may be needed to increase the capacity of the tribunal, which may mean appointing additional members and holding additional sittings.

Deputy A.F. Curtis:

With regards to you mentioned the softening of the use, what evidence do we have to suggest that that is how the creation of the tribunal would work?

Head of Strategic Housing and Regeneration:

Well, it is the transitional provisions that slows the entry into the new provisions.

Deputy A.F. Curtis:

Okay. Has any consideration been given to often when new bodies are formed for recourse they often do get used? I think about the statistics the Commissioner for Standards has seen in Jersey, that she I think described the immaturity of those using new services often go to it in quite large measures, and we saw that statistically. Has any consideration been given to a risk that a new body available to people would actually cause a larger number basically because they are learning about the system?

The Minister for Housing:

To be fair, we are setting up a tribunal and my hope is that it is not that necessary, but if it is necessary I want it to be used. I want tenants to feel empowered to be able to go to this tribunal and say: "I am suffering an injustice and please rectify that for me." So I want people to use it if that is what is right for them, but I would reiterate the transitional arrangements do mean that on day one you do not all of a sudden have every tenant in Jersey eligible to use this tribunal. It will bed in over time because of how those tenancies will then proceed.

Deputy A.F. Curtis:

Okay, great.

Deputy T.A. Coles:

Is there going to be a mechanism or have you established with the Judicial Greffe that if somebody's initial submission for the rent tribunal in the case that they have not exceeded the R.P.I. for the year or the 5 per cent cap that actually it will just be dismissed at that initial point?

The Minister for Housing:

If they were bringing ... sorry, are you saying if somebody ...?

Deputy T.A. Coles:

It is about the process about how you are getting into the rent tribunal. Because assuming it is not going to be something you can just turn up, it is going to be having to make a submission about it and things like that.

The Minister for Housing:

You have to apply, yes.

Deputy T.A. Coles:

So is the Judicial Greffe comfortable with the fact they will be able to just say: "This is a vexatious claim" and dismiss it straightaway before it gets there?

The Minister for Housing:

It might not necessarily be vexatious, it might just be naïve, but yes, it is not going to go to a full hearing when it is absolutely clear and obvious that what is being challenged is completely compliant with the law.

Deputy T.A. Coles:

But are they going to have an administration team that is going to be allowed to do that?

The Minister for Housing:

Yes.

Deputy T.A. Coles:

Because we are talking a lot about setting up the tribunal itself and its membership, but actually there is going to be a lot more paperwork to be done behind the scenes to make sure that this tribunal is not sitting full to the brim every single time with people who are challenging a 3 per cent increase when R.P.I. was 3.5 per cent.

Head of Strategic Housing and Regeneration:

Yes. This is something that we have discussed with the Judicial Greffe. We will be looking to make sure that application forms have a natural ability to filter through when somebody has not actually experienced a breach of the law or something that could cause a legitimate claim to the tribunal. We are still working through what those forms look like and how far they can go in terms of filtering out those cases where they do not have a legitimate reason to apply to the tribunal, but it is certainly our objective to make sure that we have an application process that is clear and avoids the tribunal becoming overwhelmed with cases that are not legitimate.

[09:30]

Deputy A.F. Curtis:

Okay, great. Moving quickly on to the timetable, could you briefly outline what the proposed timetable for establishing the rent tribunal is and how that will work? Specifically, we are keen to understand the sequence of steps, such as powers to appoint tribunal members, when they come into effect, how quickly appointments can be made once those powers are in place, in essence that timeline, that chain of events starting from now or on approval of a law to then?

The Minister for Housing:

9th July. Does either Tim or Natasha want to take that?

Head of Strategic Housing and Regeneration:

Yes, I am happy to summarise. So you will be aware from our private briefing that given the overall timeline between now and the elections, we are working within a constrained window to establish a tribunal. We made a conscious decision to not include an appointed day in the law, which gives us flexibility to do all of the administrative work and prepare for making appointments. While the law is lodged and pending when it is fully debated, we will use that time to work up the draft legislation for the tribunal, which we have already started on the introductions for. Then we would look to sequence the regulations with the commencement of the law. At the back end of time, it is becoming more

constrained early next year because we have to account that even if the Assembly decide to agree the legislation at the beginning of July, we then have to seek Royal Assent and that still is a long process to go through. So really that timeline is at the mercy of the decision-making process and the agreement of the legislation through the Assembly. But in terms of sequencing, in order to appoint the tribunal members we have to have a law to appoint them to, so we can do a lot of work I guess at risk, if you like, to prepare for that in terms of job descriptions, getting the advertisements ready, and we will press go as soon as we are legally allowed to press go.

Deputy A.F. Curtis:

So you aim to, in essence, as soon as any piece of secondary legislation comes into force to light the blue touch paper, basically, and go for it?

Head of Strategic Housing and Regeneration:

Yes.

Deputy A.F. Curtis:

Okay. Moving to some of the feedback from the Magistrate's Court Greffier, they raised concerns around absence of clear time limits for the new residential tenancy tribunal, saying that this created a risk that the Petty Debts Court will either enter premature default judgment against tenants or, if it stays a case under Article 14, leaves landlords unable to collect valid increases for months. It has also been identified that the draft law does not expressly state that tribunal awards are immediately enforceable as civil debts. So will you direct the Petty Debts Court to grant an automatic stay of rent arrears claims where in ... let us take a couple of cases: until the tenant's 10-week window for filing a challenge with the residential tenancy tribunal has expired ... I could pause there if you would like.

The Minister for Housing:

So I might be wrong on this, but when I read the submission you referred to I wondered if they were fully cognisant of the fact that rent increase ... that the law will be proposing that rent increases must come with 2 months' notice. The way I read it, it sounded like they thought they could come into effect sooner than that and, therefore, the moment at which a landlord might want to pursue it in the Petty Debts Court is sooner than that, when in actual effect you would not know that a landlord was ... sorry, you would not know that a tenant was not paying their rent increase for 2 months before it came to an action, so that does shorten the window in which there would be a dispute as to whether rent that was lawfully owed was actually being paid or not. That might have been my misreading of the submission but it kind of read that way to me. So the fact that there is a 2-month notice period for rent severely mitigates that and brings that timeline of events where someone is going to challenge a rent increase and not pay it in the meantime is I think shorter than what I read it as them thinking it might be.

Deputy A.F. Curtis:

Okay. Can you just clarify for us, just for those listening now, what timeframe that one who wishes to challenge that rent would be? So do they have to challenge it ... what is the time period again within ...?

The Minister for Housing:

Two months and 2 weeks from the point of it being issued, the notice being issued, so not it being enacted. So, yes.

Deputy A.F. Curtis:

So under that there is a scenario where somebody could have 2 months' notice and choose to issue a claim to the tribunal 2 weeks after even the date that it should have been enacted?

The Minister for Housing:

Yes. That is right. So there is an overlap and that will be uncomfortable for parties, but there often is discomfort in these things when people have to go to a body to make an appeal and in the meantime things are not great for one party at least in that. But the fact that that overlap is relatively short and hopefully the tribunal being as busy as I hope that it will or will not be would mean there will not be prolonged periods. You should not really be going after rent for someone like a day after it is due. Your first instance should be to have a conversation with the person and say: "What is going on here? Is everything all right?" and investigate. You should not really go to ... you should not put your application into the Petty Debts Court on day one of that. You should investigate things in an inquisitive way and hopefully compassionate way before that.

Deputy A.F. Curtis:

Okay. So it is really actually a 2-week window you are looking at between a realistic chance to take you to the tribunal once the rents have been enacted given the 2 months, the 8 weeks prior?

The Minister for Housing:

Yes.

Deputy A.F. Curtis:

Okay. Then secondly, on to when a challenge has been filed, is there going to be directions from yourself as Minister as to how to handle a stay on rent arrears during that period where ... or during that period while a decision is being made and then ultimately decided on?

The Minister for Housing:

Yes. Do you want to take that?

Head of Strategic Housing and Regeneration:

Sorry, I was ...

The Minister for Housing:

That is us ... you are saying us directing the Petty Debts Court?

Deputy A.F. Curtis:

Well, no, the Petty Debts Court have shared a lack of clarity over some of the operations. In particular, one area would be, therefore, how to handle those who are in rent arrears when the tribunal is adjudicating yet not decided or when a case is sitting in the tribunal's backlog.

The Minister for Housing:

Yes.

Head of Strategic Housing and Regeneration:

Yes. Well, it depends on what kind of rent arrears the tenant is in. If they are in complete rent arrears, i.e. they have paid no rent for a period of time, then that is clearly an issue that the Petty Debts Court would want to be considering. If it is, I guess, as a result of the provisions that you can apply to the tribunal, we are talking about the difference between the rent and the rent increase so it is quite an insignificant amount in the grand scheme of things. If there was an accrual of rent arrears, that is going to be an entirely separate matter and a matter which the Magistrate's Court or the Petty Debt Courts already deal with. So I am not entirely sure what the lack of clarity is. The reason I was slightly ... I just pulled up the magistrate's response to the panel and note that overall they do not have any particular concerns and that they welcome the provisions, that it kind of removes that pressure from the ...

