DRAFT PUBLIC BODIES (ABOLITION OF THE NATIONAL CONSUMER COUNCIL AND TRANSFER OF THE OFFICE OF FAIR TRADING’S FUNCTIONS IN RELATION TO ESTATE AGENTS ETC) ORDER 2014

Monday 10 February 2014
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Friday 14 February 2014

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The Committee consisted of the following Members:

Chair: Mark Pritchard

† Benyon, Richard (Newbury) (Con)
† Birtwistle, Gordon (Burnley) (LD)
† Creasy, Stella (Walthamstow) (Lab/Co-op)
† Doughty, Stephen (Cardiff South and Penarth) (Lab/Co-op)
† Evans, Jonathan (Cardiff North) (Con)
† Gilmore, Sheila (Edinburgh East) (Lab)
† Gyimah, Mr Sam (Lord Commissioner of Her Majesty’s Treasury)
† James, Mrs Siân C. (Swansea East) (Lab)
† Menzies, Mark (Fylde) (Con)
† O’Donnell, Fiona (East Lothian) (Lab)
† Patel, Priti (Witham) (Con)
† Percy, Andrew (Brigg and Goole) (Con)
† Rotheram, Steve (Liverpool, Walton) (Lab)
Simpson, David (Upper Bann) (DUP)
† Skidmore, Chris (Kingswood) (Con)
† Stringer, Graham (Blackley and Broughton) (Lab)
† Uppal, Paul (Wolverhampton South West) (Con)
† Willott, Jenny (Parliamentary Under-Secretary of State for Business, Innovation and Skills)

Joanna Welham, Rebecca Short, Committee Clerks

† attended the Committee
Draft Public Bodies (Abolition of the National Consumer Council and Transfer of the Office of Fair Trading’s Functions in relation to Estate Agents etc) Order 2014

4.30 pm

The Parliamentary Under-Secretary of State for Business, Innovation and Skills (Jenny Willott): I beg to move,

That the Committee has considered the draft Public Bodies (Abolition of the National Consumer Council and Transfer of the Office of Fair Trading’s Functions in relation to Estate Agents etc) Order 2014.

It is a pleasure to serve under your chairmanship, Mr Pritchard, in particular on the first statutory instrument for me as a Minister.

The draft order does not have a snappy title, but it is important. Its purpose, as the title says, is, first, to abolish the National Consumer Council and transfer its relevant functions to Citizens Advice, Citizens Advice Scotland and the General Consumer Council for Northern Ireland; secondly, to transfer the estate agency functions of the Office of Fair Trading to the commissioners for Her Majesty’s Revenue and Customs and to Powys trading standards; and, finally, to transfer residual OFT functions relating to its former consumer advice scheme to Citizens Advice and Citizens Advice Scotland—the scheme itself was transferred to the citizens advice services on 1 April 2012. The draft order will complete a programme of consumer landscape improvements that the Government first embarked on in 2011.

The National Audit Office and the Public Accounts Committee June 2011 reports on protecting consumers highlighted the fact that the existing consumer landscape was confusing, duplicative and therefore inefficient. To address that, in April 2012, following consultation, my predecessor, my hon. Friend the Member for North Norfolk (Norman Lamb), announced a series of reforms to the landscape of consumer bodies. Over the past two years, we have streamlined the landscape of Government-funded consumer organisations, to make it easier for consumers to understand where they need to go to get help. The reforms will deliver a better deal overall for consumers by making it clearer who is responsible for what and by facilitating better co-ordination between consumer bodies and enforcers.

The improvements that we have made so far include focusing the new Competition and Markets Authority, which will replace the OFT from 1 April, on identifying problem markets and developing effective solutions to competition issues; establishing the National Trading Standards Board and Trading Standards in Scotland in 2012 to prioritise national and cross-local authority boundary consumer enforcement; moving responsibility for consumer-facing education and general consumer advocacy to Citizens Advice and Citizens Advice Scotland; moving responsibility for approval of consumer codes to the Trading Standards Institute; and launching Consumer Focus in May 2013 to represent consumer interests in gas, electricity, postal and, in Scotland, water services. The organisations work together as part of the Consumer Protection Partnership collectively to identify issues causing consumer detriment and to agree priorities for collaborative action.

Turning to the specifics of the draft order, it will abolish the National Consumer Council and transfer the relevant functions to Citizens Advice, Citizens Advice Scotland and the Consumer Council for Northern Ireland. It will combine the technical expertise of Consumer Futures with intelligence on consumer experience from citizens advice bureaux and the advice helpline. The combination of technical advice and evidence gathering will enable the citizens advice services to act as a robust advocate for consumers, influencing policy development on general issues and on the complex energy and postal services markets.

The citizens advice services will receive the National Consumer Council’s information-requesting powers, a move that was overwhelmingly supported by respondents to the Government consultation in 2011. Although the powers are not used regularly, the threat of their use makes it easier to obtain key information that is necessary for effective advocacy.

The draft order also transfers essential estate agency functions that are carried out by the OFT to HMRC and Powys trading standards, before the abolition of the OFT on 1 April. Currently, the OFT can issue warning and prohibition orders against estate agents who have acted dishonestly or breached provisions of the Estate Agents Act 1979. After conducting a fitness test, it can ultimately prohibit persons it considers unfit from carrying out estate agency work. The Government believe that from 1 April those functions would sit best with the enhanced activities of trading standards.

