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Public Bill Committee

IMMIGRATION BILL

Seventh Sitting

Thursday 7 November 2013

(Morning)

CONTENTS

CLAUSE 15 agreed to.
Adjourned till this day at Two o'clock.

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The Committee consisted of the following Members:

Chairs: SIR ROGER GALE, †KATY CLARK

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

Public Bill Committee

Thursday 7 November 2013

(Morning)

[KATY CLARK *in the Chair*]

Immigration Bill

Clause 15

RESIDENTIAL TENANCY AGREEMENT

11.30 am

Mr David Hanson (Delyn) (Lab): I beg to move amendment 49, in clause 15, page 15, line 7, after ‘Chapter’, insert ‘subject to the provisions set out in section [*Consultation with the devolved administrations*]’.

The Chair: With this it will be convenient to discuss new clause 1—*Consultation with the devolved administrations*—

‘(1) Prior to the implementation of sections 15 to 32 the Secretary of State shall consult with the Scottish Government, the Northern Ireland Executive, and the Welsh Government on the implementation and principles of these sections.’

Mr Hanson: On behalf of the Committee, I welcome you to the Chair, Ms Clark. I know that you are going to take us through the remainder of our sittings. I am sure that you will have an interesting time. Could you pass on our thanks to Sir Roger for his chairmanship to date?

I have tabled new clause 1 to tease out the relationship between the Government’s proposals for landlords and the discussions they have had with the Scottish and Welsh Governments and the Northern Ireland Executive. I am acutely aware that immigration is a non-devolved matter, which is what I wish it to remain. I want immigration, which falls within the Minister’s responsibility, to remain as a matter for the House of Commons, both now and in the post-referendum era.

The key issue is that the proposals will impact on housing. As you will know, Ms Clark, being a Scottish Member of Parliament, and as I know, as a Welsh Member—indeed, as my hon. Friends the Members for Glasgow North East and for Glasgow North West will also know, being Scottish Members—housing is devolved to Scotland and Wales. As a former Northern Ireland Minister, I have dealt with housing in Northern Ireland, but that, too, has been devolved to the Northern Ireland Executive.

The proposed provisions for landlords will, I believe, still impact on housing issues in the United Kingdom as a whole, with potential knock-on effects if they become operational throughout the UK. We will discuss that in more detail later. The proposals might have major knock-on effects on housing in England, which is the responsibility of this House, and on housing in Scotland, Wales and Northern Ireland. It is important to know what discussions the Home Office has had with the devolved Administrations

about the potential impact of the provisions for landlords before our consideration of them and before their implementation.

We will talk about the potential for a pilot later, in the debate on new clause 2, when there will be discussions about what that will mean in practice from the Government. Whether the proposal is piloted or not—I am not clear how that will work—it could be implemented across the whole UK at some point in its current form. That means that the immigration element of landlord checks will have an impact on the different relationships with the Scottish Parliament, the Welsh Assembly and the Northern Ireland Executive, an impact on their housing regulation, a potential impact if individuals are moved out or find it difficult to obtain housing because of the Bill, or other possible, unintended consequences.

I will not discuss those consequences now; I will do that in the debate on new clause 2. My purpose is to ask what discussions the Minister has had, what the response has been, what consultation has been undertaken and whether he will publish the results. I recall my hon. Friend the Member for Glasgow North West raising the matter with the Immigration Minister when the Committee was considering evidence. The Minister said that he would potentially publish the discussions about what had happened, which I would welcome. He said:

“This issue came up briefly on Second Reading...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...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”.—[*Official Report, Immigration Public Bill Committee*, 31 October 2013; c. 117, Q243.]

The Minister for Immigration (Mr Mark Harper): Spot on!

Mr Hanson: I am pleased that we have Punch and Judy here today, not just Punch on his own. I accept what the Minister said on that occasion, but I want clarity on what the devolved Administrations have said. I want him to be clear about the discussions.

Mr William Bain (Glasgow North East) (Lab): As my right hon. Friend will know, it was established in the Committee’s evidence sessions that the provisions on letting fees were devolved to the Scottish Parliament, which had previously legislated to abolish letting fees in the private rented sector. Does he share my concern that this legislation could require the Scottish Parliament to reintroduce fees into the private lettings sector where letting agencies are involved? The Committee deserves to know what discussions the Home Office has had with the Scottish Government on those issues.

Mr Hanson: My hon. Friend makes a valid point. To be honest, I do not know the answers; the Minister needs to address those issues. If the clauses containing the landlord provisions are approved—if we have a pilot or a phased roll-out and they are implemented at a future date—that will be the law of the land, and there will be consequences and potential costs. I have had

representations from the Law Centre Northern Ireland and the Housing Rights Service about the impact of the provisions on Northern Ireland. The Minister might be able to answer their points, but it is fair and proper that he at least consider them. For example, page 2 of the Law Centre Northern Ireland submission states:

“The consultation paper refers to the protected characteristics of tenants as specified in the Equality Act 2010 but does not reference corresponding Northern Ireland equality legislation.”

The Bill mentions Northern Ireland equality legislation, but it is important that the Minister states, on the record, whether all aspects of, for example, Northern Ireland equality legislation have been considered and consulted on, and are part of the fabric of the Government’s approach to the Bill. We will discuss what that all means at a later stage.

On the Home Office’s overview of the proposals, the Law Centre Northern Ireland also stated:

“We are alarmed by these proposals, both in terms of their legality and in the way they are presented here as a short reference at the tail-end of a summary document. There is no...discussion about...rules or guidance in the full consultation document. It is important to recognise the different legal basis for the housing selection scheme in Northern Ireland and the role played by the Northern Ireland Housing Executive (not local councils) in administering the scheme.”

Sometimes I ask questions when I know the answers, because I want to tease out an answer publicly, but on this occasion I am not sure of the answers. These are valid questions about the legality and the impact of the legislation on Northern Ireland, and the Minister needs to reflect on that.

The Minister’s helpful guidance on the draft anti-discrimination code indicates that steps are being taken under the Race Relations (Northern Ireland) Order 1997. Will he make it clear whether any legislation post 1997 has been considered and whether the Northern Ireland Executive have been consulted about the impact on tenancies?

I am skipping ahead—for which I apologise—but this issue relates to the devolved provisions in new clause 2. When we reach clause 26(6), which pertains to enforcement, we will see that it states:

“Money paid to the Secretary of State by way of a penalty must be paid into the Consolidated Fund.”

That clause might be of particular interest to my hon. Friends the Members for Glasgow North West and for Glasgow North East, because it states:

“In Scotland the penalty may be enforced in the same manner as an extract registered decree...execution issued by the sheriff court of any sheriffdom in Scotland,”

and:

“In Northern Ireland the penalty is recoverable as if it were payable under an order of a county court in Northern Ireland.”

This is therefore a devolved responsibility, yet any penalties accrued under clause 26 will be given to the Consolidated Fund, which is run by the United Kingdom Government. Therefore, although there will be a cost to Scotland and Northern Ireland for enforcement, under clause 26 the penalties collected will be paid into the Consolidated Fund of the United Kingdom Government. Will the Minister tell the Committee whether he has had any representations and whether he has discussed the implementation and the cost? I do not know, and it is important that we do know.