Deputy A.F. Curtis:

Okay. One area that I did mention that I would like to almost round off on this part, which was around any specific clarification as to whether those tribunal awards are immediately enforceable as civil debts. So a question would be: do you recognise that as a challenge within the law at the moment that tribunal judgments on where a rent increase was justified are not immediately or directly defined in the law as a civil debt? Is that something you think is fine as it is or is there work required to be clearer? Ultimately, then, how does somebody who should be in receipt of those debts have clarity when they go to the Petty Debts to claim what could be 3 or 4 months of additional rent arrears?

Head of Strategic Housing and Regeneration:

So my interpretation of that, and forgive me, Tim, if you wanted to come in, is that the provisions of the law would already apply and it is a debt.

Deputy A.F. Curtis:

It is a debt and there is no kind of softening power over the fact that it is a debt? That appears at one point ... so if a tenant took a case, was unsuccessful, the day after, ultimately, the landlord could pursue it in the regular means of any civil debt?

Head of Strategic Housing and Regeneration:

Yes.

Deputy A.F. Curtis:

Okay. These are good ... we are in a good meaty topic section, are we not? **[Laughter]** So finally, what consideration has been given to the fact that accessing the rent tribunal requires a tenant to bring a case against their landlord, potentially reinforcing an existing power imbalance?

The Minister for Housing:

Very good question because there are places where it is different. I think it is different in Scotland where you have to ... if you want to raise rent by a greater amount you have to proactively apply for it, whereas ours is permissive¹ and passive. That is my judgment that the appropriate model for Jersey is not one that is hands on and deeply involved by the tentacles of the state into people's contractual relationships there. I think a passive version is better for that. When you combine the provisions for rent stabilisation and a rent tribunal with the periodic tenancy changes and the abolition of revenge evictions through those mechanisms, those combined I hope will leave tenants feeling empowered to know that they can stand up for themselves when they are treated unjustly and they can avail themselves of the rights that they do have without having to worry that they will just get a no reason or no fault notice issued to them, which the current law absolutely allows for. It is one of the reasons in my view that previous attempts to reintroduce a rent tribunal were flawed because they did not come with those protections alongside them. I hope that once those things bed in that will start changing the culture in renting where people on the wrong side will know do not bother because the law is more robust now and you will not get away with it. On the other side, if a tenant is treated unfairly, they will know that their chances of being unjustly kicked out of their home for standing up for themselves are drastically reduced under this.

Deputy A.F. Curtis:

Okay.

¹ Following the hearing, the Minister for Housing wrote to the Panel to clarify that the use of the term "permissive" was incorrect and requested that a footnote be added to the transcript to reflect this.

Deputy D.J. Warr:

Just that wording you have used, which is pretty emotive, abolition of revenge evictions ...

The Minister for Housing:

I do not consider that emotive at all. It is factual.

Deputy D.J. Warr:

Okay. You think the concept of revenge eviction ... I appreciate your political language on that front, but could you just explain what you mean by the abolition of revenge evictions?

The Minister for Housing:

Well, the fact that landlords will be required to state a reason why they are issuing notice will mean that illegitimate reasons will not be able to be considered for that. If they attempt to use a legitimate reason dishonestly, there will be punishment for it. That is different to the situation now where notice can be issued at any time for any reason, there is no right of appeal, tough luck, you are out. That simple safeguard, which in most instances will amount to nothing more than another sentence in an email, is I think a very proportionate and effective safeguard so unjustified, illegitimate and revengeful purposes for issuing notice, there simply will not be room for it in this framework.

Deputy H.L. Jeune:

Thank you. At this point I would just like to see if the adviser has any ...

Mr. M. Tomlinson:

Chair, may I just come in on one point if possible? Minister, you said, just talking about the 5 per cent rent cap ... and clearly you have seen and read the concerns from landlords in that regard and so you have provided that there will be a regulation-making power where that can be raised or increased. Just coming back to the Chair's question about that to you, you said that on a plain reading of that it could go up as well as down. I think the point is would it not be more reassuring to landlords if it was drafted differently so it would just go up and that is the reassurance that actually the cap can be raised but we do not envisage a scenario where it would be reduced?

The Minister for Housing:

I apologise for my language here, but I think that would be pandering to that worry in a way that I just do not feel comfortable going that far. I think that ... I hear the worry but I do not think it is justified. I think that the law having the balance to go up or down is right. Some people will not like that and would want it to only go one way, and that is fine for their view, but in the first instance we are starting off at a very transparently proposed system. It will be down to future Assemblies to

decide if that needs to change and I would not want to not give a future Assembly the opportunity to look at it from a different angle because we do not know what the economic circumstances will look like in years to come. So I would prefer to reassure them on the basis of what we have than to change something to seek to reassure them, and no doubt I will probably fail to do so, for some of them anyway.

Deputy H.L. Jeune:

Thank you.

Deputy T.A. Coles:

Moving on to periodic tenancies, the intention of the draft law is clear that periodic tenancies rather than fixed-term tenancies will become the norm, but there is a possibility that the norm or the default will rather be an initial fixed ... sorry, I will start again. There is the possibility from what we have seen from the landlords' responses that the norm or the default will rather be the initial fixed term. Is there anything that you are doing or anything that you can point to in the law that will encourage the periodic tenancy from the outset rather than the initial fixed term?

The Minister for Housing:

No. If you look at the other systems and the English Renters' Rights Bill, they are not even bothering with initial fixed terms. They are going straight to periodic. I think that there is a fair argument for that. The only reason that I am including an initial term tenancy in this is to provide some kind of reassurance to those landlords who are concerned about the transition into the periodic tenancy. If I had less regard for what they thought I would have just gone for periodic tenancies, but I do have regard for what they think.

[09:45]

So the initial fixed term is an attempt at some kind of balance to give confidence as we move towards periodic tenancies. I think when they become more widely used their benefits will end up feeling obvious to both sides, not least not having to go through those processes of renewing tenancies and renegotiating and all sorts that can come with that. I think over time it will be seen that they are quite easy. The fact that you cannot renew a fixed term into another fixed term, so they will have to become periodic, people will experience them now over time and they will realise that there is nothing wrong with them.

Deputy T.A. Coles:

Okay. Do you consider or has the risk been with this maximum 5 per cent cap or R.P.I. and the fluctuating market values that you might find yourself in ... we might find ourselves in a scenario

where there is a larger turnover of tenants, where everybody is only doing this fixed term, exiting the fixed term at the end and then getting another fixed term with a new tenant after that, so we will see a higher turnover of people in accommodation rather than people getting a more prolonged home?

The Minister for Housing:

If that is a model that some landlords choose to adopt I would regard that as cutting your nose off to spite your face, because the process of getting rid of a tenant at the end of a fixed term and getting a new one involves costs. It involves a void period where the property is not making any rent. It involves having potentially to renegotiate terms of contract if you were struggling to find a tenant at that point. Even though the initial term can be for up to 3 years, I do not think there will be that many tenants who will be keen to bet on moving into a place to live their lives from contractually for 3 years when they do not know if it is going to be suitable for them. I think they will struggle to find ordinary tenancy agreements where tenants are prepared to put up with that. It will probably in practice be much less than that. It just strikes me as so illogical for your business model to get rid of a tenant because you do not want to be bound by a periodic tenancy, a periodic tenancy in which you have all the rights you would want to have anyway to get rid of a tenant if there is a problem or they are causing difficulties with the property. So it strikes me as cutting your nose off to spite your face.

Deputy T.A. Coles:

On that subject, we have had through submissions and discussions with ourselves that there seems to be that this ... the notice period has changed so that once you enter the periodic tenancy you get this notice period where you basically are living on a 3-month notice period rather than when you had a fixed-term, one-year lease, basically with the 2-month notice period or even the new 3-month notice period, you have gone from having 9 months' notice that this is your home now to only living for a 3-month notice period that this is your home.