Under the oversight of the National Trading Standards Board, a lead trading standards authority—Powys county council—will make use of the network of national, regional and local intelligence to provide an effective, intelligence-led, value-for-money service. The new system will also benefit from the traditionally close relationship between trading standards and business, which allows for effective oversight and enforcement of the industry.

Estate agents are also required to be registered with the OFT for anti-money laundering purposes and pay fees to cover reasonable administrative costs. Carrying on an estate agency business without being registered is a criminal offence. Our initial thought was to transfer those functions to a lead local authority, but we listened to the views of trading standards professionals, Her Majesty’s Treasury and the industry, and decided that moving that function to HMRC was a better course of action. HMRC can deliver the function more effectively than a lead local authority, because under the money laundering regulations it already supervises other sectors and has both experience and capacity on the ground.

The order will also tidy up a number of minor legislative provisions relating to the operation of the former Consumer Direct advice line, which was transferred to Citizens Advice administratively in April 2012, with legislative changes needed for calls relating to gas, electricity and postal services issues having been made under a previous public bodies order. Section 8(1)
of the Public Bodies Act 2011 provides that Ministers may make an order only where they consider that it serves the purpose of improving the exercise of public functions. Such orders must have regard to efficiency, effectiveness, economy and securing appropriate accountability to Ministers. I am confident that the changes I propose meet all those criteria.

I shall now turn to efficiency and effectiveness. Publicly funded consumer advocacy is carried out by a number of organisations, including the NCC, Citizens Advice, Citizens Advice Scotland and, to some degree, the OFT. There has been significant overlap between those bodies and there is therefore scope for efficiency improvements in the use of public funds. For example, both the NCC and Citizens Advice produce reports for consumers on the energy market and both have strong links with sector regulators. The order will create efficiencies by greatly reducing the overlap and duplication of effort in consumer research and analysis, through merging the expertise of the NCC with that of Citizens Advice.

Trading standards and the OFT possess enforcement powers under the Estate Agents Act 1979, so transferring the OFT’s powers to trading standards will simplify the landscape. The appointment of a lead enforcement authority to carry out the work on behalf of all authorities means that the supervision of prohibition and warning orders will be effectively co-ordinated and consistently applied across the UK. Enforcement activity will be better targeted through the use of a single intelligence-gathering process and decision-making gateway. The potential for enforcement gaps relating to the estate agency industry will be reduced.

Powys county council has been chosen to act as the lead authority, following a robust tendering exercise in which every local authority in the UK was invited to bid. Bidders were required to demonstrate how they intended to carry out their new duties and the estimated cost of doing so. Through that process, a panel led by the NTSB selected Powys as the authority best placed to provide the most efficient, effective and value-for-money service. The transfer of anti-money laundering supervision to HMRC will also have substantial efficiency and effectiveness benefits. HMRC will be able to exploit operational synergies and share information across HMRC where non-compliance is identified.

The reforms implemented by the order will maintain robust measures of accountability. Citizens Advice and Citizens Advice Scotland are required by both charity law and company law to ensure good governance, so we do not need to impose further statutory governance provisions. Instead, the bodies will be held accountable through well established grant funding relationships, which will be expanded to set out the requirements and key performance indicators related to the new activities. My Department will monitor performance closely to ensure that the successor bodies are delivering good outcomes for consumers and achieving good value for money for levy funders and taxpayers. In the case of estate agency enforcement, Powys county council and the NTSB are ultimately accountable to the Department for Business, Innovation and Skills, and anti-money laundering supervision is subject to HMRC cost controls and Treasury and parliamentary oversight.

There will also be small economic efficiencies resulting from the order. Under the OFT, the anti-money laundering supervision of estate agents was 95% industry-funded, with the remainder central Government-funded. The new regime will be 100% industry-funded, which represents a saving of just over £55,000 a year.

In conclusion, the order will abolish the National Consumer Council and transfer its functions to the agencies I have mentioned, confirming the position of citizens advice services as the publicly funded voice of consumers. It will transfer OFT functions to Her Majesty’s Revenue and Customs and Powys trading standards, which will reinforce the position of trading standards as the lead enforcer of consumer protection laws and enable HMRC to use its expertise with respect to money laundering regulations. Finally, it will transfer residual OFT functions relating to its former consumer advice scheme to Citizens Advice and Citizens Advice Scotland.

4.40 pm
Stella Creasy (Walthamstow) (Lab/Co-op): Like the Minister, I am pleased to attend my first Delegated Legislation Committee in my current role. I hope that what I say today will not mean it is the last time.

The Opposition have serious concerns about the order. Now is not the right time to remove the role of Consumer Futures in consumer protection or transfer the OFT’s functions in relation to estate agents. We want the Government to learn the lessons of payment protection insurance and payday lending and to think again about what they allow such industries to do. Constituency cases and what we learn from other organisations lead us to feel that the order could make things worse.

I want to discuss both sides of the order: the abolition of the National Consumer Council and the transfer of its remaining functions, and the transfer of functions in relation to estate agents. Getting such things right matters, because rip-off traders cost British shoppers £6.6 billion a year by peddling fake goods or charging them too much for products and services that they do not need. Trading standards, Citizens Advice and Consumer Futures have played an important role in challenging such practices and helping consumers to get a fair deal, but in the past couple of years trading standards in particular has been squeezed. That makes the role of mediation and advocacy bodies all the more important, both in getting value for money in the public sector and in protecting consumers.

An absence of enforcement gives an advantage to firms that want to break the rules. Nationally, or in communities locally, consumers get a poor deal and providers get away with it when there is little likelihood that they will be held accountable or prosecuted. We must consider the order against the premise that what matters is effective local and national consumer protection. We need to ask whether the order will encourage such protection or make things worse for our constituents.