I do not want to spend too much time on this matter, because the bulk of our discussions will be about the next group of amendments, which concern the pilot and the feasibility and challenges of these measures. However, there are serious issues about housing and enforcement in Scotland, Wales and Northern Ireland, and what the unforeseen impact of the Bill downstream will be in those areas. It is important that we know from the Minister what those three Administrations have said. Although this proposal might never actually be implemented—because of the phased roll-out, the pilot, the general election and whatever else—we still need to know how it will apply to those three integral parts of the United Kingdom. *[Interruption.]* Before I sit down, I would like to put it on record that the group in the Public Gallery did not leave because of something I said. I think they were planning to leave after 10 minutes. I had hoped to sit down after nine and three-quarter minutes, so that the Minister could have them walk out on him instead. Sadly, my timing yet again failed miserably.

The Minister for Crime Prevention (Norman Baker):

May I welcome you to the Chair, Ms Clark? The right hon. Gentleman suggested that you might have an interesting time. I am not sure that is entirely true, but you have a valuable role to play. We look forward to your help in guiding us through our work in this and future sittings. As we are trading antecedents, I must declare an interest as a Scottish Member of Parliament—I was born in Aberdeen—albeit not as a Member of Parliament for a Scottish constituency.

It is important that we do not conflate two matters. We have heard a lot about the housing sector, but it is important to state that this is a reserved matter. It is not sensible to read across from the fact that it is a reserved matter to the potential implications—I am not sure there will be any—for the housing sectors in Scotland, Northern Ireland and Wales. The measures in the Bill regarding landlords and their agents are intended to restrict access to the private rented sector for those who are in the UK in breach of our immigration laws. Those measures are not about regulating the housing market, but about making consistent arrangements across the UK for a class of persons who are not British citizens. It is as simple as that. The intention is to make it difficult for those present in the UK illegally to rent property and to encourage a change in their behaviour, by encouraging them to regularise their stay or leave the UK; it is not to encourage and facilitate their establishing a settled life here. The full impact of the scheme will be felt only after the provisions have been implemented across all areas of the UK. It is therefore important to see it as an immigration provision, rather than a housing matter.

11.45 am

Mr Bain: We heard evidence from the private tenancy community that the impact will more than likely be passed on to tenants through higher rents or higher letting agency fees. We have established that the devolved responsibilities in Scotland mean that the latter is illegal, so what discussions is the Minister having with the Scottish Government about how the policy will affect private sector rents?

Norman Baker: Opposition Members have been keen to suggest some sort of huge consequence in the housing market in the devolved Administration areas due to

[Norman Baker]

these proposals. There will not be. The immigration proposals are entirely separate from those relating to housing regulation, which is properly a devolved matter for those Administrations. The landlord scheme will not create a new system of letting fees in Scotland because the scheme is reserved. It does not change the powers or responsibilities of the devolved Administrations in any way. If Members are keen to hear about them, I will come to the discussions that have taken place in a moment.

Helen Jones (Warrington North) (Lab): I am grateful to the Minister for giving way. How does he think landlords will meet the cost of all these checks, given that they are not allowed to charge letting fees?

Norman Baker: I am not sure that the cost to landlords is particularly onerous in the first place. We will perhaps come to this issue when we discuss the next group of amendments, but many landlords already check the status of their tenants for all sorts of reasons, including to ensure that they are able to pay their rent. A huge, onerous bureaucratic structure is not being created that will engender huge costs for landlords, either in Scotland or anywhere else. If I may say so, this point is something of a red herring. As I was saying, the scheme is an immigration matter, which is reserved in relation to Scotland, excepted in relation to Northern Ireland and non-devolved in relation to Wales.

To answer the earlier query, in practice, landlords, agents, tenants and occupants will need information about how the scheme operates. It is important that all stakeholder views are taken into account to ensure that measures are appropriately targeted and proportionate. We have been keen to ensure that they are proportionate and so have engaged the devolved Administrations, and we will continue to do so during the implementation of the scheme.

My fellow Minister wrote to Margaret Burgess MSP on 3 July as the first part of that engagement. There has been correspondence with Carl Sargeant in Wales and with Nelson McCausland in Northern Ireland. It should not surprise any member of the Committee that we of course talk to devolved Administrations when we introduce measures with a UK-wide impact. That happens both at ministerial and official levels. Those discussions are continuing, but I must say that so far I have not noticed the devolved Administrations expressing any great concerns about the Bill of the type that Opposition Members describe.

Mr Bain: I am grateful to the Minister for generously giving way again. He said that no new enormous bureaucratic burden was being placed on the private renting sector or lettings agencies. I simply refer him to his own Department's impact assessment, which says that the new costs to the private letting sector are in the region of £4.7 million a year. If the Minister does not believe that those are significant new costs, will he say what he thinks are?

Norman Baker: I would refer the hon. Gentleman to the fact that we think the familiarisation of landlords will take between 30 minutes and two hours, or an hour per landlord or letting agent branch. That hardly seems

a particularly onerous task. However, if Opposition Members are so concerned about the cost to landlords, they might explain why, with the next group of amendments, they are seeking to extend the pilot beyond one area to a whole range of areas across the country. Presumably that will make matters worse for landlords. If they are concerned about landlords, they must explain why they are putting additional responsibilities their way.

Where there are links between the immigration scheme and matters related to housing, the devolved Administrations may decide that they wish to take the immigration scheme into account for their own purposes. That is a matter for them. For instance, the devolved Administrations are responsible for the regulation of houses in multiple occupation. It may be that they consider it appropriate to take into account whether a person has received penalties under the immigration scheme when decisions are made about whether a landlord is a fit and proper person to operate a house in multiple occupation. In other words, rather than a burden being placed on landlords and the devolved Administrations, extra information might come forward that helps them with the existing responsibilities that they have decided are appropriate for them to have. However, that is a matter for them to consider; it is not necessary in order to allow the immigration scheme to operate effectively.

The position in Northern Ireland was referred to. Equality obligations in Northern Ireland have been and will continue to be considered. Clause 28 refers to Northern Ireland legislation and requires us to consult the Equality Commission for Northern Ireland on the non-discrimination code. The draft anti-discrimination code has been published and subject to consultation with the Equality Commission for Northern Ireland.

Mr Hanson: There is a real difference between consulting with the Northern Ireland Executive on a non-discrimination code and taking into account anything they say. There is specific legislation available in Northern Ireland. Will the Minister ensure that the provisions in the Bill are entirely compatible? It is not just a matter of consulting; are these provisions compatible?

Norman Baker: We have a very open and constructive dialogue with the devolved Administrations on this and other matters. Of course we listen to them, and if they make points that we have to take into account, we will do so. However, the responses so far have not indicated a great deal of anxiety from the devolved Administrations. To some extent, Opposition Members are trying to blow this out of all proportion. I hope I have given satisfaction on the fact that we are consulting, we are listening to the devolved Administrations and we are taking account of what they say, and we will continue to do so. On that basis, I ask the right hon. Gentleman to withdraw the amendment.

Mr Hanson: I genuinely do not think that the Minister is too focused on this issue. I tabled the new clause so that the Minister would become aware that, unbeknownst to him, and great lovers of devolved Administrations as the Liberal Democrats are, there are devolved Administrations in Scotland, Wales and Northern Ireland, and they may have a view on these matters. I have seen correspondence this morning, which I am not yet able

to share with the Committee, from Carl Sargeant, the Minister in Wales—it is private correspondence and I respect that.

Norman Baker: The right hon. Gentleman is talking about it.

Mr Hanson: I am not talking about the content of it; I am saying that I am aware that the Minister has been written to, and he needs to be aware of all those matters.

