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GENERAL COMMITTEES

Public Bill Committee

HOUSING AND PLANNING BILL

Seventh Sitting

Tuesday 24 November 2015

(Afternoon)

CONTENTS

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Saturday 28 November 2015

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: Mr James Gray, † Sir Alan Meale

† Bacon, Mr Richard *(South Norfolk)* (Con)
† Blackman-Woods, Dr Roberta *(City of Durham)* (Lab)
† Caulfield, Maria *(Lewes)* (Con)
† Dowd, Peter *(Bootle)* (Lab)
† Griffiths, Andrew *(Burton)* (Con)
† Hammond, Stephen *(Wimbledon)* (Con)
† Hayes, Helen *(Dulwich and West Norwood)* (Lab)
† Hollinrake, Kevin *(Thirsk and Malton)* (Con)
† Jackson, Mr Stewart *(Peterborough)* (Con)
† Jones, Mr Marcus *(Parliamentary Under-Secretary of State for Communities and Local Government)*
† Kennedy, Seema *(South Ribble)* (Con)
† Lewis, Brandon *(Minister for Housing and Planning)*
† Morris, Grahame M. *(Easington)* (Lab)
† Pearce, Teresa *(Erith and Thamesmead)* (Lab)
† Pennycook, Matthew *(Greenwich and Woolwich)* (Lab)
† Philp, Chris *(Croydon South)* (Con)
† Smith, Julian *(Skipton and Ripon)* (Con)
† Thomas, Mr Gareth *(Harrow West)* (Lab/Co-op)

Glen McKee, Katy Stout, Helen Wood, *Committee Clerks*

† attended the Committee

Public Bill Committee

Tuesday 24 November 2015

(Afternoon)

[Sir Alan Meale *in the Chair*]

Housing and Planning Bill

Clause 9

Duty to grant planning permission etc

2 pm

Question (this day) again proposed, That the clause stand part of the Bill.

The Chair: In line with this morning's decision, Members may remove their jackets if they wish to do so. Minister, do you want to continue with your summary, or do you want others to be called?

The Minister for Housing and Planning (Brandon Lewis): To help move things along, I am happy for the Question to be put.

Mr Gareth Thomas (Harrow West) (Lab/Co-op): I triggered this debate in order to ask the Minister to dwell on the concern that if permission is given in principle, even just for self-build designated slots, there is a risk of pushing up the price of that land—the acquisition of land is currently one of the biggest deterrents to broadening the self-build sector. The Minister gave an interesting justification for clause 9 standing part of the Bill, much of which I am sure is perfectly reasonable, but he did not answer the particular concern I raised. I would be grateful if he might dwell on that point and come back to me.

Brandon Lewis: I dealt with that issue in the long conversation we had this morning, and I made a point about the basics of supply and demand. I will go a little further to help the hon. Gentleman by saying that planning permission in principle is on land that is identified on a brownfield register or in a potential neighbourhood or local plan. The land is therefore already potentially designated for housing. The argument that planning in principle has any further effect on the value of the land is completely false.

Question put and agreed to.

Clause 9 accordingly ordered to stand part of the Bill.

Clause 10

Exemption from duty

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

Brandon Lewis: Clause 10 inserts a new section into the Self-build and Custom Housebuilding Act 2015 enabling relevant authorities to apply to the Secretary of State for an exemption from the duty to grant permission for sufficient land to match demand. There are some areas where the demand for self-build and custom housebuilding may far outstrip land supply. To ensure that we continue to protect the environment and build only in a sustainable way, we must be able to exempt relevant authorities that, with the best will in the world, are simply unable to grant permission for sufficient land to meet demand.

The detail will be set out in regulations, but the intention is that where demand on the register is a significant proportion of the land available for housing, as set out in the five-year land supply, the authority may apply to the Secretary of State for an exemption. Authorities that are exempt from the duty to grant permission for serviced land to match demand must still, of course, have regard to the demands on their registers when carrying out their housing, planning, regeneration and land disposal functions.

Mr Richard Bacon (South Norfolk) (Con): I will be brief. I fully understand the need to be able to have exemptions in some circumstances. The law will need to take account of very different circumstances in different local authorities with very different levels of land supply and demand. The City of London comes to mind as an obvious example, although there will be other intensely urban areas where this is also an issue. Can the Minister give an assurance that this will be a tight test and that not only will the requirement for authorities to have regard to their obligations still obtain, but it will be within the Secretary of State's power under the proposed regulations to make the granting of an exemption to a local authority conditional upon it satisfying certain conditions that the Secretary of State might lay down, such as a partnership with another local authority that has more land?

This is a slightly different example, but it is relevant. The City of London sponsors an academy in the London Borough of Southwark. The City, being a very small borough, does not have enough students for a high school of that kind, but it sends some of its students to the high school on land supplied by Southwark. Does the Minister think there is room for that kind of partnership and that conditions could be imposed on local authorities before the Secretary of State agrees to make an exemption?

Dr Roberta Blackman-Woods (City of Durham) (Lab): I have a brief question for the Minister. Does he have any idea of how many local authorities are likely to be exempt and on what grounds? That would help us to make some sense of the clause.

Brandon Lewis: My hon. Friend the Member for South Norfolk made a good point, and we will ensure that we take his comments forward when drawing up the regulations. When an authority finds itself exempt and the regulations detail an exemption process, we will require it to demonstrate how, if an exemption is granted, it will continue to support those on its register. That could be satisfied by it working in partnership with neighbouring or nearby authorities in the way my hon. Friend outlines.

Obviously, as it is an exemption policy, I would not want to prejudge who might or might not be looking for an exemption. I appreciate that there will be challenges in some areas, as the hon. Lady pointed out, and that places such as London might struggle to meet demand for self-build, as was pointed out by the hon. Member

for Harrow West, who is not in his place at the moment. That is why we have included a power for the Secretary of State to make regulations specifying the circumstances in which an authority may apply for an exemption when the time comes.

Question put and agreed to.

Clause 10 accordingly ordered to stand part of the Bill.

Clause 11

FURTHER AND CONSEQUENTIAL AMENDMENTS

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

Brandon Lewis: Clause 11 makes further and consequential amendments to the Self-build and Custom Housebuilding Act 2015. In particular, it creates an additional power so that regulations may provide that the relevant authorities can set their own conditions of eligibility. These are expected to be restricted to a local connection test and, as we outlined and discussed, a financial solvency test.

The clause also provides for regulations to enable the register to have two parts. The second part would apply to anyone who had applied to be registered but failed to meet specified conditions of eligibility. We expect this to be used so that anyone who fails a local area connection test when an authority has chosen to apply one must be entered in the second part of the register.

Entries in the second part of the register would not count as demand when determining the number of service plots that a relevant authority must permit. However, authorities would have to have regard to those entries when undertaking their planning, housing, regeneration and land disposal functions, ensuring that, for example, when an authority has introduced a local connection test, people can still join part of the register, allowing someone who currently lives in the area where land for development is limited also to register in nearby areas where land might be more widely available—that touches on the point my hon. Friend the Member for South Norfolk made—even when those areas have their own local connection test.

The clause also enables the Secretary of State to provide in regulations that local authorities can recover fees connected with their duty to provide sufficient suitable development permissions. Regulations may also stipulate the circumstances in which no fee is payable. For example, when making these regulations, we may consider whether it is appropriate to charge those people on the second part of the register. It is expected that these fees will be set at a level that broadly reflects the costs incurred by the authority when undertaking its duties under the 2015 Act.

Mr Bacon: I crave your indulgence, Sir Alan, for just a moment longer. I agree with the Minister. Plainly, there must be some criteria for eligibility and a sensible approach to the recovery of fees. There must indeed be a local area test and it would be sensible if a local authority could exclude people from the operative part of the register if they did not meet the local area test.

However, I seek the Minister's assurance on a specific point. The test will be applied relatively narrowly so as not to exclude people. I referred in the oral evidence session to the Community Self Build Agency website, and I will quote from it now because it is totally relevant. It states:

"I was encouraged by the local council to apply for the CSBA Scheme, I rang them and said: 'I am disabled, unemployed, on benefits and I know nothing of building.' They said: 'You fit all the criteria!' I have never looked back."

I would not want this exclusion and the ability to be placed on the second part of the register to exclude people who, unaided and not as part of a scheme, might not be eligible or might not meet the financial conditions but who, if they were part of a sponsored scheme, might indeed meet the conditions of eligibility.

It has been proved that the most dispossessed and downtrodden, who are told that they cannot have any hand in their own future and cannot help themselves, can do so with a bit of help, and they should not be excluded from the operative part of the register. What assurance can the Minister offer that the eligibility criteria will not be used in a way that reduces opportunity to take part in schemes where jointly the eligibility criteria could be met?

Brandon Lewis: Areas that are more generally exempt must still have regard in the register that has been carried out to general housing, planning and local disposal issues.

My hon. Friend makes a more focused point, with which I have sympathy. As we go forward and develop the regulations, local authorities will be encouraged to notify people on both parts of the register of opportunities to purchase sites suitable for self-build and custom build. That will be set out in guidance. There will be opportunities through regulation and guidance to ensure that we cover all those opportunities.

We want to ensure that custom and self-build land is available for everybody who is eligible and potentially could develop their home in that way. I will take my hon. Friend's points on board as we go through the regulations and guidance. I hope that reassures him that we will do everything we can to ensure that everybody has the chance to take forward the revolution that he has inspired in self-build and custom house building.

Question put and agreed to.

Clause 11 accordingly ordered to stand part of the Bill.

Clause 12

INTRODUCTION TO THIS PART

The Parliamentary Under-Secretary of State for Communities and Local Government (Mr Marcus Jones): I beg to move amendment 2, in clause 12, page 8, line 17, leave out "letting" and insert "property".

Part 2 of the Bill contains various references to rogue landlords and letting agents. NC8 has the effect of extending the Part to property managers, whether or not they are landlords or letting agents. As a result the references to rogue landlords and letting agents need to be changed to refer to rogue landlords and "property agents", a term that is defined by amendment 48 to mean letting agents and property managers.

The Chair: With this it will be convenient to discuss the following:

Government amendments 3, 4, 9, 12, 19, 22 and 45 to 49

Government new clause 8—*Meaning of "property manager" and related expressions*.

Mr Jones: It is a pleasure to serve under your chairmanship, Sir Alan, and to take the baton from my hon. Friend the Minister for Housing and Planning.

The Government value the private rented sector; it is an important part of the housing market, housing 4.4 million households in England. We want to support good landlords and agents who provide decent, well-maintained homes and avoid unnecessary further regulation on them.

Good landlords respect their tenants' rights and comply with all the appropriate obligations and legal requirements. Good landlords will benefit from what we are doing. Standards and compliance with the law across the sector will be set on a level playing field, and good landlords will no longer face unfair competition from the rogues who ignore the law and their obligations.

A small number of landlords and agents do not properly manage their lettings or properties. They exploit their tenants and the public purse through housing benefit. They rent out substandard, overcrowded and dangerous accommodation. Those landlords and agents do not respond to legitimate complaints made by tenants. They ignore their obligations and some are prepared to accept prosecution and a fine rather than maintain properties in acceptable conditions.

As clause 12 explains, the objectives of part 2 of the Bill are threefold. It introduces new financial sanctions against rogues who break the law, by extending the rent repayment order provisions introduced by the Housing Act 2004. It also enables local authorities to identify rogues operating in the private sector in their area and place them on a database, which other local authorities in England will have access to. Finally, it provides a regime for removing the worst offenders from the sector through banning orders.

The amendments tabled by my hon. Friend the Minister for Housing and Planning are intended to make it clear that the provisions in part 2 relating to the database and banning orders apply to persons engaged in the business of property management, irrespective of whether they are also letting agents. New clause 8 explains what property management work is. Amendments 45 to 47 and 49 disengage property management from letting agency work, so that both are defined as separate and distinct activities.

Amendment 48 provides a new overarching definition of property agent, which covers both letting agents and property managers, as a person could act in the capacity of either or both. Amendments 2, 3, 4, 9, 19 and 22 are consequential on amendment 48, each replacing references in part 2 to "letting agents" with "property agents".

Amendment 2 agreed to.

2.15 pm

Amendments made: 3, in clause 12, page 8, line 20, leave out "letting" and insert "property".

See Member's explanatory statement for amendment 2.

Amendment 4, in clause 12, page 8, line 21, leave out "letting" and insert "property".—*(Mr Marcus Jones.)*

See Member's explanatory statement for amendment 2.

Mr Jones: I beg to move amendment 5, in clause 12, page 8, line 24, leave out "or who has breached a banning order".

This amendment is consequential on NC3.

The Chair: With this it will be convenient to discuss the following:

Government amendments 13, 15, 16, 50 to 55, 34 to 39 and 42 to 44.

Government new clause 3—*Offence of Breach of Banning Order.*

Government new clause 4—*Offences by Bodies Corporate.*

Mr Jones: Continuing to rent out property in breach of a tribunal order prohibiting a person from doing so is a serious matter, which is why measures are in place in the Bill for such a breach to attract a financial civil penalty. It is also why provisions are included to enable tenants, or local authorities where housing benefit has been paid, to apply for a rent repayment order against the landlord for up to a year. We consider breaching a banning order to be serious not only because an order of the tribunal is being flouted, but because the landlord is profiting from it. Given that banning orders are made against only the worst landlords, their continuing to rent out property could put tenants' health and safety at risk.

The Minister for Housing and Planning, my hon. Friend the Member for Great Yarmouth, has therefore tabled new clause 3, which provides that the breach of a banning order is a criminal offence and enables the prosecution of a landlord in the magistrates court. A local authority may instead impose a civil financial penalty, provided for in clause 17 as amended by amendments 15 and 16. Tenants and local authorities will still be able to apply for rent repayment orders when a landlord has committed the offence of breaching a banning order. However, new clause 3 provides that the court can impose a fine, which is not subject to a limit, on a person who is convicted of such a breach. Alternatively, or in addition, the court can sentence the person to a term of up to six months. The fact that a person can be sent to prison for letting out properties in breach of a banning order should deter anyone from doing so, and it marks a commitment shared across the House to tackle rogue landlords.

New clause 4 is intended to prevent persons escaping personal liability if the company they operate breaches a banning order. The clause provides that if the offence was committed with the consent or connivance of an officer of a company, or because of that person's negligence, the officer can be prosecuted and punished as well as the company. An officer of a company is defined as a director or a company secretary, or someone acting in a similar capacity.

Amendments 34 to 39 and 42 to 44 make changes to the rent repayment order scheme set out in chapter 4 of part 2 because breaching a banning order is to be a criminal offence. That will mean that clauses 35 and 36, which set out special rules for repayment orders following a breach of a banning order, are no longer required. Amendments 5, 13 and 50 to 55 are all consequential on making breaching a banning order a criminal offence.