The Government’s failure to set in train action on the EU directive on alternative dispute resolution is important. We cannot consider measures to give some OFT powers to Powys trading standards without considering what alternative dispute resolution procedures there are. Our first point of concern is therefore that the measure comes at a time when consumers do not have clarity about the availability of alternative dispute mechanisms, which are important when the enforcement landscape is fragmenting.

All hon. Members will, I think, have high regard for Citizens Advice. We are concerned about whether it has the resources, including staff and volunteers, to carry
out the functions that the Government are now asking it to. Citizens advice bureaux have been hit hard by the cuts to advice services that the Government have presided over. In particular, their income is estimated to have fallen from £177 million in 2010 to £144 million this year, 2013-14. That is a reduction of just over 18% of their funding. Most of that is accounted for by the loss of legal aid, but there is inevitably an impact on their ability to serve our constituents.

The practical result is that in Tameside, for example, there is now a five-week wait for an appointment at the local CAB. In Gloucester, the CAB has gone into administration. The CAB in Birmingham has lost more than half its local authority grant, as well as £700,000 in legal aid funding. In Sutton, demand for welfare benefit appeal advice has trebled in the past three years. Local citizens advice bureaux are under huge pressure. The Minister mentioned using them as an intelligence-gathering service, but Citizens Advice estimates that it can currently answer only 45% of its calls. Advice services in our local communities are already fragmented and phone lines are already stretched. How much more information will be used to make the change work is a question that the Minister has not yet answered, but I hope she will.

I am sure that we have all experienced a massive increase in casework over the past couple of years as a result of the impact of cuts and of the loss of local advice services. Asking Citizens Advice to take on an additional role at a time when it is already stretched is concerning, particularly because the additional role is new. It is not simply a matter of Citizens Advice dealing with more complaints about particular services, whether public or private; it is about its taking on the monitoring of hot-topic industries, including gas, electricity and the postal service, which Consumer Futures was doing so well. Whether the Minister has adequately answered whether Citizens Advice can take on that role, given that it is stretched and given the new questions about those industries, is one thing, but Consumer Futures was also playing a distinct role from that of Citizens Advice at a national level, which poses another question.

We must ask whether, in taking on the new role and therefore Consumer Futures’ funding, grant-making funding bodies for citizens advice bureaux might see an easy way to make up the difference. If they are getting money from the new role, they may see that as a way of cutting back funding at a local or national level. They are being asked to take on a different role, but the same organisation is being funded to do the work. They will be asked to undertake this work, both locally and nationally, with the same budget.

I acknowledge that Citizens Advice says that it is not concerned about its ability to do both national and local work, but anyone who has worked in local government or dealt with funding bids will be aware of the risks. They will be concerned about asking the organisation to take on a new role, looking at a whole new range of industries in a whole new format, at a time when it does not have the money to fulfil its current duties at local or national level. By the law of unintended consequences, that could create an incentive for funders to cut corners or unwanted pressure on citizens advice bureaux.

We need a clearer answer from the Minister about Consumer Futures’ research role. She pointed out that, although it has not been used often, the power to request information is a powerful right that Consumer Futures has. There are good examples of Consumer Futures using such powers—provided for in section 24 of the Consumers, Estate Agents and Redress Act 2007—to investigate how vulnerable consumers were treated in cases involving energy, pushchair safety and pension charges. It was able to require industries to provide information when they may not have wanted to, so as to ensure that consumer detriment was not occurring.

The Government have said that the power will be transferred over to Citizens Advice, but that there could be “undue burden on business” and that Department for Business, Innovation and Skills “will keep the use of this power under review, and retains the ability to constrain this provision using s28 of the Act in the event of serious misuse.”

Our energy bills and those of our constituents show that the energy sector has questions to answer. Asking Citizens Advice to take over from Consumer Futures, possibly with one hand behind its back when challenging companies due to a lack of clarity, will present a real challenge. The Secretary of State told the House of Lords that he had “every faith that the Citizens Advice service will use this power in a responsible and proportionate way”, but he has not set out what “responsible and proportionate” means. I may appeal to the libertarian instincts of some Committee members in saying that the idea that the Government might decide what is proportionate and responsible without oversight worries the Opposition. We want much more clarity from the Secretary of State on whether he is really committed to the idea that Citizens Advice will be as strong as Consumer Futures in using the power to hold industries to account when necessary at a time when the organisation is under severe financial pressure.

Finally, how will we know that the transfer of power has not led to a gap in consumer protection? Will the Minister commit to reviewing whether the transfer has been acceptable? It is a real concern that the proposal has been forward in a statutory instrument and without clarity on whether we can be confident that the consumer’s voice will not be weakened by the abolition of the NCC. Why is that a concern to us? Because of the second half of the draft order and a particular issue to do with estate agents.

I am sure that all of us have horror stories to tell about estate agents. In fact, we politicians might admit that it is easier to say “I’m a politician” than “I’m an estate agent”—but only just. The hon. Member for Briggs and Goole is wiggling his hand to indicate that he is not sure. I agree that it is a close call, but I still wager that we would win that contest. That is because in this country we are increasingly seeing a number of practices in the estate agent industry that are of real concern to all of us, yet the second part of the draft order transfers the power for the regulation and supervision of estate agents in the entirely of England and Wales to a trading standards body in Wales, and that is of real concern to us.