I will not press new clause 1 to a vote. However, it might be an issue we return to on Report, because there will be consequences if the proposal is rolled out. The Minister needs to focus on that. The purpose of tabling the new clause was to ensure that he did not forget those areas because you represent one, Ms Clark, as do I and other hon. Members, and we take an active interest in how such matters are played out. I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Mr Hanson: I beg to move amendment 50, in clause 15, page 15, line 7, after ‘Chapter’, insert ‘subject to the provisions set out in section [Pilot of residential housing provisions]’.

The Chair: With this it will be convenient to discuss new clause 2—*Pilot of residential housing provisions*—

‘(1) Sections 15 to 32 shall not come into force until—

(a) a pilot of these measures has been undertaken in—

- (i) one London borough;
- (ii) one local authority in a county in England;
- (iii) one local authority in a county in Wales;
- (iv) one local authority in a county in Scotland; and
- (v) one local authority in a county in Northern Ireland.

(2) Each pilot shall last for a period of six months.

(3) At the conclusion of each pilot, the Secretary of State must prepare and publish a report and must lay a copy of the report before Parliament.

(4) Each report shall contain an evaluation of the effects of sections 15 to 32 on the level of discrimination in the private rental housing sector.

(5) A Minister of the Crown must, not later than three months after the report has been laid before Parliament, make a motion in the House of Commons in relation to the report.

(6) If a motion under subsection (5) has been approved by the House of Commons, the provisions of sections 15 to 32 come into force on whatever day or days the Secretary of State appoints by order made by statutory instrument.’

Mr Hanson: The purpose of proposed new clause 2 is to ensure that we put into legislation the principle of a pilot for the residential housing provisions scheme. The aim is to get some clarity from the Government on their intention concerning the pilot/phased roll-out of the proposal. Secondly, the new clause provides the opportunity for a wider debate on the concerns that mean a pilot of the scheme is needed in order to consider the proposals fully.

The meaning behind the Government’s proposal remains unclear. In response to a question from my hon. Friend the Member for Glasgow North West, the Minister said,

“It is a phased roll-out.”—[*Official Report, Immigration Public Bill Committee*, 31 October 2013; c. 116, Q242.]

What does the Minister understand a phased roll-out to be? My starting point is the need for a pilot and what it means.

John Robertson (Glasgow North West) (Lab): My right hon. Friend recalls that the answer I received from the Minister was that it is “a phased roll-out”. I am still none the wiser as to what a phased roll-out is, compared with a pilot. I hope the Minister will dot the i’s and cross the t’s.

Mr Hanson: New clause 2 gives the Minister an opportunity to do just that. We propose that a pilot should be carried out in line with the details specified in the new clause, and the Government should make a decision about the scheme based on the report from the pilot. The Minister has said that there should be a phased roll-out. Will he explain what he understands that to be? The Deputy Prime Minister has expressed concern about the measure, as *The Guardian* reported:

“A spokesman for Nick Clegg said the home secretary had been forced to agree to restrict the proposal this side of the next general election to a trial scheme in a single area, as the government introduced the immigration bill in the Commons.

“The Conservatives want to roll this out nationally but because of our concerns we will not agree to that. This will be piloted in a single area,” the spokesman for the deputy prime minister said.”

The Liberal Democrat website states:

“The Lib Dems will block the landlord check policy if the trial fails.”

If the Minister will not accept my proposal for a pilot, what is his proposal for a pilot or a phased roll-out? Over what period would it take place, and in what area? What would be the tests?

Nicholas Soames (Mid Sussex) (Con): I am grateful to the right hon. Gentleman for raising an extremely important point, and I wonder whether he can help me on it. The problem for me is that the Lib Dem website in Mid Sussex has not been updated for five years. Can he suggest how I might establish the Lib Dem view? I could look on the website of my hon. Friend the Minister for Crime Prevention—a very good website it is, too—but it is not as close to home as the Mid Sussex website.

Mr Hanson: Far be it from me to tell the right hon. Gentleman what his local Liberal Democrats are doing, because I have absolutely no idea what they are up to. In a moment, however, he will be able to ask the Minister what a “pilot” means, how long it would last and what the tests for success or failure of the pilot would be. He will be able to ask the Minister whether a pilot is the same as a phased roll-out, and if not, what the difference is.

The hon. Member for Cambridge wrote on the Liberal Democrat website:

“we’ve made sure only one place in England will have to try this out before it can be ditched”.

Does the Minister share that position? If so, what are the tests for ditching the policy? The term “phased roll-out” suggests that the Government will start at phase one and proceed to phases two and three, without stopping to assess the policy in between phases. The Minister’s policy seems to be to have one pilot, and to “block the landlord check policy if the trial fails”

or ditch the policy. I need to know what the tests are.

12 noon

What I have tried to do, as ever, is to help the Government. The new clause, as Members will see, simply sets the framework for such a pilot. It is a framework that says what the local authorities should be, what the time scale should be and, ultimately, how the pilot should be reviewed in due course by the Government.

I worry about the scheme. This would be an academic split and discussion between the Liberals and their coalition partners—the majority party in the Government if it were not for the fact that every member of this Committee has received many representations from landlords, organisations and others who say that there are serious problems with the policy. I will be honest: I want to give the policy a fair wind. If we can stop people who are here illegally renting accommodation illegally, that could be a positive thing. However, we genuinely need to pilot the scheme, not “roll it out in a phased way”, and judge its effectiveness. We need to see whether it works and what the impact is, and then make a judgment as to whether we continue with it. That is what I am offering the Minister today.

Nigel Mills (Amber Valley) (Con): I am enjoying the right hon. Gentleman’s questioning, but I have one—at least one—problem with his new clause. It does not refer to a pilot or a phased roll-out “at least” in one London borough or “at least” in one local authority. I am not sure that local authorities individually represent a sensible geographic area to which to restrict such a pilot. If there is a boundary in the middle of the community, there could be a strange distortion whereby, on one side of the road, one would not need to do such checks and on the other, one would. Is he sure that a local authority boundary, rather than a whole region, is the best place to define a pilot?

Mr Hanson: I think we need to define the geographic area of the pilot. We could, for example, have a pilot in the London borough of Lambeth, which, if I look out the window, I can see just over the river. We could use Derbyshire as the county in England.

Nigel Mills: Or a city.

Mr Hanson: We could. We could have a six-month pilot in Flintshire in my local authority in Wales, in Glasgow or in Belfast. That would enable us to evaluate the impact on landlords and on people who are trying to secure accommodation illegally.

Simon Kirby (Brighton, Kemptown) (Con): Would the right hon. Gentleman mind me putting it on the record that Brighton and Hove might be an appropriate place in which to roll out the excellent scheme and to demonstrate that we want firm but fair immigration?

Mr Hanson: The hon. Gentleman is standing up for Brighton and Hove, which is a perfectly legitimate thing to do. I would be grateful if the Minister told us where the proposed pilot will take place, or if he is talking about a phased roll-out. If the latter, where will phase one of that roll-out take place? Whether it is in Brighton and Hove, Forest of Dean or anywhere else in the country, will he tell us if there is a break between the initial phase and evaluation?

The pilot is needed because serious concerns have been raised by landlords and other organisations. Let me start, if I may, with Lord Forsyth. My first ever Committee was 22 years ago in this very Room, when Lord Forsyth was the Minister, and I have to say that we did not agree on anything. This time, it is different. The noble Lord Forsyth, who served as Secretary of State for Scotland under John Major, has said:

“Are we not going to get a sort of black economy occurring of unscrupulous landlords and a cash economy as people get around the rules?”

He continued:

“I’m not quite sure how—if you can’t get a bank account and you can’t get somewhere to stay—whether that is actually going to result in people leaving the country”.

