PARLIAMENTARY DEBATES

HOUSE OF COMMONS
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GENERAL COMMITTEES

Public Bill Committee

IMMIGRATION BILL

Fourth Sitting

Thursday 31 October 2013

(Afternoon)

CONTENTS

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Monday 4 November 2013

STRICT ADHERENCE TO THIS ARRANGEMENT WILL GREATLY FACILITATE THE PROMPT PUBLICATION OF THE BOUND VOLUMES OF PROCEEDINGS IN GENERAL COMMITTEES

The Committee consisted of the following Members:

Chairs: †Sir Roger Gale, Katy Clark

† Bain, Mr William *(Glasgow North East)* (Lab)
Baker, Norman *(Minister for Crime Prevention)*
Dowd, Jim *(Lewisham West and Penge)* (Lab)
† Doyle-Price, Jackie *(Thurrock)* (Con)
† Hanson, Mr David *(Delyn)* (Lab)
† Harper, Mr Mark *(Minister for Immigration)*
† Hillier, Meg *(Hackney South and Shoreditch)* (Lab/Co-op)
Huppert, Dr Julian *(Cambridge)* (LD)
Jones, Helen *(Warrington North)* (Lab)
† Kirby, Simon *(Brighton, Kemptown)* (Con)
† McFadden, Mr Pat *(Wolverhampton South East)* (Lab)
† Mills, Nigel *(Amber Valley)* (Con)
† Milton, Anne *(Lord Commissioner of Her Majesty's Treasury)*
† Opperman, Guy *(Hexham)* (Con)
Paisley, Ian *(North Antrim)* (DUP)
† Patel, Priti *(Witham)* (Con)
† Robertson, John *(Glasgow North West)* (Lab)
† Smith, Henry *(Crawley)* (Con)
Soames, Nicholas *(Mid Sussex)* (Con)
† Syms, Mr Robert *(Poole)* (Con)
Wilson, Phil *(Sedgefield)* (Lab)

John-Paul Flaherty, Matthew Hamlyn, *Committee Clerks*

† attended the Committee

Witness

Mr Mark Harper MP, Minister for Immigration

Public Bill Committee

Thursday 31 October 2013

(Afternoon)

[Sir Roger Gale *in the Chair*]

Immigration Bill

Examination of Witness

Mark Harper MP gave evidence.

2 pm

Q228 The Chair: Good afternoon. We will now take evidence from the Home Office. Mr Harper, would you please identify yourself?

Mr Harper: I am Mark Harper, Minister of State for Immigration.

Q229 Mr David Hanson (Delyn) (Lab): Good afternoon, Minister. I reassure you that I will not engage in political debate this afternoon; I want to ask a couple of questions that might stop us or encourage us in tabling an amendment, depending on the answers. I start with proposed new section 10(2) of the Immigration and Asylum Act 1999, as set out in clause 1, which states that a

"person's family may also be removed from the United Kingdom".

Will that apply to British and EU citizens?

Mr Harper: No. If someone is a British citizen with a right to be in the United Kingdom, unless their nationality status has changed, they have the right to be here. That is one factor taken into account by the court in family cases when there is, for example, a British citizen child, and the foreign national is the only possible carer of that child. That is one thing that the court weighs in the balance.

Q230 Mr Hanson: Would it also mean that a foreign national on a temporary visa or measure would not be removed, if they had the right of abode in the UK?

Mr Harper: If someone is a foreign national, their status is capable of being changed, depending on the circumstances.

Q231 Mr Hanson: On clause 2, which is on enforcement powers, do you intend to publish guidance on the use of any new powers that Parliament may ultimately authorise?

Mr Harper: We do. The Home Office publishes operational guidance for immigration enforcement officers on powers and how we plan to use them, and where possible, we make that publicly available. Where we have new powers under the Bill, we would set out operational guidance on how we planned the powers to be used by immigration enforcement officers.