England’s housing market is heating up, the average horror foyers exists eight times the average wage, and it could take some families up to 20 years to save for a deposit in a noble cause—so that they can own their own home, something all of us have aspired to at some point. An entire generation of people could be locked
out of our housing market if it does not operate in a free and fair way. There are real concerns that it is starting to act in a way that is not competitive, and that estate agents are undertaking unfair practices. We are not convinced that the draft order is the right way to go, especially when the Office of Fair Trading is already investigating the estate agency business.

Let me give the Committee an example of the sorts of behaviours that we are concerned about. I feel strongly about this example, not least because this is happening in my constituency in London. It is a new form of contract. Estate agents are taking advantage of the high demand for properties by introducing sales by sealed bid. The winner of the sealed bid, however, is required to pay an introductory fee to the estate agent—for being introduced to the property. In some cases, that is 2% to 2.5% of the property fee, plus VAT. The agent is charging a finder’s fee, on top of the fee that they are charging the vendor to sell the property. The practice leaves both sellers and buyers short-changed. It means that buyers must find a substantial amount of money to pay the fee, on top of any bids that they might make for a property. The sellers, who are able to benefit only from the sale, are offered a lower price for their asset. The only winner is the estate agent, who secures a fee from both parties—a fee considerably in excess of the fees that any of us might have paid when buying a property.

The property ombudsman calls the new contracts a “developing commercial practice” nationally, and states that it is unsure of the legal position of such contracts. It does not currently have a role in challenging the contracts; they are for the Office of Fair Trading to challenge. The property ombudsman is concerned that the development is not confined to the London housing market. Obviously, if estate agents can get away with these contracts, there is a considerable amount of money to be made, so why would estate agents throughout the country not start engaging in these practices?

When I challenged estate agents in my constituency on the fee, they were unrepentant, unsurprisingly; given the amount they are making, why would they be? One estate agency stated that “our client sellers and buyers taking part in the process are fully aware of the associated fee and gives buyers the freedom of choice to decide whether they are prepared to pursue properties that are marketed in this way or not”.

Obviously, if that type of contract becomes more widespread because of the amount of money that estate agents can make, that will simply not be the case. Without legal clarity as to whether the contracts are fair, the risk is that the practice will spread, further affecting the chances of our constituents throughout the country getting on the property ladder. The same estate agent also requires people to use its in-house mortgage broker in order to become what is described as a “buyer of choice”. Again, that is a massive conflict of interest for the buyer of a property. It is of real concern that such practices are happening around the country and might grow, because of the benefits to estate agents from locking consumers into particular practices.

That is clear evidence of what I would term consumer detriment—exactly the kind of matter that we might expect the Office of Fair Trading to pick up on as part of monitoring not only individuals, but the industry. A recent NAO report concluded that nearly 73% of consumer detriment from unfair practices and rogue traders took place in more than one local authority area. Once one rogue trader does something, they all start doing it, unless the practice is challenged. That is why we would want robust forms of early intervention. Our fear is that the proposals in the draft order, especially those relating to the estate agent market in this country, will make it much harder to tackle what I will call these emergent commercial practices, because they will fall between the remit of different organisations. It will fall to Powys trading standards in Wales to monitor the behaviour of estate agents throughout England and Wales.

Trading standards services have been cut to the bone in the past few years. The National Audit Office estimates that spending on trading standards will fall by nearly a third, but we are asking trading standards services to take over some serious powers with regard to estate agents’ behaviour; they will be monitoring not just potential money laundering but whether estate agents are committing an offence of dishonesty or breaching certain provisions of the Estate Agents Act 1971.

I read the document issued by Powys county council stating how it envisages the service, and I pay tribute to the trading standards officers in Powys and their commitment to working with their colleagues nationally. However, I question whether, at a time when we have growing concerns about estate agents, it is right to move the monitoring powers for the entirety of England and Wales to one trading standards body in Wales. Having read the proposal, I do not think that anyone could doubt that Powys trading standards officers are committed to their national role, but there is a lack of clarity about how they might make decisions to enact that role.

In particular, anyone on the Committee who has been a local councillor will be surprised at the Government’s commitment to the idea that, ultimately, Powys trading standards will be accountable to the Secretary of State for how it undertakes its role. Clearly, if the council is funding the service—or holding it to account through the Anglesey licensing committee, as is intended in the process—it might take a different view. I am sure that some of the councillors on that committee—Councillors Davies, Griffith, Hughes, Roberts, Rowlands and Jones—might be surprised to learn that the Secretary of State intends to supersede their role with regard to those powers. There is a lack of clarity as to how the measure will work, which could lead to a stymieing of the role at the very point when, as all of us would agree, we need to take a sharper look at what estate agents are doing.

There is a risk that the lines of accountability will get crossed, not just because of geographical boundaries—although I would certainly want to invite Powys trading standards to come all the way to Walthamstow to see and hear the impact of certain practices of estate agents on my local community—but because of limited resources. Again, the situation shows that it is even more important to have real alternative dispute resolution practices that are firm, fair and have real teeth—something the Government are not doing in the Consumer Rights Bill because they will not address the issue of alternative dispute resolution.

We know that currently there is an investigation and there is real concern. In the responses to the consultation on the order, real concerns about estate agents’ behaviour were highlighted to the Government, yet they have chosen—that is how it seems to us—to ignore those
concerns, ignoring voices such as that of the British Retail Consortium, the East of England Trading Standards Association, which said that “we believe the whole operation of estate agency regulation should be fundamentally reviewed”, and the Financial Services Consumer Panel, which said in its response: “We are concerned that if a lead local authority were to take on the OFT’s estate agency and related anti-money laundering functions, these would be weakened.”