Let us start on that premise.

Meg Hillier (Hackney South and Shoreditch) (Lab/Co-op): My right hon. Friend makes a really important point. A pilot would very quickly show the stupidity of and problems with the scheme. In my constituency, there are many migrants in between leave or indeed illegal, and they are not renting from landlords where they will have to get checks. They are sofa surfing, domestic slaves or lodging temporarily with people and not paying rent. Sometimes, they are staying in churches and so on. They are not the sort of people who will be caught by this measure. My right hon. Friend’s new clause highlights all those problems.

Mr Hanson: I am grateful to my hon. Friend, who has a diverse constituency that is in a London borough, and she will know some of the pressures on housing there. The borough of Hackney could be a pilot; I am content to look at that.

The issue is important. During our evidence session on 29 October, Carolyn Uphill, chairman of the National Landlords Association, said in answer to question 68:

“It is going to impose an administrative burden on landlords who are not experts in immigration, over and above the proper checks that they do now...The principle of checking identity is not so much the worry as the logistics of how that is done and understanding the documentation. We certainly fully oppose the idea of periodic checks”.

That is one good reason for a pilot. During the same evidence session, Richard Jones, policy director of the Residential Landlords Association, said:

“we think that the Bill and its provisions are not workable and will not be effective in achieving the objectives set out.”

That is a reason for a pilot and not the phased roll-out that the Minister wants. Caroline Kenny of the Letting Agency Association said:

“we share concerns about the reporting aspect of the ongoing checks.”—[*Official Report, Immigration Public Bill Committee, 29 October 2013; c. 43-44, Q68.*]

I want to spend a little time on Liberty’s submission to us. It said:

“Given the complexity of immigration law, there are a number of documents that landlords will need to recognise and understand in order to discharge their duties.”

For the record, it is worth saying that landlords will have to know, look at and recognise the following: a UK passport, a naturalisation certificate, a right of abode certificate, a birth certificate or adoption certificate, a European Union passport or Swiss passport, a diplomatic passport, a NATO identification card, International Red Cross travel documents, UN laissez-passers, residence

certificates, biometric residence permits, European Union laissez-passers, national identity cards issued by EU member states or Switzerland, a certificate of application, an application registration card held by asylum seekers, and a Home Officer letter of authorisation, not to mention passports and documents from every country in the world outside the EU.

Landlords specialise in housing and being landlords; they are not specialists in knowing their way round the world of passports. A pilot is necessary to ensure that matters are dealt with fairly and properly.

Mr Pat McFadden (Wolverhampton South East) (Lab): I may have more to say about this when we come to clause 16, but does my right hon. Friend agree that the situation will be more complicated because the Home Office holds the documents of many thousands of people while they are making an application? That is not unusual, and it is not unusual for the Home Office to hold them for years while it decides applications. The process is not quick, so what are landlords supposed to do in those circumstances?

Mr Hanson: My right hon. Friend makes a valid point, which he knows more about than I do because of the weight of immigration cases in his constituency. It is a question not just of the documents I mentioned, but sometimes the stamp, the visa, the length of stay and people's requirements. The checks are serious. I want to put on the record once and for all the fact that I am not opposed to the principle, but we must look at how it would work in practice. If it is not feasible, we cannot do it. The Minister should adopt the proposals in new clause 2 because the pilot would at least provide an opportunity to look at the matter in detail.

Gavin Smart, director of policy and practice at the Chartered Institute of Housing said:

"This proposed change will make it much harder for non-British people to access housing even when they have a legal right to live in the UK."

That backs up the point that my right hon. Friend made. Gavin Smart continued:

"Checking immigration status is complicated so landlords may shy away from letting to anyone who appears not to be British."

The Residential Landlords Association said in its submission that it has serious misgivings because

"the success, or failure, of the proposal depends on landlords being able to do the job of trained UK Border Agency staff."

It does not believe they will be able to do that, and it has concerns about unintended discrimination against individuals who are not British citizens but have a right of abode in the United Kingdom. The Minister helpfully told me that some 49 million British citizens have a passport. That means that some 11.5 million British citizens do not. Again, if I were—dare I say it?—a black Briton who did not have a passport, although there is a draft code of practice on discrimination, would not a landlord find it easier to rent to a white Briton with a passport than to me? Those are serious issues that need to be tested in a pilot, not in a phased roll-out. I want the Minister to address those concerns.

Crisis said in its submission to the Committee:

"For many homeless people, particularly single homeless people, the PRS is their main housing option... Many homeless people simply do not have documents such as a passport or birth certificate."

That is because they have led and will continue to lead chaotic lives. Those are tensions which, again, might present challenges even in a multicultural and complex area like Brighton and Hove, which I visit regularly for conferences.

Maurice Wren, the chief executive of the Refugee Council said:

"the proposals requiring landlords to check the immigration status of tenants are simply unworkable. Landlords are not immigration officials and the types of documentation carried by asylum seekers and refugees are varied and complex. These new measures will undoubtedly lead to wrongful denial of access to housing for those with a right to live in the UK, due to confusion about unfamiliar identity documents and fear of sanctions."

That demands a pilot. The Immigration Law Practitioners' Association said:

"Landlords and landlords may be reluctant to rent excluded property to persons who cannot prove their relevant nationality or right to rent for fear that they might not be able to keep them as tenants."

That discrimination will be there. The Children's Society said:

"We have concerns that proposals making private landlords check the immigration status of tenants will make children and families homeless because they will be unable to prove their immigration status."

That is a real worry. I cite those organisations just to put on record some of the concerns about the practicalities and why there is a need for a pilot.

I should like to read a Home Office document into the record. Table 3.3 sets out the step process for a landlord currently to undertake a check:

"You must obtain original acceptable documents for each of the people for whom you have a responsibility to check.

You must ask for and be given original documents from the list shown.

You must check the validity to satisfy yourself that they are genuine, that the person presenting them is the rightful holder.

You must check:

1) photographs and dates of birth are consistent across documents...

2) expiry dates for leave have not passed;

3) the documents appear genuine, have not been tampered with and belong to the holder;

4) the reasons for different names across documents.

You must take a dated copy of the documents in a format which cannot later be altered and retain them securely.

You must copy:

1) For passports and travel documents: any page with nationality, date of birth, signature, leave expiry date, biometric details and photograph.

2) For all other documents: the document in full, including... a Biometric Residence Permit."

That is a little bit of bureaucracy that I want to test first in a pilot. I should like the Minister to tell us what the numbers in a pilot would be. How would he evaluate that? What would the cost be? When would it finish? If it is a phased roll-out, there is no pilot and the Minister needs to be honest with the Committee and with his Liberal friends and admit that there is no pilot. It is simply a ruse to get them through to the election without having to resolve this policy difference between the two parties of the coalition, this side of the election.

The Government's impact assessment estimates the cost to landlords of processing checks under the roll-out to be £36.5 million over 10 years, which is £3.5 million a year. [*Interruption.*] The Minister says, "Not much".

12.15 pm

Mr Harper: No, “Not each”.

Mr Hanson: It is still £36 million. Will those costs be met by landlords? Who will eventually find that their bills for rent go up? It will not just be people who are being checked for immigration purposes. It will be people across the board. We need to look at the issues I mentioned earlier about the public sector penalties. The impact assessment states that £6.8 million will come from penalties. I would like to know how the penalty system will work. There is a graded penalty system that goes up to £3,000, and the Minister could increase that in due course. That needs to be piloted.