Amendment 5 agreed to.

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

Mr Jones: Clause 12 summarises the provisions in part 2 of the Bill. It explains that this part is about tackling rogue landlords and letting agents. The Government value the private rented sector. As I have

said, it is an important part of our housing market, housing 4.4 million households in England. We want to support good landlords who provide decent, well maintained homes for people, and avoid unnecessary further regulation on them. Most private landlords provide a decent service to their tenants, but we know that there are a small number of landlords and letting agents who do not manage their lettings or properties properly, sometimes exploiting their tenants—and the public purse, through housing benefit—by renting out substandard, overcrowded and dangerous accommodation.

These landlords and letting agents often do not respond to legitimate complaints made by tenants. These are the rogues that this part applies to. We want to ensure that such rogues can be placed on a national database, so that local housing authorities in whose area they operate can identify them and their behaviours and standards can be properly monitored. We also want to ensure that the worst rogue offenders can be removed from the rental market altogether, through banning orders. Rogues who let out unsafe or unhealthy properties or engage in illegal practices such as violent entry, harassment or unlawful eviction of tenants will no longer be able to financially benefit from such activities. Part 2 extends the rent repayment order regime so that, in appropriate cases, tenants—and former tenants—can reclaim rent, and local authorities can reclaim housing benefit payments, from landlords who have engaged in those types of unacceptable activities.

The majority, good landlords, will not be affected by this part. However, they will benefit from it, since standards and compliance with the law across the sector will be set on a level playing field and good landlords who work hard for their tenants and comply with the law will cease to face unfair competition from the rogue landlords, who ignore the law and their obligations.

Teresa Pearce (Erith and Thamesmead) (Lab): We welcome this initiative on rogue landlords. I would like to ask the Minister a question. The impact assessment talks a lot about the very small number of rogue landlords. Although they are in the minority, do we have any information about how big that small number may be? It is easy to send out surveys to landlords and get them to send them back, but it is the good landlords who complete those surveys, and the rogue or criminal landlords do not engage at all. Further, given that the private rented sector is increasing, especially in cities, do we have any information about whether the increasing amount of private rented accommodation is increasing the number of rogue landlords? As the sector increases, does it get better, or do we have no evidence on that?

Mr Jones: I thank the hon. Lady for her questions. First, she mentions the number of rogue landlords and the impact assessment. We have looked at that very carefully and consider that about 10,500 rogue landlords may be operating. This Government is firmly on the side of good landlords and tenants and we want to drive those rogue landlords out of the system. That is what the proposed clauses in this part do.

On banning orders, which I shall come to in clause 13, we expect that about 600 will be applied for to the tribunal as a result of the measures that this Bill brings.

Question put and agreed to.

Clause 12, as amended, accordingly ordered to stand part of the Bill.

Clause 13

"Banning order" and "banning order offence"

Question proposed, That clause 13 stand part of the Bill.

Mr Jones: Clause 13 explains that a banning order made by the first-tier tribunal property chamber can ban a person from being a landlord or being involved in residential letting agency or property management for two or more of those things. In relation to properties in England the reference to "person" in this part of the Bill includes a company as well as an individual. As explained in clause 15, a person can only be subject to a banning order if they have been convicted of a banning order offence. Subsection (2) provides that the Secretary of State may define banning order offences by regulation. We have not included specific offences in the Bill because we want the flexibility to add further, or remove existing offences as the new law beds in and beyond, to ensure that the offences are relevant and up to date. However, subsection (3) explains what matters may be taken into consideration when setting out in regulations what are banning order offences.

The banning order offences will all be existing offences which already have serious consequences for those who are convicted. It is envisaged that a banning order offence will include repeated offences involving breaches of health and safety requirements under the Housing Act 2004, such as a failure to comply with an improvement or overcrowding notice. It is also envisaged that a banning order offence will include unlawful eviction of tenants or violence or harassment towards them by the landlord or letting agent. A banning order may also be sought where a person has been convicted in the Crown court of a serious offence involving fraud, drugs or sexual assault that is committed in or in relation to a property that is owned or managed by the offender or which involves or was perpetrated against persons occupying such a property.

Question put and agreed to.

Clause 13 accordingly ordered to stand part of the Bill.

Clause 14

Application and notice of intended proceedings

Mr Jones: I beg to move amendment 6, in clause 14, page 9, line 12, at end insert—

"(1A) If a local housing authority in England applies for a banning order against a body corporate that has been convicted of a banning order offence, it must also apply for a banning order against any officer who has been convicted of the same offence in respect of the same conduct."

This amendment ensures that where a local authority applies for a banning order against a company that has been convicted of an offence, it must also apply for a banning order against any officer who has been convicted of the same offence (for example, under section 251 of the Housing Act 2004).

The Chair: With this it will be convenient to discuss Government amendments 7, 8, 10, 11, 17 and 18

Mr Jones: Clause 14 explains that before a local housing authority applies to the first-tier tribunal for a banning order, it must give the person against whom it proposes to make the application a notice of intended proceedings.

Mr Thomas: I draw the Committee's attention to the Register of Members' Financial Interests. Why should only a housing authority be able to seek a banning order? Why should not a tenant, for example, make an approach to the relevant tribunal?

Mr Jones: I thank the hon. Gentleman for his question. I will come to that during my comments on these amendments.

Amendment 8 provides that the local housing authority must tell a person how long it will ask the tribunal to make a banning order for. The minimum period is six months but there is no maximum term. This will enable the person to make representations about the length of the order. The authority must take account of such representations before making an application to the tribunal.

Amendment 6 provides that where a local housing authority intends to apply for a banning order against a company, it must also apply for an order against any officer of that company who has been convicted of the same banning order offence as the company. This would prevent such individuals continuing to trade in a personal capacity in activities from which the company is barred. Because the local housing authority is required to apply for an order in those circumstances, amendment 7 provides that no notice of intended proceedings need be given to the officer. However, such notice must be given to the company. Nor does this mean that an order is automatically made against the convicted officer. It is for the tribunal to decide, in all circumstances, whether a banning order ought to be made against the individual.

Amendments 10 and 11 are related to amendment 6. They provide that a banning order can be made against the officer of the company, notwithstanding that the officer was not a residential landlord or property agent when they committed the offence. Amendment 18 closes a potential loophole in clause 21 so as to prevent a company subject to a banning order transferring property to another company where both companies have officers in common. Such a transfer would need approval from the first-tier tribunal. The measure prevents the officers of a banned landlord company from setting up another company to take over ownership of the banned company's portfolio and continue trading under another name.

2.30 pm

Amendment 17 is a technical amendment to remove unnecessary wording. The hon. Member for Harrow West made a good point in asking why an individual cannot make the application in the same way as a local authority can. The reason why local authorities are the only bodies that can apply for a banning order is that they are responsible for enforcing housing standards under the Housing Act 2004. Tenants will be able to make complaints to their local authority and ask them to apply for a banning order where the landlord has relevant convictions. Tenants will also be interested parties before the first-tier tribunal. I will come later to the fact that tenants can also claim for rent repayment orders to recover rent overpaid, as well as rent paid in good faith where the landlord is not keeping that good faith.

Mr Thomas: I do not understand. Why should not the tenant be able to do so as well? I get the logic of saying that the housing authority should have the prime responsibility for doing so, but why should not a tenant who is feeling particularly victimised be able to make their own approach directly? We on Opposition side of the Committee are often accused of being in favour of the big state or the nanny state. I ask the Minister gently whether he is not in danger of being accused of the same thing by not being willing to empower tenants to take their own route to seeking justice.

Mr Jones: The hon. Gentleman must understand that this Government have done an awful lot to pass power into the hands of the individual, but ultimately, in this case, there is an issue of public law protection and of ensuring that rogue landlords are held to account. We feel that the best body to do so is the local authority, which will be able to take on rogue landlords to the benefit of the tenants wronged as a result.

Amendment 6 agreed to.

Amendments made: 7, in clause 14, page 9, line 13, after "order" insert "under subsection (1)"

This amendment removes the need for a notice of intended proceedings in cases where a local housing authority is obliged to apply for a banning order because of amendment 6. It would not make sense to invite a person to make representations in a case where the authority is obliged to make an application.

8, in clause 14, page 9, line 16, after "why," insert—

"( ) stating the length of each proposed ban,"—*(Mr. Marcus Jones.)*

This amendment requires the length of each proposed ban to be stated in the notice of intended proceedings that a local housing authority has to give a person before applying for a banning order.

Teresa Pearce: I beg to move amendment 104, in clause 14, page 9, line 20, at end insert

"and must make all reasonable effort to consult with any affected tenant of the person the authority is intending to proceed against."

This amendment would require local housing authorities to consult directly with any tenants of a landlord or a letting agent when making a banning order.

We want local housing authorities to make reasonable efforts to consult tenants directly, because we understand that there may be times when for some reason they cannot contact affected tenants. We are largely supportive of the measures to tackle rogue landlords in order to ensure safety and security for tenants in the sector and to penalise criminal landlords. In its written evidence, the charity Crisis said of banning orders:

"We believe that these could help drive up standards and protect vulnerable tenants."

For banning orders to work, they must penalise and target the criminal landlords, who bring down the name of the private rented sector and the reputation of all landlords. The Residential Landlords Association said in its written evidence that

"landlords who wilfully breach their legal obligations should face the consequences."

We must not lose sight of the reasons for applying a banning order—to protect existing and prospective tenants from the criminality of rogue landlords. Some tenants may have been on the receiving end of the original offence and will have plenty of information on someone's fitness to remain a landlord. Some tenants will bring the local housing authority's attention to a landlord and will have input through their representations. Tenants should have a voice. Without one, they are just bystanders to the process. As the proposals stand, local authorities do not have to seek the views of tenants.

Mr Stewart Jackson (Peterborough) (Con): What estimate has the hon. Lady made of the indicative costs of the proposal? As she knows, when local authorities proceed properly with selective licensing consultations under the Housing Act 2004, the cost can be prohibitive. In areas such as mine, which has a lot of people who do not speak English as their first language and a lot of transitory people domiciled in the private sector—*[Interruption.]* Will the hon. Member for Harrow West will let me finish? In that situation, the costs were quite substantial. Has the hon. Lady given that some thought?

Teresa Pearce: I have given thought to that, which is why I talked about "reasonable effort". The original amendment said that the local authority "must" consult. It now asks for a "reasonable effort", which is open to interpretation. Of course, there are costs in doing things properly, but we are trying to rid the private rented sector of rogue landlords who commit criminal offences by keeping people in properties that are unfit and unsafe. There is a cost, but the cost of not doing something could be far higher for the local authority.

Are banning orders only a way to punish criminal landlords or are they a way to improve standards in the sector by working with landlords and tenants to drive out rogue landlords? It will be fundamental to the success of banning orders for tenants to be brought in on the process. Not all tenants will want to play a part in the process and that is fine. The aim behind the amendment is for local housing authorities to consult affected tenants, ensuring they have the opportunity to have their say. If tenants have been subject to wrongdoing by a landlord, they will be able to provide further and wider evidence to the local housing authority. The landlord may have been prosecuted for one offence but could have demonstrated a consistent disregard for the tenant's security and safety. That could be factored in by the local housing authority in the first-tier tribunal. It works both ways. The local housing authority and the first-tier tribunal could factor in positives experiences from tenants, although I suspect that those cases will be few and far between. In all cases, it will allow for the local housing authority and the first-tier tribunal to build up a more coherent case for or against a banning order.

I hope the Minister looks favourably on the suggestion because it would make this section of the Bill work better. For those reasons, we are moving that the clause be amended to include a requirement for the local housing authority to consult directly with any tenants of the rogue landlord or letting agent against whom it is hoping to make a banning order.

Mr Thomas: I rise to support the amendment and to add one or two brief thoughts. What would my hon. Friend, who spoke to the amendment in a very consensual style, think about a local authority that has not rushed into taking action against landlords because, for ideological reasons, it does not think it should or because the burden of other legislation in this time of significant cutbacks is too much for it to prioritise taking action against rogue landlords? The amendment would create that additional bit of pressure to ensure that local housing authorities always think of the need to consult tenants on an annual basis about whether rogue landlords are in action and whether the authority should act on that.

Let us take South Norfolk Council as an example. Presumably whenever the hon. Member for South Norfolk sees housing authority staff, he sits down and talks with them at some length about self-build and custom house building. Presumably, given his importance and the esteem in which he is held, it requires a considerable effort by those staff to deal with his inquiries. What my hon. Friend's amendment will do is gently rebalance perhaps the enthusiasm within South Norfolk housing authority to focus on the needs of tenants, as well as dealing with his concerns. As I alluded to, there might be an authority—a Bexley or Bromley, perhaps, in London—that is so pro-landlord that it cannot envisage rogue landlords operating in its space.

Given that the Minister is determined—it seems to me, at least—to adopt the nanny state approach and not allow tenants themselves to go to the first-tier tribunal, my hon. Friend's amendment would at least force local authorities to consider whether there is a need to take action. In that sense, it would be a useful annual prod to get local authorities to do a bit more in this area.

Mr Jackson: The Committee will know that in his previous glittering political career the hon. Member for Harrow West did not get a chance to speak to the House that often, because he was the Opposition spokesman on international development, and he is certainly making up for it today.

We are trying to get a consensus. What we should realise is that good local housing authorities have a good network, and checks and balances, to know who the rogue landlords are. In the normal course of events, they have good relationships and good communication with tenant groups, community groups, local councillors and others, so I am reluctant to support a measure that is not permissive but overly prescriptive. I speak as someone who has a local authority currently going through selective licensing, which is absolutely exhaustive and first class—it is happening under the auspices of Peterborough City Council—and I also represent a seat that has a significant number of rather challenging tenants using the private sector lettings field. Therefore, I see at first hand that good housing enforcement officers are already getting out there, talking to tenants, identifying the rogue landlords and going after them. Making an overly prescriptive amendment to this clause is essentially superfluous and will not add to its effectiveness.

Mr Thomas: I have never associated the hon. Gentleman with the nanny state tendency in his party, so I wonder whether I might divert him from what is an interesting point to suggest that, as well as there being good housing enforcement agents in his own authority, there must surely be tenants who on occasion might have the capacity or the desire to go to the tribunal themselves and seek action against bad landlords. Why does he not support those tenants having the right to do so?

Mr Jackson: Not everyone would agree that I am part of the nanny state, but I am a social conservative rather than a social liberal.

Mr Thomas: What does that mean?

Mr Jackson: It means that there are opportunities, under the Environmental Protection Act 1990, the Housing Act 2004 and now this legislation, for people to go

[Mr Jackson]

through the proper procedures, which will stand up in a court of law or a tribunal, to identify, deal with and ameliorate the issues caused by rogue landlords. To conclude, I have to tell the hon. Gentleman that I do not think the amendment will add anything to the efficacy of the Bill. I support the Government's clause as it stands.