The Minister for Housing:

Indeed. So let us be clear that security of tenure is not just about the security to stay, it is also about the security to leave if your circumstances change and a home ceases to be appropriate for you anymore. For a tenant to be tied into a contract, a fixed-term contract that may have months and months and months left to go, years potentially even left to go, poses risks to the tenant as well. I can give you multiple examples of how this kind of thing can manifest, but a really clear one I encountered recently was a couple who renewed their tenancy for another year and a month into it they broke up. The tenancy was only in one of the couple's names and she suddenly found herself contractually liable for 11 months' worth of rent that she had anticipated paying on 2 incomes and was now having to pay for it on one income. When she asked to negotiate her way out of that contract the landlord insisted that she paid over £1,000 to be able to do that. That can be devastating to somebody. While it would theoretically have been nice to have the certainty of a fixed-term

contract, which is certainly what this person thought in that instance, it came back to bite them because they did not have the security to leave when it was appropriate for them. But just 2 other points to add into that. I am seeing, I am having people come to me and show me tenancy contracts that are fixed-term tenancies that have break clauses in them that are one way, only for the landlord, and are no fault. I am seeing fixed-term tenancies come to me saying this is a 12-month contract but the landlord has a break clause where they can kick you out on 3 months' notice for no reason, which does not apply to the tenant. I would call that highly unbalanced there, and I am seeing that existing. But even in a fixed-term contract, a landlord can still seek an eviction if you are breaking the terms of contract, you are not paying your rent or you are damaging the place, et cetera. So even in a fixed term there are still ways of getting rid of a tenant, not providing them security that you would think they would have. So I really think that the extra security of fixed term is really overegged.

Deputy A.F. Curtis:

Could I quickly just check on what you said, Minister, there, which was the example of contracts coming to you which were unequal to the landlord, giving them a break clause but not the tenant? Is it your understanding that as drafted for an initial period under the new law, the one or 2 years, the landlord would no longer be allowed to put that clause in? Is that a function of the law or could that still occur under the new law?

The Minister for Housing:

There can still be break clauses, yes.

Deputy A.F. Curtis:

They could still put a break clause in under the new law. But for your words, for any reason?

The Minister for Housing:

Can you remind me?

Head of Strategic Housing and Regeneration:

Yes. We are introducing a mandatory requirement for the break clause terms to be specified and that is with the Minister's objective to ensure there is full transparency of any obligations on landlord or tenant before signing up to a new lease. If you do not mind, Minister, we are currently looking at the wording of that just to make sure that it gives the full effect, so we may be coming back just to tweak some of the wording there. But the idea is that the landlord and tenant would have their requirements for a break set out very clearly and we would support that with clear guidance to ensure that tenants know what they should expect from that. Because as the Minister said, this is an existing practice where a one-sided break clause may be included, but tenants do not know their right to be

able to challenge that and request their own break clause to be included. So given that the law will provide for the fact that both tenant and landlord terms need to be included, we will supplement that with guidance and we hope that that will vastly improve the practice of the use of a break clause in a fixed-term tenancy.

The Minister for Housing:

Just to add to that, the 2 occasions where I have seen that clause in a contract, one was in an existing contract and one was in a draft contract that had not been signed yet. When I pointed it out to the tenant, they went back to the landlord and went: "Hang on a minute" and the landlord went: "Okay, fair enough, it is a fair cop" and changed it and made it 2 way at that point.

Deputy T.A. Coles:

We will move on to grounds for notice. That seems a nice little segue. So the panel's evidence suggests that there is a general agreement on the need for appropriateness of grounds for notice by all parties. However, some concerns have been raised about the introduction of the 7-day notice period for the following reasons: the illegal use of the property, serious or repeated nuisance, employment-based tenancy ends per contract and employment law, loss of work permit, and incorrect housing status. Minister, the panel understands that the rationale for each of the grounds you have introduced for 7-day notice, concerns have been raised about whether such short notice period is appropriate in all circumstances, particularly in the cases where the tenant loses their job or work permit and is, therefore, facing both employment and housing insecurity simultaneously. Do you believe that the 7-day notice period is fair for the periods in all cases?

The Minister for Housing:

I do. There are some other safeguards, though, obviously when it comes to employment. If it is tied to employment there will also be an employment contract that will have a process for ending that employment, and if it is not for a particular drastic or emergency circumstance might itself come with further notice. So you would benefit from the notice from the employment contract as well as the tenancy contract. There are elements tied to things like work permits, your legal rights to reside in a property as opposed to your contractual right, too, that tie-in with these. So we did look at these quite significantly to work out what other things they were connected to and how in practice some of that would work. This is where we arrived at and I am confident in that.

Deputy D.J. Warr:

Just to come in on that point about those 2 legal situations, the employment contract and the tenancy contract, which one overrides which? Does one override the other at all?

The Minister for Housing:

No. No, they are separate.

Deputy D.J. Warr:

I know they are separate but what I am saying is if you have a legal document which is within the law of the tenancy and that does not match what your employment contract says, which one wins, as it were?

The Minister for Housing:

The law imposes minimum standards, it does not automatically mean maximum standards. So if you have an employment contract that says your notice period for your employment is X length and it is more than 7 days, 7 days does not ... you will know that you are actually getting more than 7 days because of that. This is minimum, not maximum.

Deputy D.J. Warr:

Okay.

Deputy T.A. Coles:

Jersey Landlord Association submitted as part of their submission that there should be the inclusion of a provision relating to immorality as grounds for eviction, as is the case under the Housing Act 1988 in England. Was such provision considered during the development of the draft law and do you have a view whether similar grounds would be appropriate or necessary in a Jersey context?

The Minister for Housing:

I did not consider it, no, because this is 2025 and I think immorality is going to be much more subjective. Having an affair is an immoral thing to do. Are we going to give landlords the right to kick people out because of their personal relationship issues? No, come on.

Deputy T.A. Coles:

So, Minister, the draft law appears to presume a functional and co-operative relationship between the landlord and tenant. Even in cases where serious or repeated nuisance or a breach of tenancy has occurred, could you explain how you intend to support the landlord/tenant relationship through the complexities of the new legal framework, particularly where the trust has broken down?

The Minister for Housing:

Sorry, Deputy, would you mind saying that question again?

Deputy T.A. Coles:

So it is around the co-operative and functional relationship between a landlord and tenant. How are you going to support that relationship through this new legal framework?

The Minister for Housing:

I think this legal framework is helpful because it lays out reasons for notice being issued rather than it being able to be done on a whim or done for no reason or done for revenge. The fact that a tenant cannot simply be kicked out for no good reason I think will mean that landlords will know that if they have plans for a property or they have aspirations or ideas for whatever, that it is in their interest to have a good relationship with their tenant to be able to talk things through. The fact that notice period for a tenant will be one month, which is right and that should be the case, it will be in a landlord's interest to understand what is happening with their tenant. Do they have hopes and dreams? Do they have long-term plans for where they want to go through? It may be that a tenant is looking to buy a home but that will take more than a month or what have you. It is helpful for a landlord to know about it just to have an indication so they think: "Oh, this might happen at that point. In the back of my head, I need to be ready for it." I think by its nature this will promote better relationships and communications between both parties because there is not a trump card that a landlord can have with an Article 6 notice, where they get everything they want without having to compromise, without having to talk. They just get it all. The fact that that as an option is no longer allowed means even when it is for legitimate reasons, as the law lays out, it is in their interests to be open and communicative.

Deputy T.A. Coles:

So do you feel that then the law and frameworks will then help balance out that imbalance of power between the landlord and the tenant, particularly if when you have ... you might have a structure where the tenant may have a lack of understanding and knowledge of their resources. So do you feel that this covers it evenly?

The Minister for Housing:

Yes, I do. As I said, the removal of that trump card is a big thing because a tenant now knows that they cannot be punished for doing the right thing or legitimately standing up for themselves. So that means a tenant can have a bit more confidence. If you have a bit more confidence, you might even just strike the conversation up. One of the bits of feedback we always hear is because they know they can be kicked out for no reason at any time, that is a reason to not even have the conversation. You do not even want to draw it to the landlord's attention just in case. Whereas because you know you have that safeguard you are more likely to do it. You are more likely to try and get that mould in the living room sorted out early rather than waiting until you are desperate because you know you are not going to face any comeuppance from it because you cannot.

Deputy T.A. Coles:

Is part of your work after the principles legislation has been debated to introduce an easy-read guide for both landlords and tenants so everybody can know their rights in an easy to understand rather than the legalese?

The Minister for Housing:

Yes, definitely. We have done a version of that for the purposes of this law, but then we have been cautious about going too much further on that, firstly because the law has not been adopted and, secondly, who knows, the Assembly might bring amendments to it that would make the guidance I would produce now out of date. So we need to wait for that to settle, but most definitely we want people to understand what their obligations are and have that as easy to understand as possible.

[10:00]

Deputy T.A. Coles:

Yes. Because this new law creates the new offence where a landlord knowingly or recklessly gives false or misleading reason for ending a tenancy, with a fine of up to £10,000. In the last hearing you noted that further guidance and codes of practice may be developed over time for clarity when an offence will have occurred. Given this, is there not a risk that the tenant may also be left vulnerable to misuse of grounds for eviction during the interim period before such guidance is in place?

The Minister for Housing:

No, I do not think so. Because I think in the first instance this would only come up once something has happened, and then I would trust the courts to use their judgment and look into every part of the circumstance to reach a fair decision there.