Q232 Mr Hanson: Thank you. Clause 11 deals with first-tier tribunals, which the Bill aims to abolish. Do you have any proposals for improving the decision making in areas covered by the first-tier tribunal appeal? Evidence suggests that 50% of appeals are upheld.

Mr Harper: It is worth putting the numbers in context. I will set out more detail for the Committee when we debate the detailed provisions of the Bill. It is worth remembering that we grant a significant proportion of the applications that we get; I think it is something like 87% for managed migration applications. Where we do not grant, not everybody who has a right of appeal chooses to use it. Of the cases that go to appeal, some are won and some lost by the Home Office.

The number of decisions that a judicial tribunal or court determines to be incorrect is quite a small percentage of the total number of decisions made by the Home Office. We are not complacent. We plan to put in place an administrative review process where we remove the right of appeal in managed migration cases. That is a process that works well outside the UK; we make more than 90% of those judgments within 28 days and overturn a significant number of decisions.

In answer to your question about whether we are putting systematic processes in place to improve decision making, yes we are. For example, for existing routes of appeal—we do this with administrative review—where a caseworker makes a decision that is subsequently overturned, whether by administrative review or through the judicial process, we are looking at improving the mechanisms for that information to go back to the caseworker or managers to improve decision making. That happens well at the moment in our overseas operations; it happens less well in our in-country operations. The new UK Visas and Immigration business is putting great effort into improving the quality of original decision making.

Q233 Mr Hanson: Thanks for that. Clauses 15 to 32 deal with accommodation and landlords. You indicated that you would publish guidance on that; can you assure the Committee that you will do so before we consider those clauses next week?

Mr Harper: Yes, the plan is that we will make that detail available to the Committee prior to debate on those clauses, so it is properly briefed and can see the sorts of things that would encompass reasonable inquiries on behalf of landlords, and what we expect landlords to do. We also think it is important to publish the code of practice that will set out how landlords should carry out those inquiries so as to comply with important equality legislation. Having listened to the evidence given on Tuesday, I note that this caused concern to a number of witnesses. Our code of practice will deal with that, and will clearly give Members the opportunity to question and challenge us on whether we have dealt with all the witnesses' concerns.

Q234 Mr Hanson: Will you clarify for the Committee that if Parliament approves clauses 15 to 32, you intend to pilot those clauses' impact before full implementation?

Mr Harper: We intend to have a phased roll-out of those provisions. That means that we will implement them in one or more areas first, and once they have commenced, we will look at how they work in practice to see if there are any lessons that we need to learn. We will subsequently roll those provisions out across the country. If you look at the Bill, there is an opportunity for Parliament to be involved in that decision-making process.

Q235 Mr Hanson: In the schedule 3 provisions about student accommodation, there is an exemption for—I use the phrase carefully—a "hall of residence". Could you give the Committee a definition of what you think is a hall of residence, in relation to university-managed student accommodation?

Mr Harper: Our intention is that accommodation that is entirely owned and controlled by the university would clearly fall within the definition. Where a university has the right to nominate students to properties, and those properties contain a majority of students nominated in that way, we would expect that accommodation also to be exempt. Our policy intention, which we think is delivered by the drafting of the Bill, is that where a university effectively determines the accommodation lived in by one of their students, in a controlled way, the university has already carried out checks to make sure that the student has a right to study in the United Kingdom, and we do not want to burden them with a further check.

Where the university does not have that role—I think your example, Mr Hanson, was a shared student house—the landlord of the property would have to carry out the checks. By the way, the checks for overseas students would simply involve looking at their biometric residence permit, ascertaining that they have the right to be in the United Kingdom, and keeping a copy of that permit for their records.

Q236 Mr Hanson: In paragraph 8 of schedule 3, you give an exemption to:

"An agreement to which the Mobile Homes Act 1983 applies."

I am genuinely interested to hear why, if I were an illegal immigrant who sought to rent a property from a landlord and was refused, I would not then look for an alternative avenue, such as a mobile home. They are unregulated in this Bill, and seem to me to be an easy place to find refuge.