Mr Jones: The Government agree wholeheartedly that the impact on the tenant is a key consideration when it comes to a banning order. Clause 15(3)(d) provides that, in deciding whether to make a banning order, the tribunal must consider

"the likely effect of the banning order on the person and anyone else who may be affected by the order."

Clearly, that would include the tenant.

Clause 20 introduces schedule 3, which provides that a management order may be made in cases where a banning order has been made. That will allow the local authority to take over management of a property and could allow a tenant to continue living in a property while a banning order is in place. The local authority may, for example, wish to use that power in situations where there is a vulnerable tenant whom it does not wish to see displaced. That further protects the tenant in the event of a banning order being made and ensures that they do not suffer for further offences committed by their landlord. It is also worth noting that the tribunal can include exceptions when making a banning order, such as to allow time for a tenant to find alternative accommodation.

2.45 pm

A requirement for consultation with tenants might also lead to tenants being subjected to pressure from an unscrupulous landlord to oppose a banning order. That would not serve the tenant or the interests of justice well. I say to Opposition Members that consultation with the tenant could well lead to significant delays in the process. As I said to the hon. Member for Harrow West, there is no problem with tenants speaking to their local authority and bringing matters of concern to the local authority's attention. Given the protection already afforded in the Bill for the interests of affected tenants, I hope that the hon. Member for Erith and Thamesmead will agree to withdraw the amendment.

Teresa Pearce: I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

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

Mr Jones: Clause 14 explains that before a local housing authority applies to the first-tier tribunal for a banning order, it must give the person against whom it proposes to make the application a notice of intended proceedings. That notice must explain that the authority proposes to make the application and why. It must invite the person to make representations about the proposal and not less than 28 days must be given for doing so. The authority must consider any representations received in deciding whether to proceed with the application. The authority cannot make the application until the notice period has expired and it has considered the representations it has received, if any.

Subsection (5) places a time limit on making an application by providing that the notice of intended proceedings cannot be given any later than six months after the person's conviction for the banning order offence to which the notice relates.

Question put and agreed to.

Clause 14, as amended, accordingly ordered to stand part of the Bill.

Clause 15

MAKING A BANNING ORDER

Amendments made: 9, in clause 15, page 9, line 29, leave out "letting" and insert "property"

See Member's explanatory statement for amendment 2.

Amendment 10, in clause 15, page 9, line 30, at end insert "(but see subsection (2A))"

See Member's explanatory statement for amendment 11.

Amendment 11, in clause 15, page 9, line 32, at end insert—

'(2A) Where an application is made under section 14(1A) against an officer of a body corporate, the First-tier Tribunal may make a banning order against the officer even if the condition in subsection (1)(b) is not met."

This ensures that where a body corporate commits a banning order offence and an officer commits the same offence, an order can be made against the officer even though he or she was not a residential landlord etc at the time the offence was committed (i.e. because it was the company that was the landlord etc). The amendment is related to amendment 6.

Amendment 12, in clause 15, page 9, line 39, leave out "letting" and insert "property"—*(Mr Marcus Jones.)*

See Member's explanatory statement for amendment 2.

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

Mr Jones: Clause 15 sets out the matters that the first-tier tribunal must have regard to in deciding whether to make to make a banning order against a person. Subsection (1) provides that the tribunal may make the order if the person has been convicted of a banning order offence and if the person was a residential landlord or letting agent at the time the offence was committed.

Subsection (2) provides that the tribunal can make the order only if the local authority has served a notice of intended proceedings on that person and considered their representations before making the application under clause 14. If the tribunal is satisfied that the preliminary requirements are met, it must then decide whether to make a banning order and, if so, what order to make. Subsection (3) sets out the matters that the tribunal must consider when reaching those decisions. It must consider the seriousness of the banning order offence of which the person has been convicted, and whether that person has any other convictions for banning order offences. The tribunal must also consider whether the person is, or has been in the past, entered on to the database of rogue landlords and letting agents. Finally, the tribunal must take account of the likely effect that such an order would have on the person who would be subject to it and anybody else who might be affected, such as the tenant.

In addition, where making the order, the tribunal may make exceptions, as I shall explain when we come to the next clause. Under clauses 16 and 20, a local housing authority can make a management order when a banning order is enforced. These measures will ensure that tenancies do not necessarily need to be brought to an end on the making of a banning order. In certain circumstances it may be appropriate for these tenancies to remain in force and to be managed effectively by the local authority.

A banning order is an extremely strong tool and its impact is far-reaching. It can prevent a landlord or letting agent from continuing to trade, and its effect would remove much needed rental stock from the market. On the other hand, it is a necessary tool to combat those rogues who have committed serious offences and who, despite being given a chance to improve, continue to operate and to profit by providing poor quality accommodation and following bad management practices, and who put the health, safety and welfare of their tenants at risk. The Government estimate that around 600 applications for banning orders a year will be made to the first-tier tribunal. It will be for that tribunal to take into account the matters to which I have referred in subsection (3), and to decide from the circumstances of the case whether making the order is appropriate and, if so, what form the banning order should take.

Mr Thomas: I am grateful for the opportunity to come in here. After the touching and moving tribute that the hon. Member for Peterborough paid me, I feel duty-bound to intervene on this clause too. I draw the Minister's specific focus and attention to subsection (2), which is the requirement that the banning order be made on application by a local housing authority only. I do not want to dwell on whether or not a tenant should have been allowed to do that, but perhaps I might ask the Minister to reflect on whether certain organisations other than the planning authority might have been allowed—or might still be allowed—to bring forward an argument to the tribunal for a banning order against a person. In this case a housing advice charity or a major charity such as Shelter would perhaps get access to information about very poor landlords who the local housing authority might not know about.

I am minded in moving this point to draw the Minister's attention to a parallel situation in consumer law. Individual consumers cannot go to court when there is an allegation of price fixing of consumer products, but organisations such as Which? can do so on their behalf. I wonder whether there is a parallel here that the Minister might want to contemplate. Perhaps in a certain, narrow number of cases a designated organisation—clearly one of good repute, with expertise and experience of going to the first-tier tribunal, so that it is not clogged up with poorly thought-through cases—might be able to bring forward an argument on behalf of a group of tenants to make the case for a banning order. Perhaps individual housing authorities might not want to bring a case where a rogue landlord is operating across a series of housing authorities, whereas an organisation with a London-wide remit or a national remit might be more willing to spend the resource to gather evidence to go to the first-tier tribunal.

I absolutely see the argument that the housing authority should have the prime responsibility, but perhaps the Minister could reflect on whether a small number of additional organisations could be designated by the Secretary of State to take forward cases where there is not an obvious fit to an individual authority area and where they clearly have particular expertise.

Mr Jones: I hear what the hon. Gentleman says. The organisations that he refers to are powerful organisations in the sector and are generally listened to by the Government, local authorities and other organisations. These organisations are powerful in their own right and can make representations to local housing authorities in relation to cases that they may come across or wider issues. The organisation that he refers to can also make representations to the first-tier tribunal when it makes its deliberations. There is therefore the opportunity for those organisations to support both their members and the people whose lives they are designed and set up to make better.

Mr Thomas: What the Minister says is absolutely true. I would encourage him to dwell on this and perhaps return to the point on Report. Why will he not allow a Shelter, or the Harrow Law Centre, for example, to bring forward their own argument on occasion? They work with housing authorities on cases that the local authorities bring forward; why can they not initiate action themselves? I am bringing the Minister specifically to the cross-borough point. Why is he not willing to consider Shelter, for example?

Mr Jones: Again, I hear what the hon. Gentleman says. He is bringing me back to the point that we discussed earlier when I set out quite clearly why the Government think that local authorities are the best placed to deal with this issue.

In London there may be numerous issues across different boroughs. We have a situation where those local authorities will be able to access the database of rogue landlords and therefore be able to get the information that goes across borough. It is incumbent on those local authorities not just to work in the best interests of people renting in the private sector in their borough, but to work with adjoining boroughs and pick up on the issues that also affect tenants in the borough in question, because landlords do not just operate on administrative boundaries; they operate on a wider basis. While I hear what the hon. Gentleman says, I think that the Bill is in a good place in this regard.

Question put and agreed to.

Clause 15, as amended, accordingly ordered to stand part of the Bill.

Clause 16

Duration and effect of banning order

Teresa Pearce: I beg to move amendment 112, in clause 16, page 10, line 3, leave out "6" and insert "12"

This amendment would ensure that a banning order lasts at least 12 months.

The Chair: With this it will be convenient to discuss amendment 105, in clause 16, page 10, line 3, at end insert—

"(2A) A landlord or letting agent subject to a banning order must undertake accredited training, as approved by the local housing authority, before they are able to let a property again."

This amendment would equip banned landlords and letting agents with the knowledge and skill to properly manage a property.

Teresa Pearce: We want to amend clause 16 in two ways. First, we want to ensure that a banning order lasts at least 12 months rather than six. Secondly, the amendment seeks to equip banned landlords with the knowledge and skill to go back into the property market once the banning order has expired.

A similar vein runs through both amendments. They are both intended to strengthen banning orders, which is a measure that we support. In their written and oral evidence, many organisations, such as the Residential Landlords Association and Crisis, discussed the need to strengthen banning orders and provide further consequences for landlords who wilfully breach their legal obligations. That is why, with amendment 112, we are seeking to amend clause 16 to ensure that a banning order lasts at least 12 months, rather than six.

3 pm

The amendment would give rogue landlords who are subject to a banning order an extended period away from the sector, which we believe would provide many benefits. First, it would give the rogue landlord a further penalty for their actions. Secondly, alongside the measures suggested in other amendments, it would provide a greater deterrent to such landlords before they engage in criminal activity. Thirdly, it would provide the sector with a longer period without the rogue landlord operating in the sector, which we hope would encourage other landlords to come forward, fill the gap and drive up standards, which is what we all want.

Six months is not a particularly long time; it does not provide enough punishment or deterrent. If the unamended clause stands part of the Bill, rogue and criminal landlords will be back committing other offences, and I fear that the intention of banning orders—to drive up standards in the sector—will not be met. A minimum length of 12 months will provide a greater deterrent and a more appropriate punishment. Will the Minister outline what research was conducted before the six-month minimum was decided? Why is that length of time considered appropriate?

Amendment 105 would equip banned landlords and letting agents with the knowledge and skill to manage a property properly by introducing accredited training, to be approved by the local housing authority. Rogue landlords would be required to undertake such training before their return from a banning order. The amendment would drive up standards by ensuring that those serving a banning order undertake accredited training and by reminding them of their obligations, duties and requirements as landlords. It would hopefully see them return to the sector as good landlords.

Amendment 105 would also provide for a more professional sector. Accredited training could help to set standards to which landlords should keep, and we believe it would drive up standards throughout the sector. Will the Minister outline what work is being done to create a more professional sector and to provide training to landlords? The amendment would also safeguard tenants. What assurances would a tenant or prospective tenant have when letting from a landlord who had previously been convicted of a housing offence and served a banning order? Had such a landlord undergone accredited training, tenants would have more confidence.

We appreciate that local housing need is different in different areas. By giving local housing authorities the discretion to deem what accredited training is suitable, amendment 105 would suit differing housing needs. For those rogue landlords who do not want to do the training and do not want to be good landlords, it would act as a filter to prevent them from returning to the sector. Finally, it would also provide further strengths to local housing authorities and the first-tier tribunal, as they could consider any recurrent failures by landlords who had already undertaken accredited training but were back before local housing authorities for a further banning order.

The amendments would strengthen banning orders so that they provide a greater deterrent to rogue landlords who might commit criminal activity. They would further penalise the few landlords who do undertake criminal activity and safeguard tenants, all while driving up standards in the sector, which is what we all want.

Mr Jones: Amendment 105 would require landlords and letting agents who are subject to a banning order to undertake local authority-approved training before a ban is lifted. This morning, Labour Members talked at length about clauses in the Bill placing new burdens on local authorities, but we will put aside the logistical issues for the moment.

The amendment focuses on the training of landlords and property agents. I am sure that the hon. Member for Erith and Thamesmead knows that a banning order is a serious step. A local authority will not seek a banning order, and the tribunal certainly will not grant one, if the landlord or property agent was simply ill-informed about their responsibilities. An order will be granted only after considering, as set out in clause 15(3),

"the seriousness of the offence of which the person has been convicted"

and any previous convictions for a banning order offence. The problem is not that the landlord is not aware of their responsibilities, but that they have already failed to meet them. I do not believe that accredited training will help with that.

The hon. Lady asked about training. A number of organisations, including the National Landlords Association and the Association of Residential Letting Agents, provide significant training for their members. I looked on the Association of Residential Letting Agents' website earlier and it had clear advice and guidance on how to be a good and responsible landlord.

On amendment 112, clause 16 sets out a minimum term of six months for a banning order. Banning someone from acting as a landlord or property agent is a serious step. It is right that the tribunal have considerable discretion when making a banning order including over the length of the order, so as to take into account all of the relevant circumstances. The amendment would extend that minimum period to 12 months, removing the discretion of the tribunal to make a banning order for a shorter period. This chapter on banning orders seeks to impose stronger penalties on the worst offenders. I have heard the hon. Lady's strength of feeling and I think that is shared by many members of the Committee.

Teresa Pearce: The legislation states a minimum of six months. Is a maximum period envisaged? Would the Minister consider that in certain circumstances it would be right for the court to give a much longer banning period than six months?

Mr Jones: I hear what the hon. Lady says and I hope that she takes my comments on the minimum period in the spirit of consensus intended. I reassure her that we will look at this very carefully on Report. On her point about the maximum time for the banning order, there is no maximum; actually, the ban could be for life. I hope that reassures the hon. Lady and that she is reassured about the minimum period of a banning order. On that basis and in the spirit of the good-natured debate we have had, I hope she will consider withdrawing the amendment.

Teresa Pearce: I am pleased to hear that the banning order is a minimum period and that it could be for life. We will have to examine it as it progresses to the courts to see how effective this is. Clearly we all want the same thing, which is to improve standards and rid the sector of the people who are exploiting tenants and often exploiting housing benefit as well.

To return to amendment 105 about accredited training, the Residential Landlords Association offers accredited training to its members, but the people we are considering here would not be part of that training. They would not be interested in that training; they are just interested in taking the money. So I understand what the Minister says but we are looking at clause 16, about duration and effect of banning order—what we want for the effect of banning order is not just to take people out of the sector for a while but for them to be changed characters if they are to come back. Some training or proof that they have improved their standards would be beneficial. However, given the reassurances from the Minister, I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Teresa Pearce: I beg to move amendment 103, in clause 16, page 10, line 9, at end insert—

"(5) The court may issue a rent repayment order as provided in Chapter 4 of this Part during prosecution of a landlord or letting agent for a banning order offence.