Deputy T.A. Coles:

Okay. The panel understands that the Petty Debts Court will retain a discretion to grant a stay of eviction where it considers this just, particularly if a tenant argues that a landlord's stated ground for noticing is false or misleading. Minister, can you explain how this discretion will operate in practice once the draft law comes into force?

The Minister for Housing:

It is similar to how it already does, because they already have the power to grant a stay of eviction.

Deputy D.J. Warr:

We move on to fees and charges. In your report, "Residential Tenancy Law, The Way Forward", you stated that your aim was to prohibit inappropriate fees and charges, including offences penalties

and appeal rights for both landlords and tenants. However, these provisions do not appear to be reflected in the draft law as lodged. Could you explain why the commitment has not been carried through?

The Minister for Housing:

I believe the commitment has been carried through by making all associated fees and charges with a tenancy transparent, and in black and white in contracts. Firstly, that will empower prospective tenants to negotiate them, if they do not think that they are legitimate, but it will mean that if you are taking up a contract, you, by definition, have accepted that those are the terms and those are the fees that you are potentially liable to pay. Providing that transparency empowers ...

Deputy D.J. Warr:

I appreciate that, but what about when it comes to increasing those ongoing management fees? Say after 3 months you go: "Do you know what, instead of paying £1,000 a month it is going to go to 1,200", how do you ...

The Minister for Housing:

The contract will have to account for that.

Deputy D.J. Warr:

Yes, I know, but what I am saying is there is nothing in the law which says this cannot be done by the landlord.

Head of Strategic Housing and Regeneration:

The landlord would stipulate their expectation, so it could be like a percentage increase. An annual R.P.I., for example, could be applied to a fee as long as that was transparently set out. The landlord would have to assess at the point of signing the contract whether or not they envisage a need to increase the fee and account for it in the contract.

Deputy D.J. Warr:

Okay.

Deputy A.F. Curtis:

Would it be transparent to say that the fee would go up to the rate prescribed by a property association in the case of, say, a flying freehold where there were fees associated for ... maybe cleaning windows were part of it, which would be for the benefit of the tenant, not structurally. Would it be sufficient in this case to say: "The fee shall be at cost to the tenant for that served by the freehold association"?

The Minister for Housing:

Yes, I think so. Yes, that is right.

Head of Strategic Housing and Regeneration:

Yes. If a tenant were asked to sign a contract that was as vague as that, the tenant ought to be asking for that clarity. It would be a much riskier term to agree. But as I said, the Minister is taking the approach to not prescribe fees in this regard. That would be quite complex and under a great deal of bureaucracy and limit to tenancies and charges. Again, it is about guidance to the tenants to make sure that they know what to look out for in a contract, and where some risky provisions where they may not have full transparency on the potential cost may exist, we can try to address that through guidance.

Deputy D.J. Warr:

You do not see this as a loophole potentially?

Head of Strategic Housing and Regeneration:

I do not consider it a loophole, no.

Deputy D.J. Warr:

No. Okay. Next question. The report accompanying the draft law states that: "Any finder's fees or similar charges must be clearly set out so that all parties are aware of their obligations." However, the wording in new paragraph 12 to Schedule 1, Article 21(3), may not make this requirement as explicit as intended. Do you agree that the drafting might need to be revisited to ensure, for example, that the amount of any such fee must be clearly stated in the agreements?

The Minister for Housing:

I could not properly answer that without having the article in front of me to know that. But we can give that another look if that is an area of contention.

Deputy D.J. Warr:

Okay. I was going to say, otherwise, do you accept that the wording may fall short of the stated ambition?

The Minister for Housing:

We will have a look at it.

Deputy D.J. Warr:

Have a look at that one, yes. Okay. Next question. Rent as amended by Article 3 in the draft law, Article 1 of the 2011 law, is defined as: "A sum payable by tenant under residential tenancy agreement in respect of a period of the residential tenancy under the agreement." Do you agree that the rent is quite narrowly defined simply to cover the monthly payments and does not cover other fees, service charges, or the like? Do you believe that there is a risk that landlords may attempt - this is my point earlier - to increase other charges, such as service fees or administrative charges, as a way of circumventing the rent cap? I guess your answer is no.

The Minister for Housing:

No.

Deputy D.J. Warr:

You do not see that?

The Minister for Housing:

No.

Deputy D.J. Warr:

Okay. It is a nice simple answer. You have some clear guidance on what constitutes rent versus additional charges. That is fine. We are basically in the no territory on that one. Okay. Enforcement, let us move on to that one.

Deputy H.L. Jeune:

Deputy Warr, just 2 seconds.

Deputy D.J. Warr:

Sorry.

Deputy H.L. Jeune:

We are ending a specific area.

Deputy D.J. Warr:

Yes, sure.

Mr. M. Tomlinson:

May I go back a couple of stages, if that is all right.

Deputy D.J. Warr:

Yes, sure.

Mr. M. Tomlinson:

Just very briefly, looking at periodic tenancies and the questions you asked around there. Clearly, the law as drafted stops or prevents there being consecutive fixed terms. You may have seen, Minister, from the Citizens Advice Jersey report there is a suggestion that if there is a longer fixed term, that might not be a bad idea. You could then have a consecutive fixed term, as long as it was for, say, a minimum period of 3 years. Is that something that you have considered or you would consider?

The Minister for Housing:

Sorry, just so I understand the question, is it to renew from one fixed term into a subsequent fixed term?

Mr. M. Tomlinson:

That is right. You said previously you do not want consecutive fixed terms. But the point from Citizens Advice Jersey is this would still meet the ambition of the draft law of having a longer tenancy period because it would be 3 years or more. Do you have any views on that?

The Minister for Housing:

Yes. I am against that, because if you allow one renewed fixed term, you will then allow another, and then another, and then another, and that will defeat our purpose, because when those fixed terms come to an end, they can be ended for no reason, and that can be ... if you know on the horizon you have a chance to unfairly kick out a tenant, you might stick it out and try to do that. But what I would say is that for any purpose in supporting a tenant's enjoyment of that property, that can be achieved under periodic anyway. The purpose for which they would be suggesting such a thing, I think, can be dealt with under periodic, so it is just not necessary.

Mr. M. Tomlinson:

Chair, thank you.

Deputy A.F. Curtis:

Could I briefly, before we move on, just pick up on that slightly further, which is that any benefit can be secured. Under a long-term fixed contract like our adviser just described, the tenant could have 3 years of complete enjoyment, regardless who owns the property, regardless as to any other thing that comes past them. Under your periodic tenancies, a tenant will have no more than, for the first 5 years, 3 months of known enjoyment of that property, because a landlord may die, a landlord may change their circumstance and wish to sell the property or renovate it. Do you consider there to be

any challenge that arises from this - it could be considered - perceived imbalance that a tenant may think they have a very long stay, they are going to pay their rent, they are going to pay it to the increases, but at the end of the day the landlord can issue at any point 3 months for a valid reason, which is not the same as a 3-year tenancy where they know they can invest in carpets or gardens.

The Minister for Housing:

Yes. But I go back to the point I made previously, that that comes at extreme risk to the tenant where they can be put in a very, very difficult circumstance if it transpires that the rest of that contract is no longer appropriate for them. They can be forced to pay all sorts of extortionate fees, and it does not grant them absolute security of tenure because there are still ways of ending a fixed-term tenancy early anyway. Even in a fixed term, there are still circumstances where they can lose that home anyway, so it is not an absolute.

Deputy A.F. Curtis:

What would be an example of that? Where a tenant and landlord have no break clauses, what mechanisms could they lose their home if they ...

The Minister for Housing:

Either party can apply to the Petty Debts Court to seek the end to the contract, and they can provide reasons for that, and it is down to the Petty Debts Court to decide that. There may well be circumstances that the landlord did not foresee coming. I am struggling to think of what they might be, but they may want to test that in a court and seek for that to happen. There can be things that happen in that time period that are extremely stressful for a tenant. They might not mean losing the home, but can be stressful. It could be a landlord dies and the property is inherited by their 7 cousins who are now having a big argument over the management of that property, that then filters down to the tenant. There are things that can happen that will disrupt the tenant's enjoyment of that property, even in a fixed time.

Deputy A.F. Curtis:

Okay.

Head of Strategic Housing and Regeneration:

Just to clarify on that as well, the use of the break clause under the fixed term are set to become mandatory. It is the conditions that are down to the landlord and tenant to agree. The reason for that is because even if somebody decides not to have a break clause, well, these situations arise without any expectation that they will. You may think that you are going to have a settled one year, both landlord and tenant, something unexpected happens and then you find yourself in a situation where very short notice is given, or in the case of a tenant they are asked to pay several months'

worth of rent and a finder's fee and charges on top of that. What we are asking is for people to plan ahead for the eventuality of a break needing to be executed, but that is unlimited. On the one hand, you are making it much more clear to a landlord and tenant as to what they should expect in that eventuality, but the reason for that is still down to the landlord and tenant. Whereas under the periodic, the reasons to end a tenancy become limited.