The Minister cannot satisfy me that bad practices of the sort we have discussed will not spread across the country, nor that a problem in Walthamstow can really be addressed by Powys trading standards coming all the way from Wales, or even by the property ombudsman given the current state of mind on these matters.

The Minister might point to the role of local trading standards working at a national level on claims management companies—for example, Staffordshire trading standards works at a national level with the claims management system in the Ministry of Justice. I would caution her that we are talking apples and pears, as claims management is a very small industry right now. There are 3,000 claims management companies versus 25,000 estate agents that are registered with the property ombudsman in the UK, with an 11% increase in the past year. Indeed, the Office for National Statistics says that nearly half a million people in this country are employed in real estate. We are asking the trading standards officers of Powys council to manage nearly half a million individuals who are trading as real estate agents.

Estate agency is a growing industry in this country. It is therefore absolutely right that we look for the toughest form of regulation we can have to make sure that that growth is positive and constructive, and is beneficial rather than detrimental to consumers. We do not think that the order meets the test of the Public Bodies Act 2011, that measures should lead to a more efficient, effective and appropriate level of accountability to Ministers. We cannot support the order, and I encourage those Government Back-Bench Members who might previously have been unaware of the changes and might have concerns about estate agents to ask questions and to think again about whether the order represents the best course of action at this point in time. We certainly do not think that; we think that the order will create a great enforcement gap for estate agency and raises some worrying questions about the role of citizens advice bureaux. We will therefore not be supporting the order.

First, what assessment has the Minister made of the capacity of trading standards and citizens advice bureaux to take on this extra burden? I am particularly concerned about the situation in Scotland. I do not know whether the Minister has spoken to the Convention of Scottish Local Authorities. Given that we have had a council tax freeze in Scotland for six years, budgets are not being topped up fully to account for the drop in real-terms revenues for Scottish councils. In my area, the citizens advice bureau has had its budget frozen for several years, and it is struggling to cope with increased demand. I would be grateful if the Minister could tell us what assessment she has made of the capacity of both those bodies.

The Minister also said that there will be a review of the effectiveness of the measures that affect estate agents. Will she give us more detail on that? In particular, how will the consumer rights angle be measured? To whom will that report go? Will there be any parliamentary oversight? Will the Select Committee on Business, Innovation and Skills consider the findings? When will the first review be held? How frequently will those reviews take place? What benchmarks will she be setting to measure whether the order is effective in securing consumer rights?

My hon. Friend the Member for Walthamstow spoke about the timing of the order not being right, which I think is indeed the case for a number of reasons. The housing market, particularly in London, is recovering because of measures to support first-time buyers, and there is a great discrepancy between supply and demand. There could not be a more important time to have effective oversight of the estate agency sector.

My hon. Friend also spoke about the many horror stories, and I would like to take this opportunity to speak about my son’s experience as a first-time buyer looking for a property in London. Some dodgy practices seemed to be going on, and it is incredibly difficult to secure a viewing of a property. Estate agencies are saying to him that unless he books an appointment with their financial adviser he will not be allowed even to view a property. That has an impact not only on the buyer but on the seller. The Financial Conduct Authority will oversee complaints about financial services within estate agencies, so how does the Minister see those two services working side by side? Many estate agencies now also operate in the rental sector, so will the order also cover the activity of estate agencies in that sector?

I look forward to hearing the Minister’s response. I think the order has been introduced too quickly. We often criticise the Government and ask what has taken them so long, but on this occasion it would be beneficial if the Government took a bit more time to get the measure right so that it protects consumers, especially those trying to buy and sell properties when the housing market is in such a state of growth and flux.

4.59 pm

Fiona O’Donnell (East Lothian) (Lab): It is a pleasure to serve under your chairmanship for the first time, Mr Pritichard. We are currently considering major changes to consumer rights across the UK. The Public Bill Committee on the Consumer Rights Bill begins this week, so it is particularly appropriate that we should be considering this order today. I have a number of questions for the Minister, and I apologise to you, Mr Pritichard, to the Minister and to the Committee if my questions are answered in the lengthy explanatory note, which I have not had an opportunity to peruse in full.
A number of years ago, the Public Accounts Committee considered how we could improve the situation. The Government have been making significant changes to the whole consumer landscape, including the OFT, the Competition Commission, and so on, to try to ensure that consumers have a strong set-up so that they can get the redress they need, and so that they have a strong voice and a strong advocate. That is why we are making the changes.

With regard to the consumer voice, it is important to have a single point of contact, which makes it much easier for consumers to identify where to go. For example, they know that they can contact Citizens Advice—people already do—and that single point will give Citizens Advice a lot more authority when it is speaking, making it much easier for it to gather intelligence and making it a much more powerful advocate on behalf of consumers. That is important. Consumers need an important advocate, who can act on their behalf and take up issues.

As both hon. Members who spoke said, this is all being done in the context of the Consumer Rights Bill and other changes, for example, the alternative dispute resolution measures, which will come out of the consumer rights directive later this year. We are working on the proposals for that. It is important that we consult on it. It is imperative that we get the ADR set-up right, because it plays such an important role in ensuring that consumers get the redress, which they deserve. We will consult shortly on those proposals, to ensure that we do the right thing. We will then ensure that we legislate, if necessary, or introduce regulations, so that that is put in place for consumers.