(6) The court may issue a rent repayment order as provided in Chapter 4 once prosecution of a landlord or letting agent for a housing related offence has commenced and before proceedings have concluded."

This amendment would allow the court to issue a rent repayment order whilst prosecution for a banning order or housing related offence is underway.

The amendment would allow the court to issue a rent repayment order at the same time as prosecuting for a banning order or housing related offence. We are no doubt all aware of the pressures on court services in this country and the pressures on time and resource. Accessing court services costs money whether you are a tenant or a local housing authority and court fees and legal representation can be an unnecessary burden.

I hope the Minister will be able to outline what conversations he has had with the Secretary of State for Justice about the further pressures that will be placed on court services. Most banning orders will follow a criminal conviction, and this will provide a perfect opportunity to kill two birds with one stone. During the court procedure it could be appropriate for the court to make a decision on a rent repayment order. The current alternative, as proposed in the Bill, will be for one court case for a criminal conviction and then for the local housing authority to—*[Interruption.]*

The Chair: Order. Mr Thomas, it is a discourtesy to be speaking. Will you calm down? You move amendments, you speak to the debate, you raise questions and you debate a number of issues. Please calm down. I call Teresa Pearce.

Teresa Pearce: Thank you, Sir Alan. The current alternative, as proposed in the Bill, will be for one court case for the criminal conviction and then for the local housing authority to apply for a rent repayment order, requiring a whole new court case. That would lead to greater pressure not only on court time but on the time of local authorities that would have to complete the processes necessary to bring it to court. The court could have the power to provide for a rent repayment order when prosecuting a landlord or letting agent for a banning order offence and a housing-related offence.

In addition, that alternative would put further pressure on tenants, many of whom would be unable to seek redress for a rent repayment order through the financial hurdles they need to cross. In written evidence Crisis and the Housing Law Practitioners Association showed support for amendments that would give judges the power to issue a rent repayment order. Crisis noted the lack of claims made for rent repayment orders elsewhere in the sector and noted:

"Currently very few claims are made for RROs, largely because prosecutions are very low and tenants find it difficult to apply to the First Tier Tribunal to do so. Crisis would be supportive of amendments that would give judges the power to issue a RRO when they prosecute a landlord. This would help reduce costs/burdens to local authorities and tenants, who would have to make a claim to the First Tier Tribunal for a RRO following a successful prosecution."

The Housing Law Practitioners Association suggested in written evidence that, in addition, courts

"should be given power to make a 'banning order on conviction'. Civil restrictions flowing from criminal convictions are now a very common aspect of our law…It would provide a quick and simple route for those 'clear' cases where it is obvious that the landlord/agent should be banned, e.g. a conviction for unlawful eviction, violence against a tenant, fraud against the housing benefit authorities…It will also help to ensure that the residents of any local authority which is reluctant to exercise the new powers (perhaps because of budgetary constraints) receive some protection against rogue landlords".

It is clear to Opposition Members that it would be beneficial for an amendment to allow courts to provide a rent repayment order when prosecuting for a banning order or housing-related offence. For those reasons, we would like the Minister to consider allowing courts to issue a rent repayment order at the same time as they are prosecuting.

Mr Jones: The amendment would insert a subsection that would enable the courts to make a rent repayment order against a landlord or property agent while a prosecution for a banning order offence is under way but prior to conviction.

Giving courts those powers presupposes guilt and undermines the presumption of innocence required for a fair trial. The amendment's proposals also pose logistical challenges, in particular in the involvement of two distinct sentencing bodies. Rent repayment orders are civil sanctions issued by the first-tier tribunal and are issued on application by a local authority or the tenant. Magistrates courts deal with housing offences that are criminal. Since the magistrates courts do not deal with

[Mr Marcus Jones]

civil sanctions against rogue landlords and property agents, the amendment would burden them with a new and unnecessary responsibility. If the magistrates court did not convict, the court would also have wasted its time.

3.15 pm

I would like to respond to a couple of questions the hon. Lady asked. She asked what discussions we had had with the Ministry of Justice about the additional burden on the court system. I reassure her that a justice impact assessment has been completed in that regard, and the policy has been cleared across Government. We have also discussed the Bill with the first-tier tribunal services, and are content that what we are trying to do works.

Mr Thomas: I understand the concern about civil and criminal law and the first-tier tribunal as opposed to the magistrates court, but if a landlord were taken to the magistrates court and convicted of poor practice towards a tenant, why could the magistrates court not refer the case to the first-tier tribunal to consider the rent repayment order? At least in that way, it would achieve the spirit of what the amendment tabled by my hon. Friend the Member for Erith and Thamesmead seeks to tease out.

Mr Jones: I hear what the hon. Gentleman says. In that regard, as he knows, the magistrates court can hear the case. If the court decides that the person who has breached the banning order is guilty, it can impose a criminal sanction against the individual or individuals involved through a fine or, as I mentioned earlier in my comments, a prison sentence. We must draw a distinction between that and a civil penalty that can be applied for in the county court. At that point, as he knows, local authorities can bring the civil action to trial and obtain a rent repayment order.

The hon. Gentleman's point is interesting and requires further consideration. I am thinking through the matter on my feet, but it requires more careful consideration, and I am certainly willing to listen to his comments and take them away from the Committee.

Teresa Pearce: This is more of a probing amendment, so I am happy to withdraw it, but I ask the Minister to keep a close eye on the issue. We do not want the fact that some people find it difficult to access the courts to mean that they do not get the justice that they deserve. For instance, a couple of my local courts are overcrowded with cases at the moment, and people are having to wait a very long time for an inefficient service. I would not want that to get in the way of what we are trying to achieve in the Bill. I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

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

The Chair: With this it will be convenient to consider Government new clause 2—*Revocation or variation of banning orders.*

Mr Jones: Clause 16 provides that a banning order must specify the length of time for which the person is banned from the activity specified in the order. As we discussed earlier, the minimum term is six months. It also provides that the banning order can contain exceptions, which can be time-limited or for the duration of the order. The exceptions may apply in cases, for example, where a landlord needs time to bring existing tenancies to an end, or where a letting agent needs a grace period to wind down its activities.

New clause 2 ensures that in appropriate cases, the person subject to the banning order can have it revoked or varied where the convictions relied on to obtain the banning order have been overturned. The tribunal must revoke the banning order. If some but not all of the convictions have been overturned, or if the convictions have become spent, the tribunal may revoke the order. The tribunal will also be able to vary an order, for example to reduce the length of the banning order or make exceptions to it.

Question put and agreed to.

Clause 16 accordingly ordered to stand part of the Bill.

Clause 17

FINANCIAL PENALTY FOR BREACH OF BANNING ORDER

Amendment made: Amendment 13, in clause 17, page 10, line 13, leave out

"person has breached a banning order"

and insert

"person's conduct amounts to an offence under section (Offence of breach of banning order)".—*(Mr Marcus Jones.)*

This amendment is consequential on NC.

Mr Jones: I beg to move amendment 14, in clause 17, page 10, line 15, leave out

"that applied for the banning order"

and insert

"for the area in which the housing to which the conduct relates is situated"

This amendment changes which local housing authority may impose a financial penalty where a person breaches a banning order. At the moment the authority that originally applied for the banning order is responsible for imposing a penalty; the amendment will make the authority where the breach occurs responsible.

Amendment 14 allows a local housing authority in whose area a person is acting in breach of a banning order to apply for a civil financial penalty against the person. New clause 3 makes the breach of a banning order a criminal offence, so the imposition of a financial penalty is an alternative to prosecution, but the local authority cannot impose a civil penalty unless it is satisfied that the offence is being or has been committed.

A local housing authority cannot impose a civil penalty when the person has been convicted in court of a breach of a banning order or where a prosecution has begun in relation to the same conduct; and the prosecution may not be brought against the person who has had a civil penalty imposed against them in respect of the same conduct. Subject to a right of appeal, the financial penalty that can be imposed for a breach is at the discretion of the local housing authority subject to a maximum of £5,000.

Local housing authorities will be able to retain fines they receive as income. Under subsection (7), the Secretary of State may make regulations specifying how financial penalties recovered under the clause are to be dealt

with. Broadly speaking, we envisage that such sums should be used in connection with the authority's private sector housing functions, but we will discuss the details of how the income is to be applied with key interested bodies before making those regulations.

Schedule 1 sets out the procedures for imposing a financial penalty. The authority must serve a notice of intent on the person whom it intends to charge the penalty to. That notice must be served within six months of the authority having sufficient evidence of the breach, or, in the case of an ongoing breach, within the period of six months from when the breach last occurs.

The notice must specify the amount of penalty the authority proposes to charge, the reason for imposing the penalty, and that there is a right to make representations within 28 days. After the period for making representations has expired, the local housing authority must decide whether to impose the financial penalty and, if so, the amount. If it decides to impose a penalty, the authority must serve a final notice specifying the amount of penalty, the reason for imposing it, how it is to be paid, and by when. The final notice must also provide information about the right to appeal and the consequences of failing to pay. Payment must be made within 28 days of the service of the final notice unless there is an appeal against it.

Paragraph 10 of schedule 1 deals with appeals against a final notice. An appeal is to the first-tier tribunal and can be made against a decision to impose the penalty or against the amount and must be made within 28 days of the service of the final notice. If an appeal is made, the final notice is suspended until the tribunal makes a decision or the appeal is withdrawn. The tribunal may confirm, vary or cancel the final notice. Paragraph 11 provides that if a person fails to pay the penalty, the local authority can recover it through proceedings in the county court.

Finally, clause 17(9) enables the Secretary of State to issue guidance that local housing authorities must have regard to when imposing financial penalties for breaching banning orders.

Amendment 14 agreed to.

Amendments made: 15, in clause 17, page 10, line 17, leave out from "same" to end of line 20 and insert "conduct"

This amendment is consequential on NC3.

Teresa Pearce: I beg to move amendment 101, in clause 17, page 10, line 22, leave out

", but must not be more than £5,000."

This amendment would allow for an unlimited financial penalty for a breach of a banning order.

The Chair: With this it will be convenient to discuss amendment 102, in clause 17, page 10, line 22, leave out "£5,000" and insert "£20,000"

This amendment would increase the financial penalty imposed for breach of a banning order from a maximum of £5,000 to a maximum of £20,000.

Teresa Pearce: Amendments 101 and 102 go together. Clause 17 sets out the financial penalty for breach of a banning order and we are seeking, first, to remove the limit for the breach of a banning order, and, secondly, to change the maximum fine from £5,000 to £20,000. As was said earlier, we support the measures to tackle rogue landlords, to ensure security and safety for tenants and to penalise criminal landlords. We believe that banning orders should help drive up standards and protect tenants, but for banning orders to work they must penalise and target the few criminal landlords who bring down the name of the private rented sector. Those who breach a banning order deserve to be penalised appropriately.

For a criminal landlord, who may have committed a crime such as violently securing entry or harassing their occupiers, to be given a banning order and to breach it and only to face a fine of £5,000 is wrong. It is not in keeping with the spirit of this part of the Bill to tackle such rogue landlords. If a landlord has committed such an offence and gets caught letting a property in breach of that banning order, he will be fined less than he would if he got caught speeding on his way home. If a rogue landlord owns multiple properties, particularly in London, where market rates are obviously much higher, he could raise the funds to pay that fine in just a few weeks, so I believe there is no deterrent. Why was £5,000 thought to be an appropriate maximum financial penalty? By removing the upper limit, the Bill would provide a greater deterrent to those considering breaching banning orders. It would penalise further and recover extra moneys from criminal landlords, which would help drive up standards by ensuring that criminal landlords do not return to the sector.

Secondly, we are proposing to change the maximum to £20,000 from £5,000. That will create a further deterrent to criminal landlords considering breaching a banning order and will penalise those who do. As I said, if a rogue landlord owns multiple properties, particularly in London, where the market rates are high, it would not take very long at all for them to raise the money to pay £5,000. We believe that £20,000 is much more of a deterrent. The figure of £20,000 was drawn from the financial penalty for letting a licensed house in multiple occupation to more than the maximum number permitted. Therefore, we believe that there is a precedent for that level of fine. I would like to hear from the Minister why £5,000 was considered to be appropriate and what his view would be on a higher figure.

Mr Thomas: I support my hon. Friend's amendment and I shall quote a number of examples which have received coverage. They are examples of rogue landlords and how they have been dealt with by the courts.

I draw attention to an article in the Conservative party's newspaper of choice, *The Guardian*. According to that article, figures released last summer through a freedom of information case against the Ministry of Justice reveal that there were just over 2,000 convictions of rogue landlords between 2006 and 2014—that is, nicely, the last four years of a great Government and the first four years of a dismal Government for us to look at. The resulting fines in those 2,000 cases were just £3 million—less than £1,500 per conviction. One of those convicted was a man called Andreas Stavrou Antoniades, a landlord who converted a north London terrace into nine flats. He was given the maximum fine at the time, some £20,000—the equivalent of little more than two month's rent from one property. The article goes on to say that the campaign group Generation Rent has suggested that criminal landlords rake in some £5 billion in rent a year.

[Mr Gareth Thomas]

The Minister has said that there are, in his estimate, some 10,500 rogue landlords. Clearly, if there is consensus on the Committee that we want action against those rogue landlords, we need housing authorities to move quickly. If they are going to take action quickly against rogue landlords, inevitably there will be a desire within housing authorities to know that the sanctions imposed on those landlords have real and significant teeth that will be a real deterrent the often very rich individuals who benefit from very poor behaviour, and get them to change their behaviour.

At the moment, particularly in London, where rents are so expensive, we run the risk of fines just being written off as a business expense. I encourage the Minister to look with favour on my hon. Friend's amendment, to send a much stronger and stiffer signal to stop criminal and other bad behaviour.

3.30 pm

Mr Jones: I hear what the hon. Member for Erith and Thamesmead has said. In the spirit of co-operation, as was the case earlier, I also hear what the hon. Member for Harrow West has said, albeit he said it in a fashion that was not as subtle and conciliatory as that of the hon. Member for Erith and Thamesmead, who is on the Opposition Front Bench.

These amendments would increase the financial penalty for a breach of a banning order, either by making it unlimited or by raising the upper limit to £20,000. It is right that the breach of a banning order carries a strong penalty. This Committee has already considered Government amendments to make the breach of a banning order a criminal offence and, as we discussed earlier, a banning order—if taken to its ultimate conclusion—can end in a ban for life against a rogue landlord. However, these amendments would mean that a breach of a banning order could still result in a civil penalty as an alternative alongside the option of the criminal prosecution, which I mentioned earlier and which we discussed at greater length earlier.