Mr Harper: I do not think that the provision has that effect. I will be frank with you: I need to check the detail and will report back to the Committee when we debate the provisions next week. The question is noted.

Mr Hanson: There may be an amendment to facilitate debate on that point.

Mr Harper: Notice of amendment noted.

Mr Hanson: You will hear about it in the morning anyway, so it is hardly notice.

Q237 Mr Pat McFadden (Wolverhampton South East) (Lab): Minister, I want to ask about definitions. The thread running through the Bill is that there should be access to the NHS, housing and so on only for people who are legally entitled to be here. In practice, as our constituency case loads show, this is not a black and white situation, because people will have applications in the system, and the system is slow to deal with applications. We might as well acknowledge the reality, which is that cases can go on for a decade or more. A constituent e-mailed me just the other night; he has had leave to remain for three years, and has applied for that to be renewed. He has not yet received an answer, and in the meantime, the three years have come to an end. That is not uncommon. Under the Bill, will someone like him be prohibited from renting accommodation, opening a bank account and doing the other things that are covered?

Mr Harper: Let me pick up that particular case. You are right that decisions sometimes take a long time. Sometimes that is the fault of the Home Office, although, picking up on this morning's discussion, some very lengthy cases, particularly in the context of deportation, are so lengthy only because the person concerned is not complying with the law and is employing every trick in the book to avoid being removed from the country. That person might complain that the process is taking a long time, but they have had a decision, and if they wanted it to be swift, they could just leave.

On your question about leave to remain, if the person has applied for an extension of leave before their leave expired, as you know, their existing leave will roll forward until we make a decision, so in the case that you highlight, the person would have the right to be here. When we examine the Bill line by line, we will set out a little more how we envisage the process working. We think that for most people, the decision-making process will encompass a relatively straightforward check. If they are a British citizen, it will mean checking their passport, or perhaps a combination of documents, such as their driving licence and birth certificate. For a European economic area national, it would be their passport or identity card from that EEA country. If the person is a foreign national, for the previous period and going forward, we issue non-EEA nationals with a biometric residence permit.

You are quite right, however, that there is a set of people whose circumstances are more complicated—for example, people who have been here for many years with complicated paperwork. In such cases, we envisage having someone being able to check with the Home Office. During the consultation, we listened very carefully to what was said about the fact that the rental market, particularly in some parts of the country, requires a swift turnaround time. We therefore said that if someone contacts the Home Office, we will respond to their inquiry within 48 hours. If we failed to do that, the person would have the authority to proceed. If they did and it turned out that their tenant did not have leave to be in the United Kingdom, they would have a lawful excuse, because we had failed to respond in due time, so we have thought through some of the circumstances you set out.

For some people whose circumstances are complicated, there might be some benefit in being able to evidence their right to be here in advance, so that they are not disadvantaged when competing for rental properties. We will look at providing someone who has made an asylum claim with documentation, so that they can show in advance that they have the right to be in the United Kingdom. We will look at some of the more complex cases. We have thought things through, and we would welcome more debate later in Committee. We can then set out the scenarios we have thought through, and we will welcome contributions from Members, particularly those with experience of casework, probing us on whether we have adequately thought through all the scenarios.

Q238 Mr McFadden: The circumstances are complex, but I would also like to ask about asylum. A not uncommon scenario is one in which a person has applied, been refused, applied again, been refused and applied again—it can go on for years. The fact that it can go on for so long does not serve anybody well—not the taxpayer, the public or even the claimant, although I believe some people do it to extend the process. In the case of

[Mr McFadden]

someone like that, the system has said no but allowed them to submit a further application, so they still have not had a final, final answer. This is not uncommon or some rarity; there are thousands of these cases. Under the Bill, what will be that person's status when the system has not given them a final answer?

Mr Harper: Asylum is, of course, a special case because, as you correctly say, an applicant is able to make further submissions that we are legally obliged to consider. Those are then a barrier to removal until we have considered them and made a decision. If someone has made an asylum application and has had a refusal, they have the ability to appeal and to remain in the country lawfully until their appeals right is exhausted. In those circumstances, they would be entitled to rent property, for example.