All in all, the Government’s confusion regarding a phased roll-out and a pilot is self-evident to everybody. Government Back Benchers know it, Ministers know it and the Deputy Prime Minister knows it, which is why he has dumped on the Home Secretary by saying the roll-out will be ended and the pilot will be introduced. I want the Government to be clear on this.

Norman Baker: We are clear.

Mr Hanson: I genuinely do not think they are clear. I look forward to having some clarity from the Minister, because it would be interesting to see what a pilot phased roll-out means. The hon. Member for Cambridge has said the proposal will be ditched after the pilot. He and the Liberal Democrat website have said we will not proceed with the pilot if it does not work. What are the tests to establish whether it is working?

I have tried to offer a framework for a pilot. If the Government want to offer their framework, I may not press my new clause; if they do not offer a framework, I will reserve the right to push my new clause to a vote.

Dr Huppert: It is a pleasure to serve under your chairmanship, Ms Clark.

I thank the shadow Minister for his kind quotes. Perhaps he should try to get his sources correct next time: blogs are not the same as official party websites. I suspect he would not want me to read out things on LabourList as official Labour party policy, because I am sure he would not agree with a number of the pieces on it.

The right hon. Gentleman did, however, correctly identify an article I wrote for Liberal Democrat Voice, and I thank him for quoting it, because that saves me having to read out the same words in my speech. However, I think he draws a rather fine distinction between the concepts of ditching something and of not allowing it to proceed; most people would understand that there was not a massive difference between them.

There is no doubt that there is a difference on this issue between the two parties that make up the Government, and there is no surprise about that. We have a disagreement, and we are working together, but we have not achieved the perfect thing either of us would like. However, while we, at least, are two parties, and hence have different views, I was struck by the fact that there was a contrast between some of the comments of the right hon. Gentleman, who explained both why, in principle, he had a problem with the approach in the Bill and why, in principle, he agreed with it. I find that fascinating.

We have a disagreement between our two different parties, but he seems to have a disagreement with himself. I was quite struck by that.

I agree with much of what the right hon. Gentleman said about the problems with the proposal, which is why I am so perplexed that he not only thinks it is perfectly acceptable—that is what he said in our Westminster Hall debate, and he made similar comments at the beginning of his speech today—but wants to see more of it implemented right at the start.

Mr Hanson: The Liberal Democrats have apparently—I still want clarification from the Minister—agreed to do a pilot in one region. Unfortunately, the United Kingdom happens to be bigger than just one region. If there is a pilot in England, there is still Wales, Scotland and Northern Ireland. My hon. Friends’ seats in London are quite different from the constituency of the hon. Member for Amber Valley, in Derbyshire. We need to pilot this across the whole country, not just in one area, to see the impact.

Dr Huppert: I will come back to that in a moment, if I may, because the right hon. Gentleman makes the core point.

First, however, let me explain, because the right hon. Gentleman did so at great length, why I have a concern about this proposal. I am genuinely concerned about the effect it will have on a huge range of vulnerable people and communities. I am concerned about the work load on landlords, although I will not spell out exactly the same details, because I agree with that part of what he said.

I am also concerned whether the Home Office will be able to do everything it has set out to do, because there may be problems. A period of 48 hours is quite a long time in a fast-moving property market. In my constituency, lots of properties come off the market well within 48 hours; it is rare to see something advertised in the paper that had not already gone by the time the paper was printed, and that is true in many other constituencies around the country.

I am concerned that errors will be made and that people will be deprived of housing they should have a right to.

Mr McFadden: The hon. Gentleman mentioned 48 hours. The question in my mind is why we should believe that a Department that can take a decade to make a decision will suddenly be able to make one in 48 hours.

Dr Huppert: The right hon. Gentleman raises an absolutely reasonable point. We are still clearing up the asylum backlog from the last Government. He is right to make the point that the Border Agency was not capable of doing so; there are many cases that have taken far too long. In the Government’s defence on this issue, the ruling as I understand it is that if somebody gets no response within 48 hours, they are entitled to assume that they have permission and that they can proceed. A provision has already taken account of that, because there are cases where there is no 48-hour response. Although the right hon. Gentleman makes a good point, it has been dealt with.

We have experienced what happens with workplace checks. There is a long-existing system in which people offering employment must check that people have the right to work, but I have constituents who have lost employment to which they were legally entitled due to errors made by the Border Agency, now the Home Office. There have been cases in which people have given the wrong information when somebody has rung up the helpline, so they have not got the correct answer. There have been cases in which people have had a letter saying that they are allowed to work while their claim is being processed, but the letter says specifically that it is valid only for six months, because the idea is that the decision will be made during the six months. Then, when they reach the end of that six months, they hit a problem, because the piece of paper has a certain validity, whereas it should be valid until the decision has been made, if it is the Home Office's fault. I have genuine concerns about how that will work, which is why, in my ideal world, under the Liberal Democrat majority Government that I look forward to, I would not like to proceed with it.

Helen Jones: In the piece that my right hon. Friend the Member for Delyn quoted earlier, the hon. Gentleman said—I am paraphrasing—that the Liberal Democrats forced the Tories to accept the scheme being trialled in one place only. Then he said:

“I'll be firming this up, and making sure that no future Government can dodge there being a vote if they want to do this.”

If the Bill as it stands is passed, how will he ensure that there is a future vote?

Dr Huppert: The hon. Lady should have a look at clause 63(7), which says that there must be a process for any further orders, which it says are subject to annulment in pursuit of any resolution of either House of Parliament. I was concerned about that. I tabled amendment 38, to which we will come later, precisely to require the affirmative rather than the negative procedure. I accept that the language that I used in that amendment is not the perfect procedural language of the House—[*Interruption.*] No, it is the language that one uses when trying to communicate with the general public, and I am not sure the general public know the difference between the affirmative and the negative procedures for statutory instruments. The hon. Lady clearly had not got as far as amendment 38 in order to understand clause 63(7). There are concerns.

It will be hard for landlords in some cases, although undoubtedly most cases will be simple and clear. However, there are a lot of documents, and there are concerns. Progress has been made, and I welcome the expansion in the draft code. For example, a measure that will help people who are homeless or in other circumstances, such as not having a passport, is that they can get a letter of attestation from a named Government or local government official or a British passport holder. It is quite an interesting document. It is one of the two documents that can be produced. It solves a number of the problems that we discussed earlier. People should be able to build up that sort of evidence, but there will be cases where things are hard and complex.

That has been raised by a number of people. ILPA, for example, talked about people seeking asylum and some of the concerns around that, and wondered whether

discretion was enough to deal with it. We will come to people who currently get support under section 95 of the Immigration and Asylum Act 1999, and I will talk later about section 4 issues. I think we have an opportunity to do something better.

Similarly, we have issues about immigration detainees seeking release on bail. As ILPA says, it is right that such people should be allowed to live where they are bailed to; otherwise, it would seem bizarre. There are still issues about the Children Act 1989, the accommodation in which persons are housed under mental health legislation and a range of other concerns. We will discuss some of those later.

I have huge concerns about the scheme going ahead. I would not at all have been happy if it had gone ahead everywhere, but I can accept a deal with the Conservatives, although we have different views, that we will try it somewhere. There is a difference in language. The Conservatives would like to talk about a phased roll-out; I consider it a pilot, because there will be a vote and an evaluation. We will see what happens in one place. However, it should be in one place only, for six months. Then we should have a pause to evaluate it, and in the next Parliament, a decision will be made about whether to go ahead, and we will discuss whether to use the affirmative or negative procedures, because I have a prior belief that the pilot will not work and that we will see all sorts of problems. My expectation is that it will not be a huge success, and the next Government will not want to make progress with it. I understand that there are people who take a different view. I totally accept that, but I can live with a single pilot.