I have certainly heard the strength of feeling from the Opposition Front Bench and from the hon. Member for Harrow West. We are considering this issue carefully. Obviously, we want penalties that are set high enough to ensure that they make a real difference and have the desired effect on rogue landlords. So, we hear the arguments that a limit of £5,000 may not be sufficient, and on the basis that we are willing to look at what the hon. Lady has put forward and consider it on Report, I hope Opposition Members will agree to withdraw the amendment and enable the Government to consider these points further, and the level of the penalty, before the Bill comes back on Report.

Teresa Pearce: Given what the Minister has said—I am taking him at his word—it seems that we may have some agreement here, and given that he seems to have intimated to the Committee that the Government will look at the level of the penalty and perhaps increase it, I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Amendment made: 16, in clause 17, page 10, line 22, at end insert—

"( ) The responsible local housing authority may not impose a financial penalty in respect of any conduct amounting to an offence under section (Offence of breach of banning order) if—

(a) the person has been convicted of an offence under that section in respect of the conduct, or

(b) criminal proceedings for the offence have been instituted against the person in respect of the conduct and the proceedings have not been concluded."

This amendment ensures that a person does not end up with a financial penalty as well as a conviction for the criminal offence created by NC3.—(Mr Marcus Jones.)

Mr Thomas: I beg to move amendment 94, in clause 17, page 10, line 27, leave out subsection (7).

This amendment would ensure local housing authorities would be able to retain any financial penalties recovered under Clause 17.

I hope that the Minister continues to feel in a sufficiently good mood to consider this amendment with enthusiasm. If he wanted to intervene on me very early on and say that it is indeed his intention that local housing authorities will be able to retain any financial penalties recovered under this clause, clearly I would not need to dwell any further on the case for the amendment. As he has stayed firmly in his seat, focusing on his notes, let me make the case a little further. Quite rightly, the Minister alluded to the fact that, as a result of this legislation, it would be incumbent on housing authorities to take action whenever they see a rogue landlord in action and can gather evidence of malpractice. I suggest to him and to the Committee that we have to live in the real world. In a case of declining budgets and cuts, local authorities on occasion have to make tough choices, and it may be that other parts of a housing authority's responsibilities have to take precedent. Although some prosecutions may take place, there may be other prosecutions that might not go ahead, if additional resources are not available.

My amendment seeks to ensure that the resources that are recovered as a result of clause 17 go to the housing authority, so that they can be invested in action against rogue landlords, and so that there can be confidence that we will see progress in getting the Minister's figure of 10,500 rogue landlords down to a better limit, more quickly. It cannot be that any of us would want to have such a large figure of rogue landlords operating, feeling that they can do so willy-nilly and that if they get taken to task by the courts, that will almost be by accident. I think the Minister said that he expected just 600 cases a year as a result of the new legislation. That suggests that it will take us a very long time before we can eliminate the full list of rogue landlords.

I give credit to the Government for wanting to bring forward legislation to deal with the issue, but I gently suggest that we need to make sure that those we are going to vest with legislative power to do more against rogue landlords have the resources available to them, so that they have the means to take action and use these powers. My humble amendment perhaps offers a small glint of light to hard-pressed housing authorities that there will be some additional resource that they might get as a result of their efforts to bring bad landlords to justice, which they can use to reinvest in taking further measures against other rogue landlords.

Mr Jones: The amendment, as drafted, would have the effect of removing the power to make regulations specifying how local authorities are to deal with fines

received under this clause. I have looked at the clause put forward by the hon. Gentleman and I think there is a little confusion. He refers to "fines" within his clause, but I think he may mean civil penalties. That said, local housing authorities will be able to retain the penalties that they receive as income. Under subsection (7) the Secretary of State may make regulations specifying how financial penalties recovered under clause 17 are to be dealt with. Broadly speaking, we envisage that such sums should be used in connection with an authority's private housing sector function, but we will discuss the details of how the income is to be applied with the key interested bodies before we make those regulations.

Teresa Pearce: Is the Minister saying that those penalties would be ring-fenced for the specific purpose of bringing the private rented sector up to a reasonable standard? Is that what he is intimating?

Mr Jones: We are saying that those penalties should go to the local authority. We want to consult with interested bodies, particularly the local authorities, in relation to how we make these regulations and how they work; whether we ring-fence or not and whether the money is put toward the private rented sector housing function of an authority or not.

As I have made clear, our intention is that the money that is recovered should be used. This is the basis on which we shall discuss this with interested parties: it should be used for the private rented sector housing function within the particular authority in question.

Mr Thomas: In the spirit of the Minister's response, I see no reason to press the amendment to a vote. Consultation is a wonderful thing, but I struggle to see why the Minister needs to consult. Why can he not write it clearly into the legislation that the money recovered will go to the local authority? However, I recognise that is the Government's intention and I welcome the clarification. I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

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

Mr Jones: Clause 17 provides that the local housing authority that made the application for a banning order may impose a financial penalty against the person for whom it was made, if that person is in breach of the order. Subject to the right of appeal, the financial penalty that can be imposed for a breach is at the discretion of the local housing authority. As I said previously, that is subject to a maximum of £5,000. However, under subsection (4), if that breach continues for more than six months, a further penalty can be imposed in respect of each additional six-month period. This would mean, for example, that if a landlord had been granted an exception for six months, as referred to in clause 16(4), to bring existing tenancies to an end, but at the end of that period had not done so, the landlord would be subject to the first financial penalty. However, if six months later he had still not brought the tenancy to an end, he would be subject to a second financial penalty.

Under subsection (7) the Secretary of State may make regulations specifying how financial penalties recovered under the clause are to be dealt with, as we discussed in the debate on amendment 94. Broadly speaking, we envisage that such sums should be used in connection with the authority's private sector housing functions.

Question put and agreed to.

Clause 17, as amended, accordingly ordered to stand part of the Bill.

Schedule 1

Financial penalty for breach of banning order

Amendments made: 50, in schedule 1, page 70, line 5, leave out "for breaching a banning order" and insert "under section17"

This amendment is consequential on NC3.

Amendment 51, in schedule 1, page 70, line 10, leave out "person's breach of the banning order" and insert "conduct to which the financial penalty relates"

This amendment is consequential on NC3.

Amendment 52, in schedule 1, page 70, line 11, leave out "in breach of the banning order" and insert "continuing to engage in the conduct"

This amendment is consequential on NC3.

Amendment 53, in schedule 1, page 70, line 11, leave out the second "breach" and insert "conduct"

This amendment is consequential on NC3.

Amendment 54, in schedule 1, page 70, line 13, leave out "breach" and insert "conduct"

This amendment is consequential on NC3.

Amendment 55, in schedule 1, page 70, line 15, leave out "breach" and insert "conduct"—*(Mr Marcus Jones.)*

This amendment is consequential on NC3.

Question proposed, that the schedule, as amended, be the First schedule to the Bill.

Mr Jones: Schedule 1 sets out the procedures for imposing a financial penalty. The authority must serve a notice of intent on the person to whom it intends to charge the penalty, but notice must be served within six months of the authority having sufficient evidence of the breach or, in the case of an ongoing breach, within a period of six months from when the breach last occurred.

The notice must specify the amount of the penalty the authority proposes to charge; the reason for imposing the penalty; and that there is a right to make representations within 28 days. After the period for making representations has expired, the local housing authority must decide whether to impose the financial penalty and, if so, the amount. If it decides to impose the penalty, the authority must serve a final notice specifying the amount of the penalty, the reason for imposing it, how it is to be paid and by when.

3.45 pm

The final notice must also provide information about the right to appeal and the consequences of failing to pay. Payment must be made within 28 days of the service of the final notice unless there is an appeal against it. Paragraph 10 of schedule 1 deals with appeals against the final notice. An appeal is to the first-tier tribunal and can be made against the decision to impose the penalty or against the amount, and must be made within 28 days of the service of final notice. If an

appeal is made, final notice is suspended until the tribunal makes a decision or the appeal is withdrawn. The tribunal may confirm, vary or cancel the final notice. Paragraph 11 provides that if the person fails to pay the penalty, the local authority can recover it through proceedings in the county court.

Finally, clause 17(9) enables the Secretary of State to issue guidance that local housing authorities must have regard to when imposing financial penalties for breaching banning orders.

Question put and agreed to.

Schedule 1, as amended, accordingly agreed to.

Clauses 18 and 19 ordered to stand part of the Bill.

Schedule 2 agreed to.

Clause 20 ordered to stand part of the Bill.

Schedule 3

MANAGEMENT ORDERS FOLLOWING BANNING ORDER

Mr Jones: I beg to move amendment 56, in schedule 3, page 76, line 22, leave out "In".

This is consequential on amendment 58.

The Chair: With this it will be convenient to discuss Government amendments 57 and 58.

Mr Jones: The purpose of clause 21 is to prohibit a landlord who is subject to a banning order from selling, gifting, assigning or leasing residential property to a prohibited person. Subsection (1) therefore provides that no unauthorised transfer to a prohibited person of an interest or an estate in land is permitted. Subsection (3) provides that a transaction is unauthorised unless it has been approved by the first-tier tribunal. Where an unauthorised transfer has taken place, the contract would be void and unenforceable under subsection (2).

Subsections (4) and (5) explain who "prohibited persons" are. They include persons associated with the landlord, such as: a relative; a business partner of the landlord; a person associated with such a partner; or the business partner of a person associated with the landlord. "Prohibited persons" also includes a company of which the landlord or an associated person is an officer, or any other company in which the landlord or an associated person is a shareholder or has a financial interest, or, where a landlord is a body corporate, any body corporate that has an officer in common with the landlord.

As the header of this part of the Bill states, the measure is about "Anti-avoidance". The clause is designed to prevent landlords subject to banning orders from continuing to control or influence the management of a residential property through companies or people with whom they are closely associated, but who are not themselves subject to banning orders. The legislation is not intended to prevent the person from ever being able to transfer property to a prohibited person, but they would need to satisfy the tribunal that the transfer was genuine and that there was no intention to let the property. A parent could therefore gift a house to a son or daughter who intended to occupy the property.

The Chair: What the Minister has said is slightly wrong. We are currently considering amendments 56, 57 and 58 to schedule 3.

Mr Jones: Sir Alan, I apologise to you and to the Committee.

Amendment 58 is concerned with an appeal against the second management order, where a final management order would otherwise run out before the appeal is decided. The amendment provides for the final management order to continue in force until the appeal is decided. Amendments 56 and 57 are related drafting amendments.

It may be helpful if I briefly mention what schedule 3 does. It applies in a modified form the management order provisions in part 4 of the Housing Act 2004 to properties that are subject to a banning order. Although a local authority has the power to make this new type of management order, it is not required to do so and the banned landlord and certain other interested parties, such as a joint owner and mortgagee, can appeal to the first-tier tribunal against an order.

Management orders can be used, for example, to secure that tenants whose landlords have been banned from letting property are protected during the continuance of their contractual tenancies. The orders can secure that vulnerable tenants do not need to be rehoused because their landlord has been barred from being involved in the management of the property. They also ensure that properties need not sit empty because they are subject to a banning order against the legal owner but can continue to be rented out.

There are two types of orders: interim management orders and final management orders. No local housing authority should incur additional costs because it has made a management order. Any surplus income can be retained by the authority and used for purposes that will be specified in the regulations made by the Secretary of State. Broadly speaking, we envisage that such sums should be used in connection with the authority's private sector housing functions, as the Committee has discussed.

Amendment 56 agreed to.

Amendments made: 57, in schedule 3, page 76, line 22, after "orders)" insert "is amended as follows.

'( ) "

This is consequential on amendment 58.

Amendment 58, in schedule 3, page 76, line 29, at end insert—

'( ) In subsection (5), for "and" substitute "to".

( ) After subsection (6) insert—

(6A) If—

(a) the existing order was made under section 113(3A) or (6A), and

(b) the date on which the new order comes into force in relation to the house (or part of it) following the disposal of the appeal is later than the date on which the existing order would cease to have effect apart from this subsection,

the existing order continues in force until that later date."—*(Mr Marcus Jones.)*

This is designed to preserve a final management order in cases where a replacement order has been made but is in the process of being appealed.

Schedule 3, as amended, agreed to.

Clause 21

PROHIBITION ON CERTAIN DISPOSALS

Amendments made: 17, in clause 21, page 11, line 21, leave out "a director, secretary or other" and insert "an"

This amendment leaves out unnecessary words. "Officer" is defined by clause 48 to include directors and secretaries so there is no need to mention them specifically.

Amendment 18, in clause 21, page 11, line 23, at end insert ", or

( ) in a case where the landlord is a body corporate, any body corporate that has an officer in common with the landlord."—*(Mr Marcus Jones.)*

This amendment is designed to ensure that a landlord that is a company cannot transfer property to another company that has an officer in common. "Officer" is given a broad definition by clause 48.

Clause 21, as amended, ordered to stand part of the Bill.

Clause 22

DATABASE OF ROGUE LANDLORDS AND LETTING AGENTS

Amendment made: 19, in clause 22, page 11, line 34, leave out "letting" and insert "property".—*(Mr Marcus Jones.)*

See Member's explanatory statement for amendment 2.

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

Mr Jones: The clause requires the Secretary of State to create and operate a national database of rogue landlords and property agents in England. The purpose of such a database is to enable local housing authorities to identify persons who are banned from being a landlord or from being involved in residential letting agency property management for work. It can also be used to identify other landlords and property agents who have been convicted of a banning order offence but who are not currently subject to a banning order. This will enable local housing authorities to identify rogues operating in their areas so that they can monitor them and target enforcement action against them when necessary. Subsection (2) provides that local housing authorities are responsible for populating and maintaining the database. Subsection (3) requires that, in connection with that, the Secretary of State must ensure that the database can be updated and edited.

Question put and agreed to.

Clause 22, as amended, accordingly ordered to stand part of the Bill.

Clause 23

DUTY TO INCLUDE PERSON WITH BANNING ORDER

Mr Jones: I beg to move amendment 20, in clause 23, page 12, line 5, leave out from "must" to end of line 6 and insert

"make an entry in the database in respect of a person if—

(a) a banning order has been made against the person following an application by the authority, and

(b) no entry was made under section 24, before the banning order was made, on the basis of a conviction for the offence to which the banning order relates."

This amendment ensures that where a person is included in the database of rogue landlords and letting agents under clause 24, there is no conflict with the requirement to make an entry in the database if a banning order is made in respect of the same offence.

The Chair: With this it will be convenient to discuss the following:

Government amendments 21 and 23 to 33.