Deputy D.J. Warr:

I am just thinking about the red tape on this side of things. If you introduce break clauses into a fixed term, surely that is the equivalent of what you are doing in a periodic tendency. Is that not the same general principle? Periodic tendency is 3 months rolling or whatever. If you put break clauses into a fixed-term contract, then you are giving that flexibility within the fixed term. Are you not just doing a double whammy here?

The Minister for Housing:

They are negotiable, though. That is the point. In a fixed term they are negotiable, whereas in a periodic they will not be.

Deputy D.J. Warr:

Only that they will not be because there is a list on which to back up the reasons why you end a periodic tenancy. Okay. All right.

Deputy H.L. Jeune:

Go to enforcement.

Deputy D.J. Warr:

Enforcement, yes, sorry.

Deputy H.L. Jeune:

Looking at the time, we are going to be here until ...

Deputy D.J. Warr:

Okay. Sorry, this is quite a worthy one. Article 6G(2)(n) of the draft law introduces a distinct ground for eviction based on a tenant having committed a serious or repeated nuisance. The Minister for the Environment has confirmed that the draft law will change the evidentiary thresholds for which officers would investigate. He noted that the change to a serious nuisance enables action based on single significant incidents rather than requiring a pattern of behaviour, which lowers the evidentiary burden for landlords and officers. He also noted that the revised language aligns more closely with the civil nature of tenancy enforcement where decisions are based on the balance of probabilities

rather than criminal standards of proof. This clearly lowers the evidentiary threshold and shifts the test towards a balance of probability standard. Was that reduction in threshold a deliberate policy choice?

The Minister for Housing:

I am not sure I regard it as that, to be perfectly honest. I think that under our current system ... you talked about a balance of probabilities. Under our current system, you do not even have to consider probabilities, you can just make it up, unless you are an Article 6 notice. By putting that in this with its conditions, that is raising the threshold at which that could be used as a ground for issuing notice.

Deputy D.J. Warr:

Okay. Next question. The Comité des Connétables has raised concerns about the potential impact of this provision on the honorary police, particularly where the draft law requires a police officer or regulatory official to have attended the property in cases involving alleged nuisance or illegality. Minister, do you anticipate that the honorary police will be called upon to support enforcement under the provision, and has any assessment been made of the resource implications for them, or the parishes more broadly?

The Minister for Housing:

It is my intention to follow this law up with regulations that enhance the powers of the housing and nuisance team, so that they could take up more of that and be more proactive in it. They are the specialists and the experts in this, so that is where it ought to be more focused on, and that will be the point of those regulations when they come.

Deputy D.J. Warr:

Okay.

Head of Strategic Housing and Regeneration:

It is also important to be clear that nuisance exists, and there is already statutory nuisances legislation. If there is a case of serious nuisance or illegality, these services are going to be called in anyway. It just means that in the event that they are called in, that then is clearly aligned to the grounds to give notice. As I said, this law is not going to increase the behaviour, it is just aligning how that behaviour is assessed and judged in order to end a tenancy in a reliable way, if you like.

Deputy D.J. Warr:

Okay. Not quite the western frontier. Okay. Next question. Minister, the panel understands that the housing and nuisance team is expected to develop a standard operating procedure to support consistent interpretation and application in the new nuisance provision, including model clauses and

examples for landlords. Could you outline your understanding of how this S.O.P. (standard operating procedure) is being developed? Have you been consulted in its design, and what key elements do you expect it to include to ensure fair and proportionate enforcements?

[10:15]

The Minister for Housing:

Our team is well plugged into all of that work.

Head of Strategic Housing and Regeneration:

Yes.

Deputy D.J. Warr:

Okay, fine. Thank you.

Deputy H.L. Jeune:

Can I just ...

Deputy D.J. Warr:

Yes, sure.

Deputy H.L. Jeune:

Maybe thinking about your last point on the serious and repeated nuisance, and, of course, the housing nuisance team spend a lot of time in the background going and doing a lot of monitoring, and they have the 4 ... which I have forgotten, it is "Engage ...". I apologise because I went very quickly through this question in my mind. Where would the point be in that investigation of the housing and nuisance team to ... they often now go through this long process of gathering evidence, and often that is behind the scenes. It is usually done to ensure that there is that balance for both the one who has reported a potential nuisance and those who are being investigated, and because, of course, of the sensitivity of it. How would the housing nuisance team engage with the landlord, for example, on this? Because when would the landlord know that it was the point of being able to say: "Right. Well, there is enough evidence here to be able to do the eviction, to do a notice"? I am just trying to think of the order, because if the housing nuisance team starts an investigation, would the landlord have to wait until the end of that or ...?

Head of Strategic Housing and Regeneration:

It probably depends on the nature of the nuisance. I assume we have discussed the example of a tenant having a party, or repeated parties, that cause noise disturbance, which is a nuisance. If the

landlord were to engage with the housing and nuisance team, that would take a while to build up an evidence that this is a repeated behaviour that could be regarded a nuisance, and that reason under the law deployed. But if the landlord has explicitly stated in their contract there are to be no parties, this then becomes a breach of tenancy agreement, which would require and enable a different reason under the law to be given to give notice. The landlord would have to consider their options relative to the nature of the breach, what their contract said in terms of expected behaviours of the tenant in the property. Not every nuisance may lead or necessitate officer involvement to qualify that nuisance if it is a clear breach of tenancy. It is really down to the nature of the nuisance. Let us say, for example, if there were piles of rubbish being left outside the property to the point it was becoming a health hazard. Again, that is something that could be quite easily determined and monitored because it is visible, it is there all the time. So, yes, I think it is case specific really.

Deputy A.F. Curtis:

Have you assessed the impact that you might see in tenancies that seek to confirm increasing grounds for a breach of tenancy? You mentioned parties. It could be literal vehicles left on the front of a property. Ultimately, is there a concern you have that those drafting tenancy agreements will be looking to seek more grounds for breach of tenancy, because that is an easier potential contractual way to break a clause, and is there a risk then to the tenant that they are living in a more restricted environment because of this?

The Minister for Housing:

There is ultimately the backstop of the Petty Debts Court if there is a dispute over this. A landlord, at any point in a tenancy, can seek a mutual agreement from the tenant to end the tenancy and say: "Here are my reasons. What are your views?" Tenant does not have to say yes. They can then go to the next step of looking to see if there is legitimate grounds for it. A serious breach is one month notice, whereas serious or repeated nuisance is 7 days. They can use their judgment as to that, and they can attempt to issue that to a tenant. If the tenant thinks that it is not right, their backstop is to not accept it and say to the landlord: "You will have to go to the Petty Debts Court to have them test whether this is appropriate." There are lots of steps along the way before you get to that.

Deputy A.F. Curtis:

Okay.

Deputy D.J. Warr:

Just to continue on that theme, given the omission of statutory definitions of both a serious breach of the tenancy agreement and a serious or repeated nuisance, what risk does the Minister foresee in how these terms may be interpreted and applied by landlords, enforcement officers and the courts, and when will guidance be published?

The Minister for Housing:

There will be guidance. Someone will have to remind me when in the timeline that might come. But my view is that as it is termed, and the multi-stages that it will take before getting to this, is that common sense will prevail from the first instances. If a tenant knows that it is a fair cop, they have done wrong and ought to be asked to leave, then if they have any sense they will not complain too much along the way about it. But if it is being used unjustly, there are several backstops along the way that they can avail themselves of to stand up for themselves, and ultimately it would be the Petty Debts Court, who already have the expertise on eviction proceedings, as that is the body that deals with it. They have been around the block a few times on this already and will continue to do so under this law.

Deputy D.J. Warr:

In the hearing, the Minister confirmed an intention to bring forward regulations establishing powers of entry and investigation to allow the regulation directorate to undertake investigations under the new law independently without needing police involvement. Can the Minister provide more detail on the scope of those powers and the types of cases they are intended to cover?

The Minister for Housing:

We are not going to start doing all of that until hopefully this law is passed, because the regulations will not be necessary if the law is not passed. That will be the period under which the depth of that is done. But if there is any preliminary things that have been looked at, if my officers can indicate.

Head of Strategic Housing and Regeneration:

No. I think the primary legislation sets out what the regulation-making power would include, and would look to draw from that.

Deputy D.J. Warr:

I think I am just going to slip past a couple of these questions in that case. Minister, given that the law relies heavily on effective enforcement, do you accept that if tenants are not empowered to challenge evictions, or if resources are too limited to support enforcement, there is a risk that no-fault evictions could continue in practice despite them being unlawful under the draft law?