Citizens Advice is a strong consumer voice. It is happy to take on these responsibilities. We in BIS talk to it all the time about a range of issues. It has a strong reputation as a consumer advocate. It has the trust of consumers and consumers know to go to it, if they have an issue.

The hon. Member for Walthamstow raised the matter of whether Citizens Advice is capable of taking on the new work and whether it has the capacity, and the hon. Member for East Lothian also mentioned that. The Citizens Advice service is already fully engaged on policy issues and on research about consumer issues, so we feel that it has the expertise and the experience for it to provide a highly effective voice for consumers. That capability will be bolstered by the expert staff who will be transferring from Consumer Focus, to enable Citizens Advice to deliver that service. I do not see any evidence of whether Citizens Advice is capable of taking on the role in looking more broadly at issues relating to the markets. We are focusing its attention on that. Previously, it was often complicated to determine where the responsibility lay, between the OFT and the Competition Commission, with cases being referred on to either the former or the latter. By merging their functions together, in many ways, one body will be able to look much more broadly at market problems.

With the role of Citizens Advice and Citizens Advice Scotland being beefed up, those organisations will be able to take up issues on behalf of individual consumers and to gather intelligence from those complaints and feed that into the system. Having noticed a problem in a particular area, from cases across the UK, it will be able to feed that into the CMA, which in turn will be able to undertake investigations, if broader issues are raised.

At the moment, in the Consumer Protection Partnership consumer bodies are operating and sharing information. The different regulators identify issues that consumers are raising as concerns, more broadly, so that problems at a particular time can be identified and regulatory activity can be put in place. Then we can identify if there is a role for Government in further regulation, and so on. That is working effectively. Intelligence gathered by organisations such as Citizens Advice is fed into the different regulators and, more broadly, into the CMA and the Government. That system is working well and we are ensuring that both the CMA and Citizens Advice have the powers and resources to do that.

The hon. Member for Walthamstow raised the issue of gaps in the landscape and whether people would fall into a gap between different regulators or authorities. Citizens Advice will inherit the legal powers and resources of Consumer Futures, so the order is not about saving money, but about doing things better. We will keep the changes under review to ensure that the relevant bodies do not allow gaps to emerge, but we are confident that, because Citizens Advice is taking both the powers and the resources, it will carry on operating in the same way.

Sheila Gilmore (Edinburgh East) (Lab): The consumer councils have been able to carry out fairly large investigations and produce reports that it independently generates. Is the Minister satisfied that that will continue to be so under the new arrangements?

Jenny Willott: Absolutely. We are beefing up the Competition and Markets Authority to be able to fulfil a role in looking more broadly at issues relating to the economy is to operate well and consumers are to know their rights and be able to get redress, we have to have a system that works well. This is not about the Government stepping in if things get a little difficult for businesses. That is absolutely not the intention. Citizens Advice will have full use of the legal powers that Consumer Futures has at the moment, including the information-gathering function, as we discussed, and as the hon.

Stella Creasy: The Minister talks about keeping the powers under review, but can she answer an explicit point about information gathering, because the Government have also said that that could be a burden on business. Given that many of the issues that Consumer Futures had been looking at would be controversial for business by default, because they would be about practices that are causing detriment to consumers, Citizens Advice might want to use the power. Will the Government try to stop on Citizens Advice for using that power? The Government have said they think people will use the advice bureau wisely, but the definition of “wisely” is open to interpretation. We all want some safeguards. For example, will she commit to a review in a year’s time?

Jenny Willott: This is definitely not about businesses finding things awkward and therefore the Government stepping in. The Government are absolutely clear. If the economy is to operate well and consumers are to know their rights and be able to get redress, we have to have a system that works well. This is not about the Government stepping in if things get a little difficult for businesses. That is absolutely not the intention. Citizens Advice will have full use of the legal powers that Consumer Futures has at the moment, including the information-gathering function, as we discussed, and as the hon.
Lady just mentioned. We are confident that Citizens Advice will use it responsibly. In the unlikely event that there is some misuse in future, we would like to reserve the power to regulate it if necessary, but we do not foresee that happening.

Responsibility moving from a statutory body to Citizens Advice involves change. It is difficult to see how misuse would happen, but, to retain the existing statutory protection, we want to ensure that the power remains in the case of an unlikely incident. I cannot foresee under what circumstances that would be needed, but, because of the changes in the landscape, we want to ensure that we have that safeguard as a back-up.

**Stella Creasy:** I am sorry, but I need to press the Minister on this. It sounds as though she is saying, “Of course we don’t think Citizens Advice will misuse this, but we think they might in the future, so we will hold on to that power.” Either she trusts Citizens Advice to take on the role or she does not. If she thinks that it will not take on that role, at least some honesty about it and therefore some commitment to reviewing the decision to keep the power under review would be welcome.

**Jenny Willott:** I can certainly get back to the hon. Lady about whether there is a plan to review the system, but we are absolutely sure that we trust Citizens Advice. However, moving the powers from a statutory body to a charity is a change. Citizens Advice will not be bound by charity law regulations in the way that Consumer Futures was, so we want to ensure that there is a power to review that if necessary. It is extremely unlikely that anything will happen, but I am happy to write to the hon. Lady about whether there would be the opportunity to build in a review.

**Fiona O’Donnell:** Will the Minister give us some insight into the consumer’s journey when they want to raise a concern with Citizens Advice? Will they be able to do that in their local office? Will they have to do it by telephone? How will the consumer actually access the service?