Government new clause 6—*Removal or variation of entries made under section 24.*

Government new clause 7—*Requests for exercise of powers under section (Removal or variation of entries made under section 24) and appeals.*

Mr Jones: Clause 23 makes it mandatory that a person against whom a banning order has been made must be entered on to the database. It is the duty of the local housing authority that made the successful application for the banning order to make the entry. Amendment 20 clarifies that a person may not be entered on to the database under this clause if they are already on it in relation to the same offence under clause 24. The effect of amendment 21 is to clarify that more than one entry in the database can be made in respect of one person, in order to deal with situations in which a person is entered on to the database for one offence but subsequently commits further offences. Once a person is entered on to the database for the first banning order offence, the details of any subsequent banning order offence can be added to the database.

Amendments 23 and 26 to 33 are consequential on amendment 21. New clause 6 sets up a process whereby a person may in certain circumstances have the entry against them removed from the database or the length of it reduced. A person's entry must be removed if all the convictions for which they are entered on the database are overturned. The entry may be removed if some but not all of the convictions have been overturned, or if the offences have become spent. In those circumstances the local housing authority may also reduce the length of time the entry is to be maintained on the database.

New clause 7 provides that a person whose details have been entered on to the database may apply in writing to the local housing authority that made the entry for it to be removed. The person can also ask for the length of the entry to be reduced. If the local authority decides not to comply with the request in the application, it must notify the applicant in writing of the reasons for its decision and give details of how to appeal. An appeal against the local housing authority's decision not to comply with the request goes to the first-tier tribunal, and the applicant has 21 days from receiving the decision notice to appeal, unless the tribunal exercises its discretion to allow a late appeal. The tribunal may order the local housing authority to remove or reduce the length of the period of the entry.

Amendment 20 agreed to.

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

Mr Jones: The clause makes it mandatory that a person against whom a banning order has been made must be entered on to the database. It is the duty of the

[Mr Marcus Jones]

local housing authority that made the successful application for the banning order to make the entry. The entry must be maintained for the duration of the ban and must be removed when the person ceases to be banned.

Question put and agreed to.

Clause 23, as amended, accordingly ordered to stand part of the Bill.

Clause 24

POWER TO INCLUDE PERSON CONVICTED OF BANNING ORDER OFFENCE

Amendments made: 21, in clause 24, page 12, line 10, leave out

"enter a person in the database"

and insert

"make an entry in the database in respect of a person".

This amendment clarifies the drafting to ensure that it is possible to make more than one entry in the database in respect of the same person. This might occur if a person is convicted of a new banning order offence after he or she has been included in the database in respect of an earlier banning order offence. A person may have several concurrent entries although for anyone searching the database they may in practice be displayed as a single entry.

Amendment 22, in clause 24, page 12, line 13, leave out "letting" and insert "property".

See Member's explanatory statement for amendment 2.

Amendment 23, in clause 24, page 12, line 14, leave out

"a person may be entered"

and insert

"an entry may be made".

This amendment is consequential on amendment 21.

Amendment 24, in clause 24, page 12, line 18, after "made" insert

"(or that period as reduced in accordance with section (Removal or variation of entries made under section 24)"

This is consequential on NC6.

Amendment 25, in clause 24, page 12, line 19, at end insert—

'( ) Subsection (3)(a) does not prevent an entry being removed early in accordance under section (Removal or variation of entries made under section 24)".

This is consequential on NC6.

Amendment 26, in clause 24, page 12, line 22, leave out "include a person" and insert "make an entry" —*(Mr Marcus Jones.)*

This amendment is consequential on amendment 21.

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

Mr Jones: The clause enables a local housing authority to make an entry in the database in respect of a person who has been convicted of a banning order offence, but only if the person was a residential landlord or property agent at the time the offence was committed. The proviso is to ensure that a person who is convicted of an offence that is in its nature a banning order offence but who was not acting as a landlord or property agent when the offence was committed cannot be placed on the database. The entry in the database must be for a fixed term and must be removed after that term has expired.

4 pm

Subsection (4) provides that the Secretary of State must issue guidance to local housing authorities setting out the criteria to which they must have regard when deciding whether to make a database entry in relation to a person and when deciding the term of such an entry. For example, such guidance may cover topics such as the nature of the offence, mitigation, culpability and serial offending. I commend the clause to the Committee.

Question put and agreed to.

Clause 24, as amended, accordingly ordered to stand part of the Bill.

Clause 25

PROCEDURE FOR INCLUSION UNDER SECTION 24

Amendments made: 27, in clause 25, page 12, line 25, leave out

"enter a person in the database"

and insert

"make an entry in the database in respect of a person".

This amendment is consequential on amendment 21.

Amendment 28, in clause 25, page 12, line 28, leave out "include the person" and insert "make the entry".

This amendment is consequential on amendment 21.

Amendment 29, in clause 25, page 12, line 36, leave out "entering the person" and insert "making the entry".

This amendment is consequential on amendment 21.

Amendment 30, in clause 25, page 12, line 39, leave out "enter the person" and insert "make the entry".—*(Mr Marcus Jones.)*

This amendment is consequential on amendment 21.

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

Mr Jones: The clause sets out the procedure that a local housing authority must follow before it can make an entry on the database in respect of a person under its powers to do so in clause 24. The authority must give a person whose details are proposed to be entered on the database notice of that decision, which must state the period for which it is intended that the details will be held on it. In accordance with subsection (2)(b), that cannot be less than two years.

The notice period must not be less than 21 days from when the decision notice is given. Only after that period has expired can a local authority make an entry on the database, provided that no appeal is brought against the decision. The notice itself must explain that the person has the right to appeal. If an appeal is made before the end of the notice period, the local housing authority cannot make the entry until the appeal has been decided or withdrawn.

Subsection (6) provides that no notice to make an entry on the database in respect of a person can be given later than six months after the person's conviction for the banning order offence to which the notice relates. I commend the clause to the Committee.

Question put and agreed to.

Clause 25, as amended, accordingly ordered to stand part of the Bill.

Clause 26

APPEALS

Amendment made: 31, in clause 26, page 13, line 7, leave out

"include the person in the database"

and insert

"make the entry in the database in respect of the person".—*(Mr Marcus Jones.)*

This amendment is consequential on amendment 21.

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

Mr Jones: The clause is concerned with a person's right to appeal against the local housing authority's decision to make an entry in the database in respect of the person or in relation to the length of time for which the entry is to be maintained. Any such appeal must be brought before the end of the notice period in the decision notice in clause 25(2). However, under clause 26(3), the first-tier tribunal may allow longer to appeal if it is satisfied that there is a good reason for the delay.

Subsection (4) provides that a tribunal may confirm, vary or cancel the decision notice regarding entering the person on the database. If it decides to vary the decision notice, that variation will be to the length of time of the inclusion of the person on the database. I commend the clause to the Committee.

Question put and agreed to.

Clause 26, as amended, accordingly ordered to stand part of the Bill.

Clauses 27 and 28 ordered to stand part of the Bill.

The Chair: Order. A Division is taking place in the House. Members will want to go and vote, so I will suspend the Committee. I would like the break to be for 20 minutes rather than the usual 15, because I want the Opposition and Government Whips to come back in 15 minutes, and for the Front Benchers to stand by in case they are needed to liaise. I hope that is agreeable.

4.5 pm

Committee suspended for a Division in the House.

4.28 pm

On resuming—

Clause 29

POWER TO REQUIRE INFORMATION

Amendments made: 32, in clause 29, page 13, line 36, leave out "enter the person in the database" and insert "make an entry in the database in respect of the person"

This amendment is consequential on amendment 21.

Amendment 33, in clause 29, page 13, line 37, leave out "enters a person in the database, or that is proposing to enter a person" and insert "makes an entry in the database in respect of a person, or that is proposing to make an entry in respect of a person"

This amendment is consequential on amendment 21.—(Mr Marcus Jones.)

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

Mr Jones: The clause provides that a local housing authority can ask a person to provide certain information in order to decide whether to make an entry in the database in respect of that person. That information may include details of previous convictions for banning order offences committed by that person, or any banning orders that have previously been made against the person.

The clause also provides that the authority can ask for information to make and keep the entry up to date. That may include details of the properties owned, managed and let by the person, subject to the entry, and requiring information to be provided about matters such as changes of address of the person entered on to the database, their trading name or their portfolio of properties.

Mr Thomas: I welcome the clause but wonder whether it goes far enough. For example, will the power to require information to be provided for the purpose of entering somebody on the database be extended to HMRC—is it already having to provide information to make a judgment? Where a housing authority is not sure whether someone else is part of an organisation that is acting as a rogue landlord, will it be able to be subject to the same power to require information as someone who is clearly the main focus for this particular power? Will it just have to be directed at one person, or can other people be covered by it; and are a series of other public bodies going to be covered by the power to require information as well?

4.30 pm

Mr Jones: I thank the hon. Gentleman for his questions. Before I conclude my remarks on clause 29, I will respond to them.

Subsections (3) to (5) provide that it is an offence not to comply with a request for information or to provide false or misleading information in respect of such a request. If convicted of an offence, the person is liable to be fined. The hon. Gentleman has tried to broaden this out a number of times—earlier he asked for other organisations to have involvement in this process. As I said earlier, however, this is a power for local authorities only. It is not a matter for the tax authorities and therefore HMRC would not have the information.

Mr Thomas: I understand the Minister's point. If the housing authority has suspicions that an individual may be a rogue landlord, they might be able to make a better judgment about where a person's income is coming from, how extensive their assets are, and so on if they could access information from HMRC. Under this clause, could the planning authority make a request of HMRC and expect HMRC to have to respond to provide that information?

Mr Jones: As I said before, the power that the hon. Gentleman refers to is only vested in local authorities; but I am aware that housing authorities can speak to organisations such as HMRC and request information, if that information enables them to further a case that they may have against a person, persons or company.

Grahame M. Morris (Easington) (Lab): Will the Minister clarify whether it is the Government's intention to make this information on the database available only to local authorities, or will it be available to members of the public, too?

Mr Jones: Let me put it this way: the actual banning orders made by the lower tier tribunal will be public information, but because of data protection laws, the register of rogue landlords will only be available to local authorities on the nationwide database that I mentioned earlier. The information will also be available to the Secretary of State, but that will only be available for statistical and research purposes. The Committee will be covering this matter in more detail when we discuss a later amendment.

Mr Thomas: I am grateful to have the opportunity to speak on the stand part debate. I would not want to give the impression, Sir Alan, to you or to Conservative Members, that I oppose the clause. I think it is a worthwhile additional power. It prompts the question, though, whether housing authorities will be able to have enough access to potential sources of information about possible rogue landlords. I used the example of HMRC, but perhaps the example of the banks might be an appropriate one to offer up. The potential rogue landlord must have a bank account somewhere, so could Harrow council, wanting to exercise its powers here to crack down on any rogue landlords operating in Harrow, use this clause to go to HSBC or Lloyds Bank and say, "We have real concerns about individual X being a rogue landlord, but we need to check out what their level of income is and where that income appears to be coming from. Could you provide the following information to us?" I would have thought that that is a reasonable request from a housing authority wanting to get a grip on these 10,500 rogue landlords the Minister spoke about, some of whom, presumably, must be in each of our local authority areas. If we are really going to crack down on this and take it seriously, as I know the Minister wants to do, we have to make sure that housing authorities have all the powers they need.

If the clause does not cover the potential for a housing authority to make a reasonable request and expect that body to provide information back, the Minister might want to reflect before Report on whether the scope of the clause needs to be broadened. I think of constituents of mine who have got in touch with HMRC and have struggled to get a coherent answer back. Of course, the local housing authority can put in a request now, without any additional powers, but there is no guarantee that HMRC would reply in good time for that housing authority to make a judgment as to whether a rogue landlord is operating in their vicinity. I ask the Minister to reflect. We would expect a rogue landlord to have had some dealings with HMRC. We would certainly expect a rogue landlord to have bank accounts or to have had some history of dealing with the big banks. Why should the housing authority not be able to engage with those bodies and expect sensible, serious answers to their requests for help about named individuals?

Mr Jones: I thank the hon. Gentleman for his remarks. I do not think it is an unreasonable request that I consider his comments, particularly in relation to data sharing and HMRC. However, much of the data sharing and much of the evidence he talks about would, of course, have been obtained and presented to the first-tier tribunal when the original banning order was made. Obviously, this register is to convey that information, but I will certainly reflect on what the hon. Gentleman says before Report.

Question put and agreed to.

Clause 29, as amended, accordingly ordered to stand part of the Bill.

Clause 30

Access to database

Stephen Hammond (Wimbledon) (Con)**:** I beg to move amendment 79, in clause 30, page 14, line 8, after "England", insert "and the Greater London Authority"

The amendment will allow the Mayor of London access to the database to inform and strengthen the Mayor's London Rental Standard.

The Chair: With this it will be convenient to discuss the following:

Amendment 80, in clause 31, page 14, line 22, at end insert—

'(3) The Greater London Authority may use information in the database for statistical or research purposes."

See explanatory statement for amendment 79.

Government new clause 5—*Power to require information.*

Stephen Hammond: I shall not detain the Committee long, but these are significant and helpful amendments for the Mayor of London, in particular, and the Greater London Authority. I listened carefully to the Minister's response to the hon. Member for Harrow West when he said that the proposals were very much for local authorities to have access to the database. These two amendments work together. I take his point that the powers are for local authorities, but I hope he will accept that in London the Greater London Authority has a strategic role, if not a direct role, in housing, in assessing the overall housing demand, and in planning. It obviously generates some of the housing supply in London, so I hope that he will consider that there is a strategic role, but more importantly, access to the database would allow the Mayor's London rental standard to be better informed.

These two small amendments seek to do two things: to put on to the face of the Bill that the Greater London Authority should have access to the database, and to limit its powers regarding the use of that information to exactly those of the Secretary of State, which are to use it for statistical or research purposes.

Mr Thomas: Not that it will affect how I decided to vote on this issue, but it would be illuminating to discover whether the Mayor of London and his housing adviser support these two amendments.

Stephen Hammond: I have had various discussions about a number of amendments with the Mayor and his housing adviser, and they have indicated that they would

regard these amendments as perhaps not essential but helpful, purely on the basis of better informing the London rental standard.

Mr Thomas: I rise to speak in support of the hon. Gentleman. I hesitate to destroy his career by doing so, but if it offers him any help, I will now champion his future career, so that his Whips are hopefully unable to spread doom and gloom about it.

This point about the London rental standard is important, because, good thing though it is, it does not seem to be having a huge impact. The brutal truth is that the Mayor had hoped to have 100,000 landlords registered by the end of next year. At the end of last year, as I understand it, about 15,000 were registered, at best. That does not suggest that the Mayor is on course to succeed in his aim of having 100,000 landlords or letting agents signed up, which, given the scale of the housing crisis and the importance of the private rented sector in London, is a real concern.