Q239 Mr McFadden: It is quite hard for them to prove to their landlord, is it not?

Mr Harper: There are some cases where the evidence is clear, and we think that those are the cases where people can then show their documentation. We accept that there are cases where the circumstances are more complex. Clearly we do not expect landlords—it is the same for employers—to be experts in determining complex cases. Those are the cases where we would expect the landlord in this case—or the employer, who is already expected to do this—to contact the Home Office, and for us then to give a definitive decision on whether they are able to let the property to someone. As I said, we recognise that rental markets require a swift decision, so we have indicated a 48-hour service level with the proviso that if we have not responded to the landlord within that time, they will be able to proceed with the letting and will have a lawful excuse if it subsequently transpires that the person had no right to be in the UK.

Q240 Mr McFadden: Do you think there is a case for putting somewhere in the Bill some of the clarification that you have just given on who counts as being a legal person—for the time being, at least—and who counts as being a clearly illegal person?

Mr Harper: The definitions of when someone has leave to be in the United Kingdom, and the rules and complexities, are set out in the immigration rules. We do not put those in primary legislation for a very good reason, and Governments of all parties have not done that. I do not think that it is possible, because of the complexity, to boil down those definitions to simple, straightforward rules that can be put in primary legislation. The majority of those people who rent property will be able to evidence their right to be in the United Kingdom in a relatively straightforward fashion with a single document or a combination of documents.

We accept that there are people with more complicated circumstances, and that group was behind the questions that Ms Hillier asked some of the witnesses. We think that we have thought through those circumstances and put in place a process to deal with that group, through the ability of people to contact the Home Office for a decision. It does not require the landlords to make any judgments about the complexities; they simply ask us and we give them a decision. That is then their legal authority to proceed. We think that that is the best way of doing it. However you laid out the test, it would not be reasonable to expect a landlord, employer or somebody else to make those judgments. In the complex cases, those are judgments that we need to make and communicate clearly to the service provider.

Q241 John Robertson (Glasgow North West) (Lab): As I am not a barrister or one of those people who knows the technical aspects of the Bill, can you explain what the difference is between a pilot and a roll-out?

Mr Harper: First of all, Mr Robertson, a confession: I am neither a barrister nor a solicitor; I am a humble chartered accountant—[Hon. Members: "Hear, hear."] I hear that I am getting some support for that from the Committee. I am also a humble Minister of the Crown, so I will leave the clever legal stuff to others.

With the phased roll-out, we are making it clear that we plan to proceed. I find that the word "pilot" implies that we are going to try something and we are not sure whether it is a good idea, but we will have a look and then proceed. It is clear that we want to proceed with the policy, but it is sensible to roll it out first in one or more parts of the United Kingdom. We can then learn from that experience. Some practical implementation issues might arise, but we can then deal with those before we roll the policy out across the rest of the country.

Let me give an example: when the previous Government rolled out the provisions on illegal working, although they were in force across the country, their enforcement was progressively tightened. We have implemented some changes in the Bill to tighten those provisions further. That is an alternative way of rolling out a policy. With this policy, which is very geographically focused, we thought it made sense to define an area, which we have yet to do, roll it out first in that area and then see whether there are any operational matters that arise that we can learn from before we roll it out further across the country.

Q242 John Robertson: So if I am right about what you are saying, as you roll it out, you might tweak it and change it, and if it does not work, you might stop it?

Mr Harper: We looked at how the illegal working rules have worked—the way they have bedded in and the ability of employers to interpret them now—and after doing so we believe that, although this policy is valuable and makes a lot of sense, there is some merit in having a phased roll-out across the United Kingdom rather than implementing it immediately across the entire country. That way we can look at the operational experience and, to pick up one of the points that Mr McFadden raised, look at any practical difficulties that may arise that we have not thought of—I am happy to accept that sometimes the Government do not think through every single possible outcome. We can then make any necessary changes to the operational experience before rolling the policy out across the rest of the country. That is a sensible approach, which we can debate later in Committee.