**Jenny Willott:** In exactly the same way that they do at the moment. They will be able to access it through their local office, but Citizens Advice is operating, as I said, what used to be the Consumer Direct phone line, and so consumers can contact Citizens Advice through that phone line and get the advice and support that they need that way.

The Citizens Advice service already has, as all hon. Members know, vast experience of helping consumers. Every year the local bureaux help more than 2 million people to resolve 7 million problems, so they clearly have the expertise and the experience to be able to work in this area. The transfer of Consumer Direct will support the role of citizens advice bureaux in dealing with calls centrally, and local bureaux will be able to focus on face-to-face advice, so consumers will be able to take different routes.

On the regulation of estate agents, the hon. Member for Walthamstow raised several concerns. I understand that there are particular problems in her part of London, which she is raising more broadly with the Government. I also understand that there are particular issues with the London market, which is very different from that much of the rest of the United Kingdom, and that there is particular behaviour in London. It is important to get the regulation of that behaviour right. When people are involved with estate agents, the amount of money at stake is clearly far greater than in many other consumer set-ups. That is an important issue.

The OFT’s funding to regulate estate agents is being transferred to Powys county council and ring-fenced to ensure that the service is unaffected. Again, as with citizens advice bureaux, the issue is not a reduction in the amount of money available, it is about transferring the service and resources to a different body. The role of Powys county council will be the same as that of the OFT currently. The property ombudsman will still be able to act in alternative dispute resolution matters and so on, and Powys county council will approve future redress scheme applications in the same way as the OFT does now. The service will not be delivered differently, it will just be delivered by a different body.

**Stella Creasy:** It is one thing to argue that Powys county council trading standards can fulfil the same role and remit and have the same confidence of people throughout England and Wales; it is another thing to be confident that Powys county council will remain. We know that local government boundary reform has just been announced in Wales following the recent Williams commission report. What provision would the Minister make if Powys council were abolished? It is no good having an organisation to work with if it does not exist. Indeed, were that to be suggested, the impact on Powys county council’s ability to focus on its national role covering estate agents would surely be under question.

**Jenny Willott:** For a start, the Williams commission does not recommend any changes to Powys county council, but even if it did, local authorities have several statutory powers, and the successor body would take the transfer of those statutory powers. That happens in many areas, and its responsibility on estate agents would be just one matter that Powys county council would need to transfer to a successor authority. Such transfers happen regularly when local authorities are rejigged, but the Williams commission does not propose any changes to Powys county council’s ability to focus on its national role covering estate agents would surely be under question.

**Stella Creasy:** The Minister cannot give a guarantee, because the proposals have not been consulted on. As any of us who were aware of proposals for boundary changes in the past will be aware, she cannot guarantee that Powys county council will continue to exist as a body.

**Jenny Willott:** No, but no local authority can be guaranteed to exist in the future. Anyone could decide to have a rejig. The OFT currently has the functions that we are today transferring to different bodies. There are often changes to the landscape in the United Kingdom, but that does not mean that everything should be set in aspic in case something goes wrong. Powys county
council tendered for the work, put in the best bid and was granted the work by the National Trading Standards Board, which oversaw the operation on the basis of that bid. It is receiving ring-fenced funding to provide that service. The hon. Lady said that she had read the paperwork, and I hope she is reassured that Powys county council knows what it is taking on and has made it clear how it would deliver it and how it would provide the necessary safeguards.

**Stella Creasy:** I did read the paperwork, and I was interested to see that the Anglesey licensing committee would be playing a role. The Minister and the Secretary of State said that ultimate oversight would land with the Department. Will she clarify who will come first—the council, which will pay for the trading standards service, or BIS, which will pay for the former OFT services?

**Jenny Willott:** Ultimately, Powys county council will be accountable to BIS and will report to the NTSB in its role as co-ordinator, and the NTSB will be accountable to BIS for the performance of its enforcement teams and projects, including the estate agency work. However, because the NTSB is not a legal entity and cannot enter into grant agreements, Powys will enter into a grant agreement with the Trading Standards Institute, which is accountable to BIS for the administration of grant funding. Powys county council will therefore be accountable to BIS for the functions that we are discussing.

**Stella Creasy:** I am looking at the details, and it is clear that the Anglesey county council licensing committee will hear appeals, for example from estate agents who have been banned or warned and want to appeal. The Minister is saying that county councillors will be beholden to the Secretary of State for the decisions that they make, because the decisions made under the new system will be ultimately accountable to the Secretary of State. That does not seem clear. It seems that the power of the licensing committee and the councillors in Anglesey to act independently is being removed.

**Stella Creasy rose—**

**Jenny Willott:** I am talking about the line of accountability for the functions relating to estate agents that are currently with the OFT but will be transferred to Powys county council. It has nothing to do with the Anglesey licensing committee. The functions of the OFT will be accountable to BIS through the National Trading Standards Board and the Trading Standards Institute as the grant-making body. I am quite happy to write to the hon. Lady with more details, but the accountability will be to BIS.

In the broader scheme of things, it is not uncommon for trading standards departments in a local authority to provide services across the UK. We often have a set-up wherein a lead authority co-ordinates the service and works across the UK as a whole.

**Andrew Percy (Brigg and Goole) (Con):** I am here deputising for a colleague, so I might vote differently if I was present under my own name. I am now unclear—everything has become terribly confusing, and I am a simple individual. If an estate agent was struck off in the East Riding of Yorkshire, or in north Lincolnshire, who would they appeal to and who would hear that appeal? I am a little confused, because as I understand it the answer might be Anglesey, and there is not a very good direct train service there from Goole or Brigg. I am worried about how such an arrangement would work.