The Minister for Housing:

There may always be cases that slip through the cracks because of people perhaps unfortunately not realising what rights they have and what bodies exist to defend those rights. But the backstop of the Petty Debts Court is an effective one. It is one that tenants can raise with their landlord early on in the process if they think they need to put a stop to something. A lot of that will be down to the

tenant's judgment as to how far they think they can push on those things while maintaining a nice relationship with the person that owns their home. There will be a lot of judgment within that, and some people will prefer to be more gung-ho, and some will prefer to be a bit more passive in that, and that will be down to them. But the ultimate backstop now that the Petty Debts Court has, that it does not have right now, is that if notice is issued without a good reason, or a purported reason that is not accurate, they will have the ability to not process an eviction. Whereas right now, under Article 6 of the Residential Tenancy Law, the reason is completely irrelevant. The only thing the Petty Debts Court can do is grant a stay of eviction, but they cannot say: "This is an illegitimate eviction; therefore, it cannot happen." That is a huge change that will be massively to the benefit of people who would otherwise be treated unfairly.

Deputy D.J. Warr:

Thank you.

Deputy H.L. Jeune:

Minister, just keeping on this for a moment, because we are talking about the enforcement and this expansion of the regulation for enforcement powers, my first question is: has any assessment been made for additional resources or capacity that is required to help expand these investigatory powers around this, and is it sufficient?

The Minister for Housing:

Do you want to take that?

Head of Strategic Housing and Regeneration:

Yes. We have engaged closely with the Regulation Directorate throughout, and this is one particular area that they feel quite relaxed about. That is simply because they do this work in shadow already, so they work with the States of Jersey Police to provide them professional advice and support to compile cases. They receive queries in relation to tenants' rights and landlords' rights on a daily basis. I think they see this as merely formalising their role and allowing them to complete their job to bring forward cases. Where they have been unable to gather the evidence on a voluntary basis, they can then take cases forward independently. Every conversation that we have had with them, they feel confident this matches into the work that they already do, and that they are able to ...

Deputy H.L. Jeune:

The letter we received from the Minister for the Environment did specifically point out that this is a concern about the resources and the fact that they are all quite stretched already, and ...

Head of Strategic Housing and Regeneration:

Yes. That was in specific relation to the altered definition around nuisance. Drawing off of the requirement to determine a nuisance, as I say, on balance on the one hand it could give rise to a risk of more landlords getting in touch to seek that confirmation, if you like, from officers. On the other hand, I think they have also said it can make it more streamlined because this sets a benchmark of it being serious. I think that there is a bigger issue within the Regulation Directorate, which I think the Minister for the Environment certainly acknowledged, around resourcing at the moment. I think it is not so much of an issue of headcount, it is more vacancy management and staff absence management, which is an issue, I think, that they are looking to resolve. But as far as I understand, I did have a follow-up meeting with the Regulation Directorate following receipt of the letter that they sent to you, just to make sure that we did understand that the overall enforcement powers of the law is not what was intended by these comments, because that said they are more of a business-as-usual function as they see it.

Deputy H.L. Jeune:

You are saying, just to make sure that is correct in my head, that it is not unnecessarily an expansion of powers under this law for regulation, it is more business as usual?

Head of Strategic Housing and Regeneration:

That is how they have described that situation to me.

Deputy H.L. Jeune:

Okay. In that sense, it is an interesting one because it is something that, I think, different stakeholders have had different views on whether that is an expansion or not. It would be interesting to hear again from the Minister for the Environment maybe about understanding that. Because, as I say, we received a different understanding with that. It will be good for future reference, so maybe to educate us.

Deputy A.F. Curtis:

We have touched on transitional period already, but the panel has some concerns about the transitional period between the law being passed and its commencement. In our last hearing, you noted, as you have noted today, the significant amount of work. But perhaps we could take this point in time to have a little more clarity over the most challenging elements you see within that period that will require further attention and clarification, and anything that has changed since we last spoke that has arisen from either you assessing our scrutiny review or, likewise, that will change what is happening in that transitional period before enactment.

The Minister for Housing:

I do not know. There are things that we know we will need to get on with that we cannot do now because the law has not been passed, and it is at-risk work, I think it is called. We are going to have to come up with the rules for the rent tribunal, and we want to make sure those are good and robust and do the job. The regulations that we were just talking about for enforcement and that kind of thing, we will have to do that. That will have to be debated at some point in the future as well. But all of this stuff we know we are going to have to do during that period, and we do not know what we do not know. Who knows? Somebody might point out something in all of that that makes us think we need to spend a bit more time on this to get it right. There is an election on the horizon and purdah, that will come before it, and there is limits in what you can do during that time. We would ideally want to get it done before then. But there are risks at every point in that, and we have just got to try our best and ... yes.

Deputy A.F. Curtis:

One of the main elements that will have to transition if the law is passed is between pre-existing fixed-term agreements, when someone remains in the property. The draft law says that the agreement will be treated as a periodic tenancy unless either party acts to stop that outcome at the point where it ends. Could you explain step by step how this implied continuation will operate in practice?

The Minister for Housing:

The same way that it does now, where it is possible for fixed-term contracts to be signed and then they expire, but the rent still keeps getting paid and the people still keep staying living there. That is something that happens already in a rental market. It has happened to me before. That would be the same in terms of the mechanics of that happening. It would just be at the point of it happening the new provisions for periodic tenancies are what would take over rather than the existing provisions.

Deputy A.F. Curtis:

Okay.

Deputy H.L. Jeune:

Can I ask on that specifically, because earlier I may be misunderstanding, but you mentioned that in the transitional period that landlords could then start that initial fixed term and then the periodics.

[10:30]

The Minister for Housing:

Yes.

Deputy H.L. Jeune:

Just for clarification, for example, when the law comes into force, maybe there is 3 months or 4 months left on a fixed term, a landlord could then do another fixed term before periodic?

The Minister for Housing:

Yes, but that fixed term would be under this legal framework, not the 2011 framework.

Deputy H.L. Jeune:

Yes, of course. It is not that the fixed term that they are currently on would be considered the first fixed term. There is another opportunity.

The Minister for Housing:

Yes, that is right.

Deputy A.F. Curtis:

Given there is that extra bite at a fixed term, do you see any practical or legal challenges with landlords or tenants disputing that an implied periodic tenancy has arisen versus perhaps another side saying that they were trying to renew that final fixed term that they could have under transitional periods?

The Minister for Housing:

They could try but I think it is relatively clear, as is proposed, yes.

Deputy A.F. Curtis:

Okay. Under the draft law: "Pre-existing fixed-term agreements will be allowed to continue until their natural conclusion for a period of up to 3 years, once the new law comes into effect unless an agreement is varied." What threshold would qualify as a variation that resulted in a new agreement under the draft amendment law?

The Minister for Housing:

A different clause is negotiated in it. Either party at any point is allowed to go to the other and say: "I would like to have this part of my contract changed. Can we negotiate that?" If they agree, then that is a variation. There are things that a contract will say that leave future things open, like, for example, whether they can have a pet or not. Later on a landlord or tenant choosing to go back to that clause and invoke it I do not think would count as a variation because it is already accounted for in that initial contract. I think it is reasonably clear that there would be a material change in what a clause says or that the contract in force would look different to the one that was originally signed.

Deputy A.F. Curtis:

Do you see any threshold to that? Would something like changing the payment date count as a variation?

The Minister for Housing:

Good question. I think it works but is that right?

Head of Strategic Housing and Regeneration:

Yes. If there was nothing provided for that would allow that flexibility in the contract, then technically it would be a variation.

Deputy A.F. Curtis:

A variation, a variation that would qualify under laws. Okay. I think we have felt from our feedback that the transition from existing fixed term or periodic tenancies to the new framework may well be hot spots of misunderstandings, particularly around rent resets, notice periods and implied periodic tenancies. What specific safeguards have you built into the draft law or will be issued in a supplementary guidance to minimise disputes?

The Minister for Housing:

If the law is accepted in the terms that we hope it is, we will have to do a communications piece to say to people this is coming, these are the changes and if your tenancy looks like this, this is what will subsequently arise from it. The more effective we are at that, the more we mitigate those chances of misunderstandings or people not quite getting there. You cannot get to everyone and there will, potentially, still be people for whom this goes completely over their heads and they do not know about it. It may well be that it only arises when a problem comes up, but then they would have to go and look at the law and perhaps get advice on it and ask how it applies. That will just be that, they would have to abide by that.

Deputy A.F. Curtis:

Okay. Do you see any scope for a supplementary guidance that goes beyond communication that would help soften this period?

The Minister for Housing:

Yes, that will be probably the package we will end up doing, yes.

Deputy D.J. Warr:

Just on that communications piece, because I noticed you took someone to task in the *Jersey Evening Post* the other day about their interpretation of the new laws. There seem to be a lot of preconceived ideas around what you are doing here. How are you mitigating that? How are you managing to communicate? Is this hard-core people who just are not interested in listening? Why do you think there is so much noise around what you are doing?