John Robertson: Essentially, it is a phased pilot roll-out.

Mr Harper: It is a phased roll-out.

Q243 John Robertson: Obviously, I am from Scotland, and the judicial system in Scotland is not the same as in England. We have found that judicial reviews take

an awful lot longer in Scotland than in England. What kind of discussions are you having with your counterparts north of the border?

Mr Harper: This issue came up briefly on Second Reading, and there were allegations from the Scottish National party that we had not engaged in such discussions. It will be helpful to the Committee if I am clear about this: all the provisions in the Bill on the health surcharge and on residential tenancies use our reserved powers for immigration matters. As those measures have a wider impact, we have had discussions with our counterparts in Scotland, Wales and Northern Ireland. I wrote to the relevant Ministers in each of the three devolved Administrations in the summer when we were formulating policy, my officials met officials from each of the devolved Administrations and I discussed these matters directly with the First Ministers of the three devolved Administrations at a recent meeting of the joint ministerial council.

We will continue to hold those discussions. We will happily talk to the devolved Administrations about some of the practical measures, but we are confident that the powers in the Bill use immigration powers that are reserved under the devolution settlements.

Q244 John Robertson: It would be helpful if you could include the Committee in any correspondence that would help us to clarify exactly what the situation is between Scotland and the rest of the country.

I would also like to ask about the treatment of asylum seekers whose applications have failed but who, through no fault of their own and no fault of this country, cannot be sent back to their country of origin, either because the country will not accept them or because they cannot go back for some other reason. What will happen to them?

Mr Harper: That is a very good question. This is an area where people are often confused. If someone is a failed asylum seeker—so they have had the opportunity to make their case, we have found that they do not need our protection and a court has made the same finding—there are different possible circumstances.

For some people, there is a barrier to returning voluntarily: for example, they may not have a travel document from their country, and despite their best efforts may not be able to get one, or there may be other reasons why, despite trying hard to do so, they are not able to return. In those circumstances, they are able to remain in the United Kingdom and we will continue to support them to avoid their being destitute, providing them with asylum support under section 4 of the Immigration and Asylum Act 1999.

There are other people, however, who face no barrier themselves to leaving the United Kingdom, so could leave tomorrow, but whom we have trouble forcibly removing from the United Kingdom to their country of origin. That could be because of the stipulations of their Government; some Governments insist that the person has to agree to go voluntarily or they will not issue a travel document. In those cases, the person faces no barrier to leaving the United Kingdom and has no right to be here, and would not therefore be able to have access to various public services, as set out in the provisions, although in the case of the health service it is worth saying that we are talking about access to free health care, not access to health care. We will always provide people with necessary and urgent health care, and may provide other treatment, but we may insist that they are charged for it.

Q245 John Robertson: That would be fine if they had the finances to pay for it. I assume they came here, in a lot of cases, for various economic reasons. Therefore the chances are that they do not have the finances to pay for these health measures. I have a number of constituents—or asylum seekers who are not constituents but should be—who have been in the country for a number of years. In some cases, they have children who are now in school because they have been here so long. It is difficult to see how we can stop these people if they still cannot return to their country of origin. What are we supposed to do other than, perhaps, embrace them and give them employment?

Mr Harper: Just to be clear, because you mention education, there are no provisions in the Bill and we have no intention of denying children access to education. It is worth putting that on the record.

John Robertson: In Scotland, you would not be able to do that anyway.

Mr Harper: No. Under our existing immigration rules we have made provision for children who, of course, have no ability to control what their parents do. When children have been here for significant periods of time, there are provisions for applications to be made under the immigration rules for human rights reasons, and for decisions to be taken. There is a route to settlement for children who have been in the country for a significant period of time through no fault of their own. So we have provision for people in those circumstances to regularise their status. But as a general rule, people who have no right to be here should leave the country if they are able to do so. However, there are people from countries that represent no barrier to their leaving voluntarily, but whom we cannot forcibly remove.