Helen Jones: As my right hon. Friend the Member for Delyn has said, if there is a pilot, there will be criteria for assessing it and deeming whether it is a success or failure. What are the hon. Gentleman's criteria and how will he make the rest of his colleagues in government accept them?

Dr Huppert: The hon. Lady makes a good point about the need to determine at the beginning of a process how it will be evaluated. For a long time, Government after Government have not done that properly, and the amendment does not talk in detail about it either. I do not have a clear set of measures of exactly how I would do it, but one measure would be to look at how many people who should have been supported were not supported in the way that they should have been. That would look at the number of errors. She is right, but the Minister will, I know, talk about how the policy will be evaluated.

I was horrified when I saw the amendment tabled by the right hon. Member for Delyn. We fought hard in the discussions with the Conservatives to agree that the policy will be tried in one place, to find out whether it works fine, as some in the coalition think, or causes problems, as others think. I was shocked that under his amendment we would impose the pilot on more places, so that if it went wrong, it would go wrong in more places. I am sure that the people of Lambeth, Derbyshire, Flintshire, Glasgow and Belfast would not be that keen on his suggestion that they be the guinea pigs for the policy. [*Interruption.*] Whether it is Lambeth or Hackney, people would not be keen.

Mr Hanson: It may have escaped the hon. Gentleman's notice, but I am not the Government. I have suggested that we look at these areas. If he thinks that the one area chosen for a pilot will be symptomatic of every challenge in the United Kingdom, he should go back to Cambridge, do a bit more research, think in more detail and realise that there are more places on earth to pilot in than just one area of the country.

Dr Huppert: Of course I understand that, but I do not believe that the pilot will be a success. We will struggle and there will be problems, and that is why running a pilot in only one place limits those problems. If it turns out that the pilot is a success, but further work is needed, nothing in the legislation stops the policy being phased in its roll-out. One can have a few places to try it out, such as in Scotland and Northern Ireland. The legislation does not say that if the policy is rolled out after the pilot, it has to be rolled out absolutely everywhere at once. The legislation merely says that there is a process where there can be steps.

The right hon. Member for Delyn is now helpfully saying that the pilots do not need to happen in the places he listed. Anywhere in Scotland, Wales, Northern Ireland or London could be targeted under his amendment, and that bothers me. Having fought hard to ensure that the provisions will be trialled in only one place, because of my deep concerns about them, I find it concerning that the Opposition are arguing for even more pilots. I will definitely vote against the amendment, if he presses it to a vote, because I do not want to impose something that will not work on people around the country.

Meg Hillier: It is a pleasure to serve under your chairmanship, Ms Clark. I will limit my comments, because I am prepared to speak later on some of the wider issues around amendments 52 and 53. I back my right hon. Friend the Member for Delyn in recognising from the Front Bench that the UK is not just one narrow area.

I represent one of the most diverse constituencies in the country. I fear for what this policy will do on race relations and on working with people, among them migrants, with less than settled lives. Those people represent a large number of those who come to my surgeries week in, week out. They have real challenges in finding a home, in holding on to a tenancy and in other areas of their lives. The policy is invidious and nasty and will just cause them difficulties.

I should have drawn Members' attention to my declaration in the Register of Members' Financial Interests, as I am a landlord, but that is not what I am speaking about; I am speaking about my constituents. Interestingly, I look at the code that has been written, and I do not think that it will help at all. It puts barriers in place for vulnerable people, who make up a large number of my constituents.

Dr Huppert: The hon. Lady talks about the idea of having immigration checks done by landlords as invidious and nasty. Does she therefore disagree with the shadow Minister, the right hon. Member for Delyn, who says that he thinks that it is perfectly acceptable in theory?

12.30 pm

Meg Hillier: No, I am talking about the way that this is being proposed and the list of documents that have to be provided. I know that many of my constituents—many of whom are British or have indefinite leave to remain, who have lived in this country for many years and have absolute rights to a range of public services—will find that when they go and access this sort of public service they will absolutely face open discrimination. We have already seen in some good broadcast journalism an example of how some landlords are saying: "We do not want to let to black people." It is as basic as that for many of my constituents.

Helen Jones: Does my hon. Friend agree that this is where the proposal of the hon. Member for Cambridge for a one area pilot falls down? If you did a pilot in, let us say, a rural area of Britain, it would not throw up the problems of a pilot in an inner-London borough, for example. There are many other variations throughout the country too.

Meg Hillier: My hon. Friend hits the nail on the head. That is the issue. If the Government are going to have a pilot, they have to make sure that it covers all these eventualities. I do not want to quote at length from the code, but it tells the landlord that if someone says that they have a time limit on their stay, the landlord should suggest they contact the Home Office to seek clarification of their status or additional documentation. This is written by someone who has never had to deal with the Home Office as an immigration customer. The Minister knows that I am one of his biggest customers and he signs many letters to me about all sorts of things. Perhaps that is something we would like to see change, as the Home Office deals with these things more quickly in future, one hopes. However, this is ridiculous. Constituents of mine, who are perhaps in the process of applying for new leave, having to go to get that documentation will not get across the threshold. So this code actually embeds an excuse to be prejudiced against anybody with difficult paperwork.

I see the Minister nodding. The hon. Member for Cambridge has said that he will not vote for this if it is pushed to a vote and I wonder what the Minister will do. I am sure that he will give us his view in his response. If it is the Liberal Democrats' settled view that the policy will not work practically, I hope that he would vote against it on that ground alone. It is interesting that the hon. Member for Cambridge has practical concerns about all these issues. He has indicated that he will vote for us if we divide. He talks a lot about his ideal world, but we are in this world now, Minister, and this is the world that my constituents have to navigate. This is the world they get discriminated in, and this poorly set out proposal will make it worse for them. It is not even practical, regardless of some of the other issues.

There is no real guidance at all on how the Home Office will evaluate the proposal's impact practically, or, from my point of view more seriously, on how it will evaluate whether there are landlords who discriminate on race grounds. There are so many caveats in that code that one can ride a coach and horse through it. Landlords will continually discriminate against people, but who

will complain? For those who are vulnerable and trying to find a home, it is probably not at the top of their list to go through all the processes to complain about race relations. A lot of people just live with it. They should not, but they do—though if they find me I will take it up for them.

Who will complain and how on earth will the Home Office evaluate this? With the number of landlords in this country, it is impossible to do that. The Minister really needs to answer all these questions, and I hope particularly that he will vote for our amendment, if we push it to a vote, to pilot this in a much wider area. If it is piloted just in the constituency of my right hon. Friend the Member for Delyn—which I am sure is a lovely part of the world—it does not reflect the needs of many of my constituents and the day to day discrimination and challenges that they face.

Norman Baker: May I begin by confirming that I will not be voting with the Opposition? Let us start from basics: the coalition Government—both parties—considers that it is right in principle that a person who is here unlawfully should be excluded from enjoying the privileges of establishing a settled life here. I am not quite sure that that is entirely the view of Opposition Members. There seems to be a difference between the official spokesman and the hon. Member for Hackney South and Shoreditch, but that is the view of both parties here.

Meg Hillier: I am puzzled by the Minister. Perhaps I should clarify, though I do not think I need to. I agree that people who are here illegally should not have access to certain services. What I am saying is that many of my constituents who are legally here and are British citizens will face discrimination because of the way that this is being introduced.