The Minister for Housing:

Deputy, because I am challenging vested interests, that is why, and vested interests do not like that. There are people out there who simply do not want any kind of extra law that says what they can and cannot do. They would prefer for them to be able to get on and negotiate things without any overseeing or anything like that. Those people have an old-school view that I think is completely out of place when we are talking about something that is not an ordinary commodity, it is a human right and that is political. Some of those people are lost causes, I will never win them over. But just because there is a hard core of people who have yet to wake up and smell the coffee does not mean that we do not try to do what is right. But I will take no prisoners in my communications approach when I think misinformation comes forward.

Deputy H.L. Jeune:

Thank you, Minister. I am about to go on to wider questions on engagement and communication. But, first, I want to just ... no, okay, so Deputy Coles can carry on on that.

Deputy T.A. Coles:

Thank you. The panel has received over 290 responses to its review from a broad range of stakeholders, including private landlords, estate agents, businesses, associations, charities and tenants. Tenants were specifically targeted through a dedicated survey provided in both English and Portuguese. Alongside this we have held 4 public hearings, 4 community pop-ups, 2 of which took place in Portuguese-owned businesses with the support of a translator. In light of this, can you outline how tenants, including those from harder-to-reach communities, were engaged during the development of the law? We are keen to understand your experience from that process and whether that has reflected in its accessibility and effectiveness.

The Minister for Housing:

That is a very big question because this work has been going on for a long time. I was Minister for Housing when the Housing Policy Development Board all those years ago originally started drawing up these proposals. Some of that work was done during COVID as well, so all of that had an impact on that. There was a big consultation in 2023 that had various opportunities for people to involve themselves and give feedback on it. Those multiple exercises already having been taken and, of course, the minor matter of an election in 2022 on which this was a big part of my platform on the

doorsteps, I, since retaking the position of Minister for Housing, chose to be a lot more focused in my engagement rather than redo another big, massive consultation exercise. That ranges from specific engagements with specific organisations. That has been an informal coffee in a café to understand their perspective to a more formalised structure in a Government office with minute-takers and all the rest. My personal conversations with constituents who come to me very regularly with problems that they encounter, I bank them and factor them in when I am trying to find solutions and trying to propose law changes that might deal with those situations. The consultation has taken many shapes and forms but it has gone on for a long time.

Deputy T.A. Coles:

Okay. During the panel's hearings with Caritas Jersey we heard concerns about individuals who fall outside the scope of the draft law, particularly those without formal tenancy agreements, often living in conditions that would likely render a property uninhabitable. How does the draft law improve protections for tenants, if at all?

The Minister for Housing:

It does automatically by the fact that we are abolishing revenge evictions and introducing a form of rent stabilisation. For those who have tenancies covered under the current Residential Tenancy Law, they will have an enhanced framework and ability to stand up for themselves. That is, objectively, an enhancement for those. It is the case that this law does not cover every single permutation of housing offer for different types of renters in the Island, including lodging, for example. I can be clear about politically why I made a decision for this law to focus in just on the type of renting arrangement that it does. It is because I thought that this was feasible to deliver in this remaining term of office. Had we attempted to go further on it and bring in all sorts of other living arrangements, then we would have ended up spending, I think, probably years chasing our tail and not improving anything for anyone in the meantime. This law, if it gets over the line, will start benefiting people. The alternative was to spend a lot longer and end up benefiting nobody in the meantime and, potentially, nobody at all if the project ended up failing in the end. I accept that once this work is done there will need to be some piece of work done on those other living arrangements that are not caught under this.

Deputy T.A. Coles:

But it is more this fact that there are people out of formal tenancy agreements at the moment. There is nothing provided within these draft amendments of the law that ...

The Minister for Housing:

What instances do you mean by that?

Deputy T.A. Coles:

If somebody has not been given a contract of tenancy, there is nothing been signed, there has been no paperwork issued to the tenant.

Head of Strategic Housing and Regeneration:

That would be a breach of the existing Residential Tenancy Law. When we listened in to the Caritas I think the first thing that was coming to me is we need to work with Caritas and other agencies who are learning about landlords who are not following the existing legal framework that applies to them. That is both in relation to the Residential Tenancy Law and things like the Public Health and Safety (Rented Dwellings) Law. They are both flagging as a compliance issue from that conversation. Hopefully, even just by raising the profile of the legislation of itself, irrespective of the changes, landlords and tenants will be more aware of their legal rights and obligations.

Deputy T.A. Coles:

Thanks. As the Deputy will cover my next question, I will move on to my last question in this section. Will the Housing Advice Service act as the first-stop service for tenants or landlords who are unsure whether a breach has occurred or the need to support understanding of the draft law? If not, what service do you expect to fill this role?

The Minister for Housing:

I do not think there is an automatic designated first stop because they will have different places that they prefer to go to as their first step. If you have a landlord with a large portfolio, they might be more frequently in contact with their lawyer than somebody who maybe only has one property. They might prefer to go to their lawyer as their first step and that is perfectly legitimate. You might have people who are more tied into a charity that represents them and supports them and that is perfectly legitimate for them, too. But our Housing Advice Service exists to be a point of contact for anybody who wants to go there for it and thinks it can be useful. They have the ability to open doors to other Government services, et cetera, if that is needed and help build packages of support around people. That would be really useful, but people are perfectly free to go to another body if they would find that more appropriate for themselves.

Deputy T.A. Coles:

I suppose one of the main factors of this question is more around whether or not they will be able to provide a service to both the landlord and the tenant.

The Minister for Housing:

Yes, absolutely. I absolutely encourage landlords to engage with the Housing Advice Service. It exists as much for them as anyone else.

Deputy H.L. Jeune:

Thank you, Minister. The last 15 minutes we are going to go on to secondary legislations. Minister, would the revocation of a landlord's rented dwelling licence under the Public Health and Safety (Rented Dwellings) (Licensing) Regulations be captured under Article 9(1) of the draft law, as a situation in which a residential unit is considered to become uninhabitable? When a licence from the dwelling licence has been revoked, would that be considered when you say inhabitable?

The Minister for Housing:

Yes, I believe so.

Deputy H.L. Jeune:

Can you clarify how that determination would be made in practice and whether the tenant would then be entitled to end the tenancy under this ground?

The Minister for Housing:

I think they would be entitled to do that. There are different bodies that can make that judgment, Environmental Health being the lead one.

Head of Strategic Housing and Regeneration:

Yes. Under 9(1), (a) to (c), it defines it could be the insurer, could be the Fire and Rescue Service or an administration of the States who makes that determination. It depends on what the cause of the lack of habitability may have been. If it was something that relates more generally to Public Health and Safety (Rented Dwellings) legislation because of damp or mould, for example, or it could have been a fire or severe substance that has rendered the building unsafe, the relevant body would make the determination. It could be one, it could be all 3, depending on the circumstances.

Deputy H.L. Jeune:

Okay. It is clear in the framing of the draft law that this is from both sides, that if a licence is revoked then the tenant is able to ... The panel has heard some public confusion around what other laws, policies or guidance may be affected by the Draft Residential Tenancy Law. Can you confirm which other pieces of legislation, primary or secondary, you anticipate will be directly or indirectly impacted by its approval?

The Minister for Housing:

Some of it will be repealed as a result of its approval. The old 1940s law will be done away with as a result of this. There is a schedule at the end of the law that says specifically what other laws face amendments because of that. I cannot remember if that is just repeals or if it is changes.

Head of Strategic Housing and Regeneration:

I think it is very limited, yes.

The Minister for Housing:

There is a schedule in the law. Yes, it is very limited.

Head of Strategic Housing and Regeneration:

Very limited. Under the Agriculture (Loans) Regulations relating to rents payable quoting the updated legislation and, similarly, in the Building Loans Law in relation to rental payments quoting the correct legislation.

Deputy H.L. Jeune:

This is direct, but is there any indirect? Has there been that analysis of that link with indirectly other laws?

[10:45]

Head of Strategic Housing and Regeneration:

I think our key focus when developing the legislation was to seek greater alignment with other laws where there may have been some drift. I think it was recognised in particular with the Public Health and Safety (Rented Dwellings) Law that some differences and definitions leads to complexity or lack of clarity when coming to enforce the law. We have tried to account for that as far as we can, but I do not know if maybe Tim online has anything else he would want to add.

Policy Principal:

Yes. I think any of those provisions that reference the legislation we have analysed and been in contact with the relevant officers. For example, when giving 7 days' notice around someone who does no longer have a work permit, we made sure that we understood what the practices were on that side in terms of the policy to make sure that that was a proportionate provision. Yes, we have looked at that. We have made sure that if someone loses their status under the Control of Housing and Work Law, that you might have noticed that we are providing for that reason is consistent with the practices under that legislation by talking to officers. We have looked at a number of different pieces of legislation to make sure that our law does not impact it in a negative or unintended way.

Deputy H.L. Jeune:

There is one - and I definitely am not an expert in this - that comes from just the submission from the Law Society sub-committee, where they said there could be an impact but with contract law,

because, of course, ultimately we are talking about contracts between 2 parties. Was that noted at all or is there anything within that that could overlap in any way?