Q246 Priti Patel (Witham) (Con): Minister, I would like to refer to clause 14. In some of the evidence that we heard in the previous session, it was clear that there is a degree of hostility to the proposals in the Bill. Could you state for the record and for clarity what in particular this clause will address in terms of public benefit?

Mr Harper: Sure. It is worth saying that the article 8 provisions of the European convention on human rights are qualified. They are not an unqualified right. In all these cases you have to balance the public interest—the interest of the country as a whole—with the private and family rights of the individual. Parliament took a decision last year to set out in the immigration rules how judges should carry out that balancing exercise.

It has become clear from some explicit statements on the record from judges in the upper tribunal that they do not consider that the immigration rules, although passed by Parliament unanimously, are a sufficiently adequate expression of Parliament's intentions, because there was no line by line scrutiny of them. They have, in effect, invited Parliament, if it thinks that it should set out the public interest test, to do so in primary legislation.

[Priti Patel]

So what we are doing here is setting out in primary legislation Parliament's view of what the public interest is and, in certain cases, how the courts should judge that, so that it is clear what the public interest is. The court can look at the individual circumstances of cases and can then balance them correctly, because it has been given a clear sense from Parliament about how it should go about that exercise. I think that is very sensible.

I think the statements in clause 14 are reasonable, particularly the ones dealing with foreign national offenders and with private and family life formed while someone was in the country illegally, to which the courts should give little weight. They should mean that we get better decisions that are more understandable and more supportable by the public at large.

Q247 Priti Patel: Do you think that, in the eyes of the public, clause 14 will bring a degree of fairness when it comes to the public debate? I refer to the submission to the Committee from Justice, which says that it regrets the politically charged nature of the debate on article 8. However, we heard in evidence this morning that the concept of fairness came up frequently. The public obviously feel that there is a degree of unfairness in much of the judicial decision making that has taken place.

Mr Harper: I saw where they were coming from, but I do not think they properly recognised the nature of some cases. The cases that usually upset people the most are those of foreign national offenders. Those are when someone has come to the UK and breached our laws, often in a serious way, and has then asserted that having a private or family life in the UK should trump their poor behaviour and enable them to stay in the UK. Those are the cases where people genuinely do not understand why those decisions are made. Parliament's view is that the courts have not always correctly balanced the public interest against the private interest.

All we are talking about is setting out in primary legislation Parliament's view of the public interest. It is for Parliament to set out what the public interest is. I listened carefully to the evidence this morning. I agreed with one of the witnesses who said that of course you get individual facts in individual cases. That is not what Parliament is determining in the Bill.

Parliament sets out the public interest. Judges then look at the facts of the case and the private interest. They can balance it because Parliament has correctly said how they should weigh up the public interest. If we do not do that, judges themselves effectively have to decide what the public interest is. I do not think that is the right role for judges. It is for judges to look at individual cases; it is for Parliament to set out what the public interest is and how it should be weighed against those private interests.

Q248 Mr William Bain (Glasgow North East) (Lab): If Parliament is being asked to endorse a policy in legislation, it has to do so on the basis that that policy is both workable and represents a wise use of taxpayers' money. In respect of clauses 15 to 32 and schedule 3, concerning residential tenancies, may I refer you to page 9 of the overarching impact assessment produced by your Department? Table 3 lists the 10-year impact costs of the policy on private rented accommodation as £105.9 million, but the benefits as only £43 million. Will the Minister confirm that that represents an overall loss to the taxpayer of nearly £63 million?

Mr Harper: First, if you look at the impact assessment in full, you will see that there are some costs and benefits that are monetised, where we make estimates of the costs and benefits, and some that are not. It is clear that there will be benefits. For example, there will significant benefits in the public services that people are no longer able to access.

We think the overall benefit of the proposal will be a significant saving to the taxpayer, but it is not always possible to monetise all of it, to use the jargon—which I suspect Mr Robertson, from his earlier comments, hates me to do. We have set out in the impact assessment some assumptions about the costs of public services that someone who is in the UK will be using. Therefore, you can make some assumptions about the savings to be made if they were no longer here.