Norman Baker: I am grateful to the hon. Lady for that intervention, because it confirms that she is happy to deal with people who are here illegally, but she does not necessarily will the means to achieve that. Racial discrimination is unlawful under legislation introduced by the previous Labour Government. I assume that that legislation is sufficiently rigorous to ensure its correct application in such situations.

Meg Hillier: Will the Minister give way?

Norman Baker: I will, but I am keen to make progress.

Meg Hillier: The Minister says that there is law in place to prevent discrimination, but if there is to be a pilot, how will the Home Office evaluate how that law is applied and what happens if it is broken? That is a real issue when dealing with thousands of landlords and thousands of individuals.

Norman Baker: If the law was broken, the previous Government's legislation would apply, as indeed it should. The Equalities Act 2010 is pretty clear on that point. Public services and benefits are scarce resources, and the same is true of our finite housing stock. Lawful residents of the UK should not have to compete for housing with those who are here illegally. Allowing

illegal migrants the freedom to establish a settled life in private rented accommodation affords them the opportunity to evade the law, so the situation must be changed.

Meg Hillier: Will the Minister give way?

Norman Baker: I will not, because I have already given way twice, and I am trying to answer some of the other points that have been raised. The proposal builds on existing practices undertaken by many landlords and agents, who already look at passports and other documents. I will turn in a moment to the measures already taken by landlords to ensure that they have the kind of tenants they want in their properties.

I want to deal with a point raised by the right hon. Member for Delyn, who based his whole argument on the assumption that there is a difference between a phased roll-out and a pilot. His argument is flawed, because that is a distinction without a difference. The reality is that my fellow Minister and I are joined at the hip like Siamese twins when it comes to the matter. We both want to ensure that the legislation works, and we agree that it is sensible to go slowly to take account of the legitimate concerns that people have raised to ensure that we do not end up with a situation that neither of us wants. We want to address the problem of people who are here illegally accessing public services, but we do not want to cause problems for innocent people or for landlords. That is why it is sensible to proceed slowly, step by step.

As we have heard, clause 63 contains provisions to ensure that the scheme can be scrutinised to see how it has worked. Those provisions indicate the Government's commitment to making sure that should it wish to do so, Parliament can scrutinise the implementation of the scheme following the first stage. Any commencement order that introduces the landlord provisions into a subsequent area, following the initial pilot, will be subject to the negative resolution procedure. The House will be able, if it considers it appropriate, to trigger a debate when there is any suggestion of a further roll-out of the measures, at which point any questions can be addressed.

My fellow Minister and I want to ensure that the proposal works properly. My colleague may have more confidence than I do that it will work properly, but there is nothing wrong with that. We both agree that it is sensible to proceed step by step and to look at the scheme after the first pilot. If it has worked properly, without encountering the concerns that Members on both sides of the Committee have rightly expressed, I have no doubt that it will be taken further. If serious problems have arisen, nobody, including my hon. Friend, will want to take the scheme further.

Mr Bain: Earlier, the Minister spoke of the importance of safeguarding public money, but the impact assessment states that the policy will cost the taxpayer nearly £63 million over the period of the assessment. Does that not argue for the importance of having effective trials before throwing good public money after bad?

Norman Baker: First, the policy is not designed specifically around cost. It was not introduced primarily to deal with budget matters. If the hon. Gentleman is interested in cost, he might want to take account of the

[Norman Baker]

people who are here illegally and accessing public services. If they were not in the country, the cost of dealing with them would be reduced. If he wants to start producing cost equations, he needs to take into account all factors rather than selectively quoting from one.

Meg Hillier: In the discussions about the cost and impact of the measures, has the Home Office done an estimation of how many people who are here illegally currently rent from private landlords? In my constituency, there will be very few, because they live in a whole different housing sector, which does not seem to figure in the Minister's imagination.

Norman Baker: It is difficult to quantify who is here illegally, not least because the previous Government did not introduce exit checks, which we are keen to establish. Furthermore, we are not authoritarian as a Government, unlike Labour when it was in power, so we do not scrutinise everybody's life to a minute degree to find out where everybody is at any particular time. No, we do not know the answer to that specific question, but that is why it is sensible to take the matter slowly and to establish the results of stage 1 of the process to see whether or not it is worth pursuing further. Questions of significance may arise, and we will need to deal with them. It is right that Parliament should have a view on that matter, and consider it at the appropriate time.

If the Opposition are so concerned about the impact on landlords, the cost implications and the unintended consequences, it seems odd that they are proposing a range of pilots across the country, which would affect far more people and far more landlords and have far more cost implications than a pilot in one single area. That is why both coalition parties have agreed to take the matter slowly. Of course it is important to get the pilot area correct and to ensure that it is of sufficient size and sufficiently diverse to pick up any issues that might arise elsewhere in the country. That is what we are presently considering, to see what the appropriate area would be, and it is right that we take time to do that and to ensure that we can properly assess the pilot or the roll-out.

Although I agree with the Opposition that it is right to take the matter slowly, their case is somewhat weakened by the civil penalties scheme that they introduced when they were in government. It was not piloted and was introduced right across the country without a great degree of foresight. The Opposition now seem to have a new policy of pilots that did not apply when they were in government.

Phil Wilson (Sedgefield) (Lab): Will the Minister tell the Committee how he sees the scheme working in areas of selective licensing?

Norman Baker: We are looking at that matter as part of our consideration of where the pilot should be and how it should work. We want to take the matter slowly to ensure that it works properly. We are dealing with an issue that was not addressed by the previous Government and that is of concern to those who are legitimately in this country seeking to access public or private housing and are unable to do so. Under those circumstances, it is right that we investigate all these matters carefully.

Phil Wilson: Will any pilot area include areas of selective licensing as well?

Norman Baker: They may do. We are considering that. Let me just pick up on one other point, which we will come on to later when we look at the landlord provisions in the Bill. As it was raised by Labour Members, I want to try to address it now. There is a suggestion that landlords will face huge obstacles in accessing information, which will mean that they will not be able to discharge the functions that we are asking them to do under this legislation. It is worth pointing out that under employment rules, businesses already check a person's status, and they seem to manage that perfectly well without any sort of difficulties.

I am not aware of any representations from businesses that talk about the difficulties of checking someone's status. It is also the case that 37% of landlords already require a prospective tenant to produce a passport. Some 32% accept a driving licence. A survey conducted by the Residential Landlords Association in June showed that 53% of landlords insisted on the production of a passport. The process is already well established. A landlord will always want to undertake certain checks, not least because they want to ensure that the tenant can pay their way. A lot of froth is being generated here, but little substance.

It is right that the coalition Government takes the matter slowly and sensibly. We will listen to all the comments. We want to ensure that we get the matter right, and the way to do so is to proceed in the way that we have set out.

12.45 pm

Mr Hanson: I appreciate the Minister's response. He started by saying that he and the Minister for Immigration were like Siamese twins joined at the hip. In my experience of watching television, most Siamese twins spend their whole lives trying to separate. The hon. Gentleman will know that as well. If they are joined at the hip, why did the Deputy Prime Minister spend so much time a couple of weeks ago grandstanding that this was a pilot and not a phased roll-out? The Deputy Prime Minister recognised that there were serious problems with the implementation of this policy. There is a shared objective in the Committee about the principle here, but there is a real difficulty about how it will be delivered on the ground.