**Jenny Willott:** My understanding is that appeals against Powys’s decisions will go to a first-tier tribunal, which I understand will be the licensing committee of Anglesey. However, the answer to the hon. Lady’s question about responsibility and accountability is that there will be a line from Powys county council to BIS through the National Trading Standards Board and the Trading Standards Institute.

A lot of trading standards functions across the UK are run at local authority level. However, there are significant examples of one authority leading on activity across the whole UK on behalf of trading standards bodies in all local authorities. The hon. Lady mentioned an example in her speech. That is a common set-up wherein a lead authority co-ordinates the service and works across the UK as a whole.

**Andrew Percy:** I understand all about working together. The four estuarial authorities in the Humber have always pooled their trading standards services—I know that because I was involved in such matters when I was a local councillor. We may not like estate agents, but will an estate agent struck off in my area definitely have to go to Anglesey to have their appeal heard? It seems a little odd, because that is a jolly long way from Yorkshire and Lincolnshire.

“Appeals will be referred to Isle of Anglesey County Council who will arrange a hearing of the Appeal with 14 days...The authority’s Licensing Committee will be convened and will hear the Appeal, enabling representations to be considered from the appellant...The decision made, together with the reasoning behind that decision will be conveyed to the Appellant within 7 days of the hearing”.

It will be the county council’s licensing committee that will make decisions. I do not think that the Minister has quite made it clear for the Committee who will take precedence, the councillors or the Secretary of State.

**Jenny Willott:** No, I am very clear that, in the exercise of these functions, Powys county council will be accountable to BIS through the National Trading Standards Board and the Trading Standards Institute. I am happy to write to the hon. Lady with more details, but the accountability will be to BIS.
Steve Rotheram (Liverpool, Walton) (Lab): Or elsewhere.

Andrew Percy: Or elsewhere. It seems a little strange that they would have to go to Anglesey, of all places, lovely though it is.

Jenny Willott: Appeals against Powys decisions go to the first-tier tribunal. That is the information I am being given. That is the body that will decide appeals against decisions made by Powys county council.

Fiona O'Donnell: In reaching the decision to use that local authority, was the Minister aware of the electoral history in Anglesey? Is she concerned that elected representatives have only recently been reinstated? Commissioners recently had to take over, because there were problems. Is the Minister concerned about that?

Jenny Willott: We are discussing different issues here.

The Chair: Order. I think I have been liberal, but we need to keep within the scope of this legislation, and that particular point was not.

Jenny Willott: Thank you, Mr Pritchard. We are talking about statutory functions being transferred to a local authority. We are not talking about the democratic system that sits above that.

To clarify, appeals under the Estate Agents Act go to the High Court, and money laundering issues go to the first-tier tribunal. I am happy to clarify the situation and write to the hon. Member for East Lothian with further details after the Committee. The rules we are discussing apply to estate agents, rather than letting agents; there is a different regulatory set-up for letting agents.

The hon. Lady said that the order was introduced too quickly. It is part of a long process that started in 2011 following a Public Accounts Committee report. It forms part of a much broader change in the consumer landscape, which the Government have been working their way through for the past few years. It is part of a much bigger system, all of which has been consulted on. As I said at the beginning, we have taken into account some of the changes that people recommended in the consultation. We took the responses they gave on board and amended some of the original proposals. The process has taken a long time; I do not feel that the Government are rushing the proposal through at the last minute. It has been consulted on.

Fiona O'Donnell: I am sure that the Minister is coming to this, but will she give us more information about the process that will allow us to review whether the new system is effective? When does she see the first review being held, and how frequent will the reviews be?

Jenny Willott: We will ensure that the bodies deliver on their commitments annually, because their performance will be taken into account as part of the grant process. We plan to review the legislative provision in five years' time. Reviews are therefore built into the process. As the grant is handed over, the agreement alongside it will lay out what we expect the body to deliver with the funding and resources being provided to it.

I appreciate that this debate has probably ended up being slightly longer than some members of the Committee were planning or hoping.

Fiona O'Donnell: At the risk of making the debate even longer—I apologise for that—I also want to ask the Minister about the consumer’s journey, which I mentioned earlier. We are now in a climate in which some citizens advice bureaux are threatened with closure. In the event that a CAB does close in a local area, how will people access this service?

Jenny Willott: As I said to the hon. Lady earlier, the Consumer Direct phone line is being transferred to Citizens Advice, and the funding and some of the staff from Consumer Futures are being transferred over, so it will have the provision to provide this service. The resources are being transferred over as well.

I hope that I have reassured the Committee that all the issues raised by Opposition Members have been considered and taken into account when deciding how these moves will take place and the overall landscape. I commend the order to the Committee.

Question put.

The Committee divided: Ayes 10, Noes 7.

Division No. 1]

AYES

Benyon, Richard
Birtwistle, Gordon
Evans, Jonathan
Gyimah, Mr Sam
Menzies, Mark

Patel, Priti
Percy, Andrew
Skidmore, Chris
Uppal, Paul
Willott, Jenny

NOES

Creasy, Stella
Doughty, Stephen
Gilmore, Sheila
James, Mrs Siân C.

O'Donnell, Fiona
Rotheram, Steve
Stringer, Graham

Question accordingly agreed to.

Resolved,

That the Committee has considered the draft Public Bodies (Abolition of the National Consumer Council and Transfer of the Office of Fair Trading’s Functions in relation to Estate Agents etc) Order 2014.

5.32 pm

Committee rose.