Q249 Mr Bain: But that particular policy will cost the taxpayer money. That is clear from the impact assessment.

I turn to the other part of the burden of that policy. Again, the impact assessment makes it clear that the impact on small businesses, such as landlords and letting agencies, is going to be £4.7 million per year. We heard on Tuesday from representatives of the landlord federations and lettings agencies across the UK that the strong likelihood is that the final burden of that policy will find its way into the pockets of tenants. I put it to you that with the cost of living crisis that all us of experience when we return to our constituencies, it seems strange to impose a burden on business and additional red tape that will eventually be borne by tenants across the UK.

Mr Harper: I listened carefully to the evidence. First, I think our witnesses overstated the burden on landlords. For example, the Residential Landlords Association did a survey of its own members, and 63% of them already ask tenants, even without there being a provision for checking immigration status, for a passport or an equivalent travel document as part of checking the bona fides of the tenant and his or her credit-worthiness. Landlords already carry out a significant number of checks. We have been clear, and we will be clear when we publish the details, what we are asking them to do. In most cases we are asking them to check a document and take a copy of it for their files. When you look at the other checks that landlords carry out on creditworthiness, for example, I do not think that that is a significant burden at all.

Mr Kirby asked an interesting question about why someone would want to let a property to someone who had no right to be in the United Kingdom when that person would not be able to work lawfully, would not have access to financial services and, by definition, would be someone who showed scant regard for the law. They all agreed that they would not want to let a property to someone who was an illegal immigrant. If you accept that premise you obviously have to put in place a mechanism for checking that someone is not an illegal immigrant.

We think that the proposals we have set out are proportionate. You are right to raise the issue of proportionality. We think the reasonable inquiries that

we are asking a landlord to carry out are just that—reasonable. They are not overly burdensome. I accept that landlords may be concerned about those inquiries, based on what they may have read, but when they look at what we are going to require them to do, I think they will realise that they are proportionate and not unreasonable.

Meg Hillier (Hackney South and Shoreditch) (Lab/Co-op): I have a couple of questions about the practicalities. I have had cause to use the employers' hotline, so I have an idea of what the model for the Home Office hotline is. Do you have any idea what the hours of operation would be? Would there be an e-mail option for the hotline?

Mr Harper: One of the things we ascertained from the consultation was a clear steer as to the speed of response. One thing we will do in our further engagement with the representatives of the various landlords associations and letting agencies is to get a real understanding of different rental markets to see what turnaround time landlords would require. We have not made any final decisions. We will resource what we deliver appropriately to deliver on our commitment on turnaround time. Clearly we want landlords to be able to check most tenants through a straightforward document check. We only want a landlord to have to come to the Home Office in the more complex cases, the sort that Mr McFadden set out. We do not want every landlord to have to contact the Home Office where the cases would largely be straightforward.

Q250 Meg Hillier: Would that simply be with the Home Office reference number, or would a form similar to the one for employers have to be submitted? Once you add in extra steps like that, the time increases.

Mr Harper: Clearly the employers' mechanisms for contacting the Home Office are ones that we have improved over time. We have had good feedback from employers on some of the new documentation we have published in the guide to checking documents. We will learn from that experience. To be honest, we will undertake continuing consultation with some of the landlord associations about some of the practicalities. We want to get them right.

Q251 Meg Hillier: I am thinking about the client group that Mr McFadden was talking about, of whom I represent a large number—people who are waiting. If you are an employer and someone comes to see you saying that their leave is running out, from the moment they submit a new application, you have to wait two weeks before you send off a particular form to the Home Office. They then write back to confirm that the person has put in an application. That can be off-putting for employers, but it is far too long for landlords. You are making general promises—I do not mean that impolitely—about making it all work, but have you thought through those practicalities? Is there anything more you can tell us today?