I am offering the Minister a proper pilot on a range of areas where the system could be looked at, properly evaluated and brought back to the House of Commons. Where in the Bill is his proposed pilot? In the unlikely event that the Conservatives win an overall majority at the general election, the pilot will not be a pilot then, will it? It will be a completely phased roll-out. If the Labour party wins the next election and we do not need Liberal Democrat support, we will have to consider the matter, but I will be looking at testing these proposals to make sure that they work before undertaking a phased roll-out. The Minister has no guarantees that any of his concerns will be addressed.

Dr Huppert: Has the right hon. Gentleman looked at clause 63(7), which writes into legislation the fact that there would have to be a separate order-making process? I agree that it would be a negative rather than an

affirmative resolution, but has he seen that key safeguard? There would have to be a decision-making process and Parliament would have a say.

Mr Hanson: That does not relate to the guarantees that the Minister has given about a phased roll-out. If the hon. Gentleman writes on his blog at lunchtime, he should say that he voted down the potential for a pilot that has no legal guarantee at the moment. It would if new clause 2 were to be accepted. Much as I like to try to be consensual on these matters, there are no guarantees on the points that the Minister has raised, so I will press new clause 2 to a vote.

Question put, That the amendment be made.

The Committee divided: Ayes 8, Noes 12.

Division No. 2]

AYES

Bain, Mr William	Jones, Helen
Dowd, Jim	McFadden, rh Mr Pat
Hanson, rh Mr David	Robertson, John
Hillier, Meg	Wilson, Phil

NOES

Baker, Norman	Milton, Anne
Doyle-Price, Jackie	Opperman, Guy
Harper, Mr Mark	Patel, Priti
Huppert, Dr Julian	Smith, Henry
Kirby, Simon	Soames, rh Nicholas
Mills, Nigel	Syms, Mr Robert

Question accordingly negated.

Question proposed, That the clause stand part of the Bill.

Nigel Mills: I have some questions about the wording in the clause rather than the principle of it, which is why I did not think it was relevant to the amendment we have just debated. It would be helpful if the Minister could set out some of the scenarios where these rules will apply. He clearly sees situations in which someone begins by staying in a residence informally for a couple of nights, but it then becomes a sole or main residence at some point in the process. I am just trying to understand exactly where that line will be drawn. A person who started a relationship with someone could stay over at their house for a night or two a week, and most of us would never think it was their sole or main residence at that point. However, if they stayed four or five nights a week, rather than two or three, and they became a potential tenant, would the other person be required to check at that point?

There are some doubts in my mind as to exactly what we expect when we talk about rent. Clause 15(2)(b) says the tenancy

“provides for payment of rent (whether or not a market rent)”.

Presumably, £1 a week would count as a payment of rent, while zero might not. The definition is extended in subsection (5), which says that

“‘rent’ includes any sum paid in the nature of rent.”

I can see situations in which someone might buy all the food, pay the heating bills or provide other services, but not actually pay any rent. That might look like an alternative to rent, and it might be much the same in financial terms as paying the rent, but it is not

“in the nature of rent”

as I would understand the natural use of that term. Perhaps it would be helpful if the Minister could tell us what we mean by “the nature of rent”. Should we refer to the nature of rent or to some rent substitute to make sure we catch similar economic arrangements?

On subsection (4), we require rights of occupation to be for a person’s “only or main residence”, but the Bill does not further define those terms. Those of us who have worked in tax will know that a lot of effort has gone into understanding what “only or main residence” means, for example, when determining which of the houses someone owns is their main residence and is, therefore, exempt from capital gains tax. There is also a lot of case law on how to work out whether someone is resident somewhere for council tax purposes or even for the purpose of determining their voting rights.

Is it the intention that all the case law and all the definitions of “only or main residence” used elsewhere will apply under the Bill to determine someone’s main residence? That could be an important point, especially later, as we try to work out what the exemptions are. Clearly, in a lot of the definitions, residence has to have some kind of permanence and is not intended to be short-term or temporary; the actuality must be that someone lives there for the majority of their time.

As we move forward, we need to understand exactly what those terms mean and to think through which perfectly innocent situations might require someone to start making checks on people when they perhaps thought there was a casual relationship. We must also make sure that people do not find cleverly contrived ways around these rules by constructing strange economic relationships that do not involve rent, but that, to all intents and purposes, look like a tenancy, with some kind of verbal agreement that seeks to avoid these rules.

Norman Baker: The starting point is clause 15(2)(b), which the hon. Gentleman referred to. It says the tenancy “provides for payment of rent”.

That is a relationship, essentially, between a landlord and a tenant; that is what the clause is designed to capture. I suppose it is theoretically possible that somebody could have an arrangement where they did not pay cash, but instead paid in different ways. We expect that to be pretty rare. Essentially, this is about payment in cash, but if it appears that there is circumvention of the rules, we would seek to address that as time goes on. However, that is pretty theoretical and is probably not going to be the case. Clearly, if somebody is in a relationship with somebody else, that is not a landlord-tenant relationship.

There will be guidance for landlords to help them establish any of these things, and they can consult the Home Office if they are unsure; in fact, it is to their advantage to do so to protect themselves.

Meg Hillier: The Minister raises an interesting and potentially important point. Constituents often come to see me about these issues, usually when they have been in the country for some time, and sometimes when they have been in the country illegally. They have been living in someone’s home, and in return for the roof over their heads, they have variously—I have real-life examples of this—done housework or domestic work. Some have, without wishing to do so, had the children

[Meg Hillier]

of the person whose home they were living in. In one particular case, a woman slept with the man to get a roof over her head and became a mother as a result. Do such relationships count as rent in payment? They are not as rare as the Minister might think in constituencies such as mine.

Norman Baker: The answer is to look at every individual circumstance on its merits, but if two people are in a relationship, particularly if they are having sexual relations, that does not seem to qualify as a landlord-tenant relationship.

Meg Hillier: Perhaps I was not clear. I am talking about people who are trafficked into this country or who have made a contractual arrangement, for economic reasons, to live with somebody in order to provide care, housekeeping or sex. Such people are often very vulnerable and in a transactional relationship. They might not describe themselves as vulnerable victims, but in my book they are. That is an interesting point in relation to the clause.

Norman Baker: The Home Office, the Government and probably all parties in the House of Commons are very concerned about human trafficking. That is why we are introducing a modern slavery Bill and why we are taking steps to deal with the unwelcome examples that I am sure exist in London and elsewhere. Under such arrangements, the person who was subject to unwelcome measures would not be held responsible. Indeed, we would want to help them. When we discuss amendment 30 we will be considering, for example, the situation of refuges and night shelters. We are keen to ensure that

people who are in invidious situations through no fault of their own are not subject to provisions that are unhelpful to them.

The come-back on the landlord—if we can call them a landlord in such a situation—would relate not to the provisions that we are discussing but to provisions enacted elsewhere to protect vulnerable people, and to the modern slavery Bill when that is introduced. I hope that that is helpful.

Nigel Mills: I want to push the Minister a little further. Clause 15(2)(a) says that a residential tenancy agreement is one that

“grants a right of occupation of premises for residential use”.

The Minister appears to be saying that someone effectively grants a partner a right of occupation because they are their partner, but it does not count as a tenancy for the purposes of the Bill. Is that exactly what he means?

Norman Baker: The only point I can make is that all three conditions have to be met for the clause to apply. It is not simply the case that, under clause 15(2)(a), such an agreement is one that

“grants a right of occupation”.

Under subsection (2)(b) it is one that also

“provides for payment of rent”,

And under subsection (2)(c) it

“is not an excluded agreement.”

All three conditions have to be met.

Question put and agreed to.

Clause 15 accordingly ordered to stand part of the Bill.

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

12.58 pm

Adjourned till this day at Two o'clock.