It is worth pointing out some statistics from Shelter, which reports that 25% of Londoners rent privately and that figure is expected to rise by 2020, when the next Labour Government will be elected, to one in three, which is all the more reason urgently to seek to drive up standards in the private rented sector. Although clause 30 is merely about access to a database, I encourage the Minister, when reflecting on the debate we have just had on clause 29, to ask his officials and organisations such as Shelter whether there might be merit in requiring other statutory bodies to support the database and to provide information to it.

4.45 pm

That could be particularly important in London, which has seen some of the worst cases of rogue landlords and prosecutions. There are the examples of Andreas Stavrou Antoniades, a landlord who operated in north London, and Andrew Panayi, who let out 180 properties mostly on Caledonian Road nears King's Cross. Earlier this year, he pleaded guilty to renting out an unlicensed basement despite an earlier council ruling that it was unsatisfactory and a substandard unit of accommodation with inadequate light and outlook and a poor living environment. He is an example of the worst landlords in London. He is an example, too, of why faster progress on the London rental standard is needed and why the amendments proposed by the hon. Member for Wimbledon are useful, if modest, additions to the Bill. I would strongly encourage the Minister to support them. Unless he has a very powerful explanation on why they should not be incorporated in the Bill, I would be extremely tempted to show solidarity with my near neighbour down in Wimbledon and push this to a Division. Us London MPs need to stand together against the full bullying might of the Executive. The Minister has, throughout the course of today, generally been far more reasonable than his ministerial colleague. I do not know what is wrong with the Minister of State—whether he woke up grumpy or is just naturally of this disposition—but the current Minister has been much more considerate. I urge him again to be considerate and welcoming of the suggestions from the hon. Member for Wimbledon.

Mr Bacon: I wondered whether the hon. Gentleman intends to table his own amendments to deal with these exploitative vermin, who really need much stronger measures against them.

Mr Thomas: I might do that on Report, now that the hon. Gentleman has encouraged me. However, hopefully in the interventions that I have made, I might have encouraged the more reasonable of the two Ministers to fight the fight within the Department and strengthen the teeth that are available to housing authorities to fight this problem. I do not know whether the hon. Member for South Norfolk, when he meets housing officials in South Norfolk Council, talks about these issues. I know that he talks to them a lot about self-build and custom build—that is excellent news—but does he go into detail about the powers that they will have under the Bill in other areas? I hope that he does, and if he has not up till now, I hope that he will in future.

I apologise to you, Sir Alan, as I think I have been led astray by the hon. Member. We are, after all, talking about London and whether the London rental standard might benefit from the amendments moved by the hon. Member for Wimbledon. I simply urge the Minister to embrace with enthusiasm the concerns expressed by colleagues on the Conservative Benches about the database.

The Chair: I remind Members that the amendments are in the name of Mr Hammond.

Mr Jones: I thank my hon. Friend for Wimbledon for the amendment and for his comments. In my years in this House, I never thought it likely that my hon. Friend the Member for Wimbledon could be a comrade of the hon. Member for Harrow West, but the hon. Member seems to think that they may be compatible. I am sure my hon. Friend has his own views on that point.

Mr Thomas: Will the Minister give way on that point?

Mr Jones: Let me make some progress. Amendment 79 would allow the Greater London Authority access to the database on rogue landlords. We would be happy to grant the GLA access to the data for statistical and research purposes, however we would need to ensure that access was on an anonymised basis given that the database contains information about the relevant offences of which persons have been convicted, as well as details of properties owned. The data fall within the definition of "sensitive personal data" as set out in the Data Protection Act 1998 and may only be shared with organisations where strictly necessary and where at least one of the conditions set out in schedules 2 and 3 to the Act is met.

I would like to reassure my hon. Friend—and taking into account the comments made by the hon. Member for Harrow West—that we are taking on board the points that have been made today. We will give the matter further thought and I hope on that basis my hon. Friend will withdraw the amendment.

Mr Thomas: I am grateful for the opportunity to speak again. I do not understand why the Mayor of London should be such a controversial figure for the

[Mr Gareth Thomas]

Minister not to want to share information. I appreciate there needs to be a bit of thought, and I appreciate that the Minister of State has been a bit grumpy today and that may be precluding the Parliamentary Under-Secretary's room for manoeuvre. However, I hope the hon. Member for Wimbledon will be sufficiently robust in his attitude to the Minister's answer to fight the cause for London and say that we need to make a decision now to strengthen the London rental stake.

Stephen Hammond: I think the hon. Member for Harrow West and I must have heard a different answer from my hon. Friend the Minister. I heard him say that if I could work with his officials to ensure that access to the database would be on an anonymised basis, he would bring forward on Report broadly the amendments I am proposing, but with the caveat that he wants anonymisation of the database. That would fulfil the mayor's purpose, because the mayor wants access to the data for statistical and research purposes.

I am pleased to hear that the Minister has accepted the concept of the amendments. I am sure that he and I will be able to work together to bring forward some wording on Report—I am afraid I heard a slightly different conversation from the hon. Member for Harrow West. On that basis, given the Minister's warm welcome for the concept and his warm words of reassurance, I beg leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Teresa Pearce: I beg to move amendment 106, in clause 30, page 14, line 9, at end insert—

'(2) Tenants and prospective tenants may establish whether an individual is listed on the database through their local housing authority."

This amendment gives tenants and prospective tenants the ability to check with their local housing authority whether their current or prospective landlord or letting agent is listed.

We seek to amend clause 30 to give tenants and prospective tenants the ability to check with the local housing authority whether their current or prospective landlord or letting agent is listed on the database of rogue landlords or letting agents. We believe this simple amendment will fundamentally strengthen the measures in the Bill to tackle rogue landlords and will help to safeguard tenants from criminal landlords.

The amendment would allow tenants and prospective tenants to protect themselves from the select few landlords who breach their obligations towards tenants. At present, there is no scope in the proposals for tenants or prospective tenants to establish whether their landlord is on the database. There is no protection for tenants and no way for them to identify whether the landlord is subject to a banning order or not. The amendment seeks to enable tenants and prospective tenants to make an inquiry with their local housing authority, which could be answered with a simple no. If it were established that the landlord was indeed on the database, the local authority would be aware that a criminal landlord was operating in breach of their banning order.

Grahame M. Morris: That is a very important principle. Is there not an inconsistency in the Government's approach? For example, they publish lists of employers who pay below the minimum wage—naming and shaming them—and Ofsted reports on school performance. That information is available. Is not the problem of rogue landlords in many ways a more serious matter and should the information not be more widely available?

Teresa Pearce: I agree that the more open and transparent the database is, the better it can ensure that standards are upheld. However, I have been contacted by a number of people who wish to see the database placed online, where it can be accessible to the public. Although I understand that and support their motives, a fully open database could lead to confusion. There could be landlords with similar names, they could be wrongly targeted or avoided by tenants, and any landlords who wish to reform following a conviction may be unable to find business. We are asking not for a fully open database, but tenants should be able to approach the local authority and ask whether someone they are about to rent a property from is on that database. The answer could be a no or a yes, in which case the local authority would know that that person was breaching their banning order.

A measure such as this has been met with support in the written evidence. Crisis noted its support for amendments that would allow local authorities to "share information", which it believed would strengthen enforcement work. It noted the difficulty in targeting rogue landlords who move their business from one area to another. By allowing for a check, the database would become a greater deterrent. What deterrent is there for rogue landlords to be listed on a hidden database? They could take advantage of tenants, who would have no idea whether they had previously been convicted of a housing offence and no way of checking. With such checks, the database will provide for greater punishment of rogue landlords who engage in criminal activity, as they will know that that will be recorded and potentially made available to the public. At present, only local housing authorities can make those checks.

With such a check, standards will increase, as rogue and criminal landlords, following conviction of a housing offence, will be less likely to return to the sector and, even if they do, they will be found out faster. Tenants will therefore have greater power against rogue landlords and, with the local housing authority, will be able to root out the worst offenders. The database will also be of greater use to local housing authorities in enforcement work.

Grahame M. Morris: It is a pleasure to serve under your chairmanship, Sir Alan. I rise in support of my hon. Friend. We welcome the creation of a database of rogue landlords that will allow local authorities to share information, but will the Minister clarify why it will not be more broadly accessible? As my hon. Friend said, the Opposition do not believe that the database should be freely available, but a prospective tenant should be able to check whether their potential landlord is a rogue landlord with criminal convictions.

There are precedents and consistency issues to consider. We are used to seeing Ofsted reports, and while concerns were raised about whether they added value, it is now generally accepted that they are a valuable tool for parents and society more broadly. The Care Quality Commission's reports about care homes and GP services are shared not just with their commissioners. Indeed,

these days even hygiene ratings in takeaways and restaurants are available for the public's inspection. All that is available to help the public to make informed choices and question the quality of the services they receive. Therefore, there is certainly merit in allowing prospective tenants to check whether a prospective landlord or letting agent is or has been on the register, because that would help them to make an informed choice and secure decent housing. I hope the Minister will consider that.

My hon. Friend the Member for Harrow West referred to Shelter's report, "Safe and Decent Homes", and that organisation gave evidence to the Committee. This is a huge problem. The hon. Member for Peterborough said that only a relatively small number of landlords are rogue and criminal in their conduct.

Mr Thomas: I do not want to be seen as in any way chastising my hon. Friend, but while the hon. Member for Peterborough was indeed right to say that, proportionately, a relatively small number of landlords are rogue, the Minister alluded to a figure of, potentially, 10,500. That is by no definition a small number and suggests that there is a serious problem, although it nevertheless involves a small percentage of landlords.

5 pm

Grahame M. Morris: I thank my hon. Friend for that intervention. I would not wish to argue with him, but the scale of the problem is considerable.

May I remind the Committee of Shelter's written evidence, which indicates the scale of the problem? A third of privately rented homes do not meet the Government's own decent homes standards and almost a fifth contain a hazard posing a serious danger to the health and safety of renters. More than six in 10 renters—61%—have experienced at least one of the following problems in their homes over the previous 12 months: damp and mould, which are hazardous to health; leaking roofs and windows; electrical hazards, which are dangerous for any renter, but in particular young children or elderly people; animal and insect infestations; and gas leaks.

The introduction of banning orders for rogue landlords is therefore important, and we should not underplay that importance. Having gone to the trouble of identifying them and their unsuitability, surely the next step is to make the information available and to ensure access to it for prospective tenants and not only local authorities, although I accept that it is possible to introduce some safeguards. Sharing the information would help to drive up standards and would benefit the majority of decent private landlords by helping them to maintain their properties. Those decent landlords need never appear on the database.

The provisions are of great importance to my constituents. I elicited no response from the Minister, but earlier I mentioned the problems we are having in east Durham in the village of Horden. Housing provider Accent recently withdrew from my constituency, and warnings were issued about the consequences at the time. Partially as a result of years of underinvestment, Accent began a process of leaving its properties empty as tenants left. We now have multiple properties, even entire streets—colliery rows such as you might be familiar with from your own area, Sir Alan—that are empty and boarded up, which itself generates huge problems. The worst fears of the community, which I raised in parliamentary questions and in a Westminster Hall debate, were of a fire sale and an influx of absentee private landlords. That is precisely what happened.

I am concerned that unless we take stronger measures and put something in the Bill, the problem that we have seen manifest in Horden in my constituency will spread to other villages, such as Blackhall, Easington Colliery and Dawdon, with similar numbers of former colliery housing. We have an opportunity to address that problem. My community put in its best efforts to establish a housing co-op—an initiative, which I support, advocated with great vigour and enthusiasm by the hon. Member for South Norfolk—but we have seen a lack of any meaningful activity, funding and support by the Homes and Communities Agency, although to be fair the Minister facilitated a meeting.

Subsequently, the properties were auctioned off on the open market and the worst fears of the community were realised. I was hoping that the Bill would offer some comfort and protection from rogue landlords to future tenants and to communities such as the one in Horden. Will the Minister go further and support the amendment of my hon. Friend the Member for Erith and Thamesmead? Even if not directly, it would allow the public access to the database, in effect naming and shaming bad landlords—in my case absentee ones—in a way that is similar to the practice for businesses that flout the minimum wage regulations.

Dr Blackman-Woods: I, too, strongly support the amendment that my hon. Friends the Members for Erith and Thamesmead and for Easington have spoken to. I want to ask the Minister some additional questions. I find it very curious that the Government have not sought to give our constituents access to the database so that they do not run the risk of taking a tenancy offered by a rogue landlord.

The Government have put forward a helpful measure. It is not the only measure needed to regulate the private rented sector, but at least it is something. Some effort will be made to create a database of rogue landlords, and that will be welcome. However, it is extraordinary that the only people with access to the database will be the local authority, because the local authority will not be the one taking on tenancies

Mr Thomas: Is the Government's approach not indicative of the Conservative party's nanny state tendency? Nanny knows best, so tenants should not have access to the information, but the housing authority should. It seems a classic example of the worst form of the nanny state in action.

Dr Blackman-Woods: I agree: it is a breakdown in the desire to provide people with the information they need to decide whether they are being offered a tenancy from a bona fide source. The only justification that Ministers have given is, "We cannot open this up for public scrutiny because it will breach our data protection laws," but that is not good enough. I want to know how it would breach the Data Protection Act 1998 and why the Government have not thought of ways to get round that and give our constituents access to information that is necessary to them.

[Dr Blackman-Woods]

I will give another example from my constituency to point out the limitations of clause 30. Durham County Council might carry out an investigation and decide to put a landlord in West Rainton on to the database of rogue landlords, perhaps while working up a case for a banning order. Meanwhile, the said rogue landlord could cross the road from West Rainton into East Rainton, moving from the Durham County Council area to the Sunderland City Council area. Without giving tenants an opportunity to ask Sunderland whether the landlord was on the database, it might never check. It might not be aware that Durham County Council was about to put out a banning order.

In the mean time, my constituents would not be protected at all, despite the fact that the information would be available to the local authority, while my hon. Friend the Member for Sunderland Central (Julie Elliott) would not be aware of a lurking constituency problem with a rogue landlord either. Indeed, her constituents could not know there was a problem. That seems to be a major weakness of clause 30, which is why the amendment is so important.

Mr Thomas: Would not another benefit of the amendment be that Members of Parliament and their researchers and caseworkers would be able to access the information? I suspect that all members of the Committee—certainly Opposition Members—hold regular surgeries and have large numbers of people coming to them who are concerned about the private rented sector. If our staff could access information on the database, Members might be able to provide even better advice to constituents on whether to approach a housing authority to take action against a landlord or to have a direct conversation with a landlord about how a problem with a property might be sorted out.