Mr Harper: I think we have. The most important thing is that we understand the difference between the employment market and the rental market. Some of the witnesses were concerned, as were some members of the Committee in their questioning, that people would be discriminated against. If we are to avoid such consequences, we are clear that turnaround times must be quick. That is why we made the commitment not just that we would have a reasonably swift turnaround time, but that if a person contacts the Home Office to ask whether someone has leave to remain and we fail to respond in time, that person will be able to proceed. That will be a sufficient lawful excuse for them not to have complied, even if subsequently the tenant turns out not to have leave. We made that commitment for exactly the reason you set out: in a complex case where we had failed to respond, we would not want somebody to lose out on the opportunity to rent a property and therefore suffer some detriment.

Q252 Meg Hillier: I should have declared my interest—sorry, Sir Roger. I forgot to draw attention to my entry in the Register of Members' Financial Interests.

If I may say so, Minister, for many of my constituents these measures are not going to work practically. Landlords will just not be bothered, because of the difficulty. Also, a lot of my constituents are not in that bracket—students will probably be affected more.

On re-application, I know that for all sorts of administrative management purposes people are not allowed to re-apply prior to a month before their leave is due to run out. In my eight years as the MP for Hackney South and Shoreditch, I have not yet come across a case that has been resolved in that month. I was a Home Office Minister and in your shoes, so I take some responsibility for our not getting to that point, but has any thought been given to allowing a temporary residence permit? They do exist—I recently dealt with someone fighting a child custody case who had been given short-term residency cards repeatedly, so they are in the administrative system. Or has any thought been given to allowing a re-application further ahead than one month? That picks up on Mr McFadden's concerns, and would make things much more clear-cut.

Mr Harper: Of course, if somebody makes an application in time for an extension or for further leave—while they still have leave—and the decision is not made within the month, their existing leave continues until the decision is made.

Meg Hillier: Well yes, but the landlords might not like that.

Mr Harper: I was going to say that there is obviously then the question of evidencing that. We are thinking about whether there are cases where we would want to provide documentation so that someone could evidence that themselves. We have not made a final decision, but we are looking at it. We recognise that there will be cases involving some complexity, and giving someone the opportunity to get documents to show in advance that they have leave may well be advantageous. We are very much looking at that option. I take the point about your constituency experience; I will take that away with me.

Q253 Meg Hillier: Speaking for my constituents, I have to say that many of them would welcome that in day-to-day life more generally. Many of them are losing jobs because they do not have certain leave to remain, so there is a very big impact on families in my constituency.

Mr Harper: If I may address your general point, that is certainly true for those in the country already. For those coming from outside, our overseas entry clearance

[Meg Hillier]

performance has remained strong. It was certainly the case, particularly in the last financial year, that for in-country applications for extensions of leave, we were not performing well. I have been very frank about that on the Floor of the House. We put a lot of work into that as part of the moves made by the Home Secretary in splitting up the United Kingdom Border Agency, and we have significantly reduced the backlogs. We are not entirely within our service standards for in-country performance this year, but we are already getting there. The director general is looking at some more transparent ways by which we can measure service standards, because we have been told that the current way of doing it—the percentage within a certain time period—is not actually very meaningful for people.

On your general point, aside from what we are doing with the Bill, we need to be better and faster at making decisions for further leave to remain. I absolutely accept the point, and we are working on it. If we do that, it will make some of the practical problems a lot less acute because there will be fewer people in those complicated scenarios. But I accept that we are not there yet, so we need to think about how we deal with it.

Meg Hillier: I have one final question—

The Chair: Order. I am afraid that that brings us to the end of the time allocated for this afternoon's sitting. On behalf of the Committee, I thank the Minister for answering questions.

The Committee will sit again to consider the Bill next Tuesday at 8.55 am. I am advised that we should be in Committee Room 9.

Ordered, That further consideration be now adjourned. *—(Anne Milton.)*

2.45 pm

Adjourned till Tuesday 5 November at five minutes to Nine o'clock.

Written evidence reported to the House

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