The Minister for Housing:

We do not have a law that says this is what Jersey contract law is. It is quite common that you will have pieces of legislation that imply terms into contracts and this is what this law does and what its previous situation did as well. Yes, that is quite normal.

Deputy H.L. Jeune:

Thank you. You were just talking about the work permit holder, and under the draft law would a work permit holder who is required to leave Jersey for 3 months, for example, due to conditions of their permit be considered a new tenant when they return?

The Minister for Housing:

Yes.

Deputy H.L. Jeune:

Okay. Then this means they could have a new fixed term ...

The Minister for Housing:

Yes.

Deputy H.L. Jeune:

Thank you. The draft law, Minister, gives you wide-ranging powers to make orders under Article 23. For example, you may make orders excluding the requirement for the chair and deputy chair of the tribunal to have a qualification in law. Why might you need such a power?

The Minister for Housing:

That, I think, is a just in case clause. We are hoping to set up around the tribunal with a membership. We have looked at the other tribunals and how those work and try not to have too many differences in synergies across the board there. But if in 5 years' time it turns out that maybe the tribunal would be more effective with a minor tweak to it, a future Minister for Housing would be able to sign that off. It is not for any preconceived direction of travel on that, it is a just in case clause.

Deputy H.L. Jeune:

You also have power to provide for the procedures of the rent tribunal. Could you commit to the proposed procedures being published at least in draft by the time this is debated?

The Minister for Housing:

This draft law?

Deputy H.L. Jeune:

Yes.

The Minister for Housing:

No.

Deputy H.L. Jeune:

The States Assembly would not know what ...

The Minister for Housing:

Yes, and that is perfectly normal, you would not do that. That would very much be at-risk work because we do not know whether the Assembly will approve the existence of a tribunal. But they will be available before the tribunal comes into being and starts operating, definitely. Of course I would share that with Scrutiny as well; that is obviously something we would want your feedback on.

Head of Strategic Housing and Regeneration:

Yes. Just in terms of that time limit we were just talking about earlier, because we are focused on developing that in the period before the law is enacted, I expect there will be a point in time that you can see a draft. It will just be after the debate has taken place but before the law is enacted.

The Minister for Housing:

Yes.

Deputy H.L. Jeune:

Okay, thank you. Just in general, as drafted the powers are quite wide ranging under orders. Are you envisaging making any more or what are you envisaging that the future Minister for Housing could use under Article 23?

The Minister for Housing:

None specifically. The order-making power that I will have, some of that is for the necessary implementation of things, like the commencement of the law itself. That will be a matter of judgment at the time, whether we are ready to enact it or not, procedures for the rent tribunal. Yes, and those are just in case because we will want to see how it proceeds and how it works in practice and how

it is used, but I do not have any preconceived ideas of what those orders might specifically be used for. It is just we do not know what the future holds.

Deputy H.L. Jeune:

No, but do you accept that the order making is quite wide ranging, the powers to make orders? There could be ... in the future, a future Minister for Housing could do many other kinds of orders.

The Minister for Housing:

I do not, to be perfectly honest, because I think they are relatively specific at what there would be and I do not think they really change fundamentally what the law is about. I would argue that the current Residential Tenancy Law has some order-making powers in it that are more wide ranging in this. In fact, there would be order-making powers that I will lose in this law. I currently have the right to do an order changing notice periods for periodic tenancies. I could sign an order tomorrow saying the notice period is 24 months and then get lynched as I walk out of the office, no doubt. I will lose that power in this, but that is a more fundamental decision, whereas these are more about the specifics of things; they are not really fundamental issues. They might be numerically more but less significant in that material impact.

Deputy H.L. Jeune:

Okay, thank you. Just turning to the adviser, if you have any questions. Okay. The final few questions, Minister, the report accompanying the draft law estimates £130,000 in funding principally for the rent tribunal member remuneration and administrative support. No reference is made for the financing or staffing implications for other departments. The Minister for the Environment has confirmed that digital resourcing could be needed for enforcement. The Judicial Greffe has indicated further funding may be required to support the tribunal. The Comité des Connétables have mentioned resource implications for the honorary police and parishes. The regulation director is also likely to require extra capacity. Do you consider £130,000 to be a realistic estimate and, if so, why are these wider resources implications not reflected in the report?

The Minister for Housing:

I think I veered more towards the pessimistic side for seeking this. There is a significant amount of funding that already exists in budgets that can be reallocated to this, down to the very prescient decisions of the former Minister for Housing in getting future funding allocated for the eventuality of this. There is that great unknown of how many cases will come to the rent tribunal and that will have an effect. If it is completely inundated that would be a surprise. I think we have been a little bit pessimistic in that. I do not think the tribunal will have that many cases coming forward, in which case it would end up under budget. Regulation does have some difficulties at the moment with staffing and resourcing and they are working through to overcome that. But when they have the

certainty of whether this law is being enacted or not, that will help them internally manage who is doing what role and who is focusing on what side of that. I am content that it is manageable under current processes.

Deputy H.L. Jeune:

Okay. You do not believe that there needs to be more resources put in a future budget, for example?

The Minister for Housing:

No, I would be very surprised if that were the case. Part of that is a consequence of the fact that the proposed law is very passive in what it is proposing. It does not require hard-core enforcement on every single aspect of it on a day-to-day basis.

Deputy H.L. Jeune:

I suppose my last question on that is because the submissions we have received from different stakeholders that I mentioned obviously fall under different Ministers. Have you had discussions with the different Ministers on this to reassure them and are they supportive of this regulation from that regard, that they do not need to also find more funding to support the law?

The Minister for Housing:

For me directly that has not been a huge part of our conversation. The conversation has been about politically whether this meets the different tastes of the different members of our coalition.

Head of Strategic Housing and Regeneration:

Yes. At the officer level no significant concern had been brought to our attention around the capability to manage the changes in the legislation. I think there is a context, as I say, particularly the housing and nuisance team, that they do have some resourcing challenges at this moment in time. There is also a slight, I would say, peculiarity or a nuance that the officers of the housing and nuisance team are the Minister for the Environment officers but they are also the Minister for Housing's officers. It is a shared resource, in effect, and where you draw the line on the sharing of that resource is possibly a question to be asked as well. It is the challenges of sharing specialist officers. Yes, to date I think we have not had any major concerns. The focus has been on the tribunal because that is establishing a new service. There are lots of things in the law that, arguably, could decrease pressures, like through the modernisation of the legislation, the commitment to the publication of new guidance. That of itself should reduce the number of enquiries that are made where people are not sure about how the law may or may not apply to them. I think the Minister makes an important point that it is always impossible to absolutely determine what resourcing implications may come from any legislation. We also have to be cautious to not grow the headcount of the public service based on a possibility that there could be some additional work.

Deputy H.L. Jeune:

Thank you. Minister, just for clarification for us but also for States Members as well, coming towards 8th July, will you be taking the different amendments separately in the debate to vote on or will it be ...

The Minister for Housing:

I have not yet asked for a specific breakdown of what is possible to take separately, but it is my intention as far as is possible to do that. I do not think it is going to be possible to take the periodic tenancies and rent stabilisation separately. I think they have to work together. If you do not have one it causes great difficulties with the other, so that will be a struggle. But the other elements I will try to do so, yes.

Deputy H.L. Jeune:

Thank you. This weekend in the newspaper the Chief Minister talked about this Council of Ministers 3-tier decision-making. Where would you say this regulation or future regulation potentially sits within that 3-tier?

The Minister for Housing:

This is so embarrassing because I did not read it. I did not read the ...

Deputy D.J. Warr:

Triple chat, it is a triple chat. In other words ...

The Minister for Housing:

Yes. I cannot tell you right now who is in favour and who is against because some Members will still have open minds and there will still be some who I might need to work harder to persuade. I do not know exactly where it is. But the Chief Minister has indicated that if there are Ministers who really strongly object to what I am doing, then they will be able to vote according to their conscience but with a no-surprises policy. I should know that walking into the Chamber of that morning.

Deputy H.L. Jeune:

Yes, I think that is number 2 on the list of that. Thank you very much, Minister. I would like to just ask my panel if there is anything further, and adviser. We have one minute I think to go, looking at the clock, and I am amazed that we have got through all those questions. Maybe, Minister, if there is anything else you would want to say that we have not covered from our side because, of course, again, this is our last hearing before we start the important task of writing a report.

The Minister for Housing:

No, I do not think so. It is just to reiterate that if there is any outstanding questions or anything that arises from it, please get in touch with us as soon as possible and we will try to answer them as quickly as we can.

Deputy H.L. Jeune:

Thank you very much, Minister, for coming. Thank you to your officers as well and thank you to the support team that have made this hearing possible today. Thank you very much.

[10:58]