Dr Blackman-Woods: My hon. Friend makes an excellent point. When the Minister responds, will he explain to the Committee how making this information available to Members of Parliament would be a breach of data protection, especially if we used that information very carefully and limited its use to advising potential tenants that they might be about to take on board a tenancy provided by a rogue landlord?

What the amendment is asking for—protection for our constituents and for possible tenants—seems to me a really reasonable thing. It would show the public that the Government were serious about addressing the issue of rogue landlords. I am sure that none of us would dream of accusing the Government of not being reasonable in trying to do something about the significant problem of rogue landlords, but this clause perhaps suggests that the public are not being given all the information they could have.

Without a better rationale than the one we have heard, Opposition Members will have to think carefully about whether we will agree to clause 30 standing part of the Bill. It is interesting that protecting tenants or future tenants is not on the long list in clause 31 of all the things the information is supposed to do. That is extraordinary. Why would that be left off the list of uses of information in the database? On that basis, we need to hear more from the Minister.

Mr Thomas: Were the Government not to accept the amendment, is there not a further potential problem, related to freedom of information legislation? Presumably, freedom of information legislation would cover submissions to the relevant official in the housing authority who was drawing up or was responsible for putting information into the database, so a dedicated and disciplined Member of Parliament could put in FOI requests and get access to the information anyway. Why not save us all the trouble and accept the amendment in the first place?

Dr Blackman-Woods: My hon. Friend makes another excellent suggestion. It is interesting that the Government have not thought to exempt that information from the Freedom of Information Act—at least, there is nothing in the Bill that suggests they are thinking of ensuring that information cannot be released about the database through an FOI request. That could lead to an even worse situation than the one we have outlined, where some tenants or advocates working on behalf of tenants get access to the database because they have made freedom of information requests, while other tenants or future tenants find it difficult, if not impossible, to get such access. We seem to be dealing with a situation that is not only extraordinary, but totally unfair as well.

5.15 pm

The Opposition are arguing that the situation can easily be rectified, because all the Government have to do is accept this very straightforward amendment. It would ensure that, in addition to every local authority having access to the information on the database, it would be opened up to public scrutiny with the appropriate caveats attached. If the person eventually did not get a banning order, their name could be removed or an explanation could be given at a later date. However, the current situation does not give sufficient protection to our constituents and possible tenants.

Mr Jackson: I am interested in probing the hon. Lady's argument. Perhaps this is a supposition, but is she saying that if, for instance, housing associations were reclassified by the Office for National Statistics as public bodies, she would therefore support the extension of the Freedom of Information Act 2000 to tenants vis-à-vis housing associations? Is that Labour party policy?

Dr Blackman-Woods: The hon. Gentleman makes an interesting point, as always. We were making a slightly different point, which was that the Government and Ministers do not seem to have made it very clear that the information on the database may not be available through a freedom of information request. Unless that is made absolutely clear, we run the risk of some tenants, future tenants, possible tenants or their advocates getting access to the database, whereas other people who do not go down the route of making a freedom of information request will not have access. To us, that seems to be rather a ridiculous and unfair situation.

We need to hear very clearly from Ministers why access to the database is being restricted to local authorities. What is it specifically in the Data Protection Act that would prevent Members of Parliament or other approved agencies—I am sure we could all come up with list of them—from having access to that information in the

database? What are the reasons? Potential use of that information could be prescribed to a large extent by Ministers. During our consideration of the Bill, the Committee has heard a lot about how much information will be put into regulations. I am sure it would be possible for Ministers to come up with regulations that set out who could have access to the database and in what circumstances, what the information could be used for, how it could be passed on to third parties and what caveats would be attached to it. If the information were to be used only in prescribed circumstances, that would protect the people it concerned under data protection law.

Grahame M. Morris: Does my hon. Friend agree that the hon. Member for Peterborough has launched a bit of a red herring, or perhaps a blue one? A straightforward question deserves a straightforward answer. Is there not a basic principle, supported by the Public Accounts Committee, that we should follow the public pound? When we are talking about housing benefit in particular, is it not right that information about rogue and criminal landlords should be available?

Dr Blackman-Woods: The point my hon. Friend made in that excellent intervention is that the information should be available as quickly as possible in order to give maximum protection to potential tenants. As it stands, the Opposition are not convinced that tenants are being given that maximum protection. Our argument is a reasonable one. I can see how Ministers might be concerned about the Data Protection Act, but it would be possible to address any concerns by prescribing who can access the information, in what circumstances, and what it can be used for, with some caveats. I therefore look forward to hearing the Minister's response to the very specific points we have raised.

Mr Thomas: I am grateful to have caught your eye, Sir Alan. I welcome the intervention by the hon. Member for Peterborough and hope we might hear a little more from him about his concerns about freedom of information and housing associations. In answer to his question, I must confess that I have not yet made my mind up, but I am tempted to say yes when I wake up in the morning and think about the activities of A2Dominion. That organisation is a housing association in my constituency that has been very slow to sort out the problems at Bannister House, where a number of its tenants and leaseholders have been suffering over the past eight years from a consistent pattern of leaks. I have written to the chief executive seeking clarity on the association's intentions but have yet to receive a coherent answer or have the courtesy of a meeting with the relevant decision maker.

If the hon. Gentleman was proposing that, now that housing associations are part of Government for the purposes of ONS stats, freedom of information legislation should apply to them, I would be tempted by that argument. He will, I am sure, be grateful to me for tabling amendment 99, which we will come to later in our considerations. It might provide a useful opportunity to have that discussion and a chance for him to set out his views one way or t'other.

The crucial point of amendment 106 is that if, as I suspect, hon. Members on both sides of the Committee have the capacity, through their experienced staff, to apply under FOI legislation to see which people are covered by the database—albeit it is intended to be used only for research—it would surely be better for the Minister to save housing authorities some time and simply accept the amendment. I could envisage a situation in a year's time, when the Bill has gone through, in which my hon. Friend the Member for Greenwich and Woolwich is approached one Friday in his surgery by a constituent who is worried about the quality of accommodation that he is seeking to access. My hon. Friend might be tempted to put in a freedom of information request to see whether the landlord of that accommodation had in any way come to the notice of the Greenwich housing authority.

Matthew Pennycook (Greenwich and Woolwich) (Lab): My hon. Friend is making a good speech. I hope the Minister will address this point, which has been made by my hon. Friends: barely a month ago the Government made great show of 113 employers. They were named and shamed—the names and addresses of their companies were listed—to highlight the enforcement action the Government were taking in that regard, and to drive behavioural change by frightening off other employers from making the same mistake. All were thoroughly investigated, as rogue landlords will be under the Bill, according to the Minister. Does my hon. Friend agree that we are struggling, and my constituents would struggle, to understand why the Data Protection Act allowed those employers to be named and shamed, but will not allow my constituents to take a look at landlords they should avoid?

Mr Thomas: That was an extremely good intervention and a further powerful point that I hope the Minister will take into account.

I can imagine the hon. Member for Peterborough seeing constituents turn up at his surgery in 2020. The next Labour Government will be introducing new housing legislation. The hon. Member for South Norfolk will have been drafted in on the housing Bill Committee for the new Opposition and he may be tempted to make a speech about self-build and custom house building. I am always excited to hear him speak, but the hon. Member for Peterborough may not be and he may use the opportunity, if he has been approached by a constituent who is worried about their landlord, to put in a request under the freedom of information legislation to see whether that landlord had in some way come to the notice of the housing authority and was therefore included in the database.

Mr Bacon: The hon. Gentleman tempts me to intervene. Under my revolutionary approach, there would not be any of this faffing around the edges. If landlords were misbehaving, the tenants would have the power to take their destiny into their own hands, remove the property from the bad landlord and form a housing co-operative. The hon. Gentleman might like to know that buildforlife.org.uk—the start of the revolution—was launched this afternoon.

Mr Thomas: I am very happy to have been the vehicle for the revelation that the hon. Gentleman has just provided. His intervention reminds me that I have not yet sent to him the membership form for the Co-op

[Mr Gareth Thomas]

party. Perhaps I should also send him a Labour party membership form, although I do not want to fall out of order.

We were discussing whether the hon. Member for Peterborough, during one of the speeches by the hon. Member for South Norfolk, might put in a freedom of information request, and I was about to appeal to the Minister to prevent the hon. Member for Peterborough from being tempted to do so. Allow us to see that information as Members of Parliament. Allow us to help our constituents. I think of the caseworkers in my office. They are extremely experienced and effective. If they are concerned that a rogue landlord is operating in my constituency and there might be a way of teasing out confirmation of that fact through an FOI request to the local planning authority, they would be at me straightaway to suggest that I put that FOI request in. I suspect that that would be the case for all Opposition Members and even, I suspect, for one or two Government Members. I therefore say to the Minister: let us try to avoid that situation by accepting the amendment moved by my hon. Friend the Member for Erith and Thamesmead.

Dr Blackman-Woods: My hon. Friend is making a very powerful point. Does he agree that an extraordinary thing is being asked of local authorities? They would have information on their database about a rogue landlord—someone who might inflict quite a lot of damage on a tenant—yet they would be prevented by the clause passing that information to a potential tenant, even if the potential tenant asked specific questions about the landlord. Surely that cannot be right.

Mr Thomas: As my hon. Friend the Member for Easington said, surely this is, perhaps inadvertently, an opportunity to continue to name and shame rogue landlords who are guilty of poor practice. For prospective tenants who are looking for a new home to move into, looking at a register and being able to judge whether the person who owns the place that they are about to move into is a rogue landlord is a basic defence. The hon. Member for Peterborough, I believe, wanted to hear more about the rogue landlord Andreas Stavrou Antoniades. As I said, he illegally converted a house near Finsbury Park—

Chris Philp (Croydon South) (Con): That is the third time the hon. Gentleman has mentioned that.

5.30 pm

Mr Thomas: The hon. Gentleman is enthusiastically welcoming me drawing the Committee's attention in this context to why it would be relevant to the amendment. I understand that Finsbury Park is near Islington. Why should prospective tenants in Islington not be able to see whether a property they might be moving into is owned by Mr Antoniades? A further example of a rogue landlord is Leonardo Ippolito in Ayr, western Scotland, who was accused by his local council and successfully prosecuted for operating houses of horror, choosing to put profit above everything else. South Ayrshire Council banned him from operating as a landlord.

The next name will be of interest to the Minister of State. At Great Yarmouth magistrates court, Stanley John Rodgers was convicted of manslaughter and jailed for five years after two of his tenants, both teenagers, died from carbon monoxide poisoning. He was able to continue operating as a landlord, but if the Government accept my hon. Friend's amendment, prospective tenants will be able to see whether the property they are moving into might be owned by this rogue landlord and make a judgment on whether to move in.

Zuo Jun He made more than £26,000 a year by squeezing 12 tenants into a flat above a Chinese restaurant in Watford. He was fined £30,000 plus almost £6,000 in costs after pleading guilty to overcrowding. Again, why should his name not be put on the database and, crucially and more importantly in the context of the amendment, why should prospective tenants in Watford not have the opportunity to see this gentleman's name on the database and decide whether to take the risk of moving in?

I am sure the hon. Member for Peterborough will be delighted that I intend to mention Andrew Panayi for a second time. He is a controversial landlord who lets out 180 properties on the Caledonia Road near King's Cross, which is definitely in the Islington area. He was ordered to pay £70,000 under the Proceeds of Crime Act 2002. Again, why should prospective tenants not be able to look at the database that is being established under clauses 30 and 31 and see, as a result of my hon. Friend's amendment, whether they are likely to be moving into a property owned by someone judged to be a rogue landlord?

My hon. Friend's amendment is extremely sensible and I urge the Government to accept it. If Government Members have not got the point, perhaps I should mention one more rogue landlord, or perhaps two. Katia Goremsandu was described as the UK's worst landlord when it emerged in July that she had been convicted seven times for housing offences. Again, why should prospective tenants not have access to the information on the database to see whether they would be at risk of moving into one of her properties?

Last week, according to Reading Borough Council, Ishaq Hussein rented out a house that had no working fire alarm, no fire-fighting equipment or emergency lighting and inadequate fire escapes, placing tenants at risk of serious injury or death. Why should the information it holds on the database not be available to prospective tenants in Reading so that they can see whether there might be a risk of them moving into a property owned by Mr Ishak Hussein? My hon. Friend has tabled a sensible amendment and I urge the Minister to accept it.

Mr Jones: For more than three hours and in debating more than 20 clauses, the Committee has worked in a spirit of consensus, recognising that the Bill will make a significant difference to the 3.2% of people renting out property to tenants in the private rented sector whom we know as rogue landlords. Members on both sides have acknowledged the serious approach the Government have taken in the provisions. It is slightly disappointing that, in the amendment, Opposition Members seem to have cited the most extreme cases that they can find on this very important issue as reasons that the amendment should stand. As I said earlier, in the most extreme circumstances, the person or persons renting out property and being the worst type of rogue landlords will be subject to lifetime banning orders. The instances that Opposition Members mention will not come to pass because many of those people will be banned for life.

In terms of data protection, which I will come to in more depth in a moment, Opposition Members have suggested that the register of rogue landlords should be made available to Members of this House. As all Members know, we are subject to the provisions of the Data Protection Act 1998—passed into law by the Labour party—and on that basis we are not allowed to pass the personal details of our constituents to a local authority without their consent. I find it difficult to understand where they are coming from on that point. Perhaps we need to consider further the point about freedom of information made by the hon. Member for Harrow West. There are exemptions for releasing personal information in the freedom of information regime.

Mr Thomas: Will the Minister give way?

Mr Jones: I will make some progress first. The amendment would allow tenants and prospective tenants to access the database of rogue landlords and agents via their local authority. While this access is mediated by the local authority there are data protection issues which would have to be carefully considered before allowing such access. The database is not a list of banned landlords and agents, instead it is an enforcement tool for local authorities, enabling them to share information across boundaries efficiently and target enforcement activity. The offences that could lead to inclusion on the database vary considerably in their seriousness and in some cases may be spent before the minimum two-year period on the database has ended.

Inclusion on the database should mean that local authorities keep a close eye on a landlord's activities, but it is not intended as a ban, and opening access to the database in that way might prevent a landlord included on the database from operating their landlord business. That would be a ban in practical terms, but without proper scrutiny provided by the tribunal, which will consider all the facts and take a decision on whether to issue a banning order. It is right that banned landlords are unable to operate a landlord business, but it is not right that anyone included on the database should be prevented from operating their business. On that basis, I hope that the hon. Lady will agree to withdraw her amendment.

Mr Thomas *rose—*

Matthew Pennycook *rose—*

Mr Jones: On a point of order, Sir Alan. I did not give way because I had finished my comments.

The Chair: Order. The matter is debated. Mr Pennycook, you can indicate that you want to speak by standing.

Matthew Pennycook: I am happy to leave it.

Mr Thomas: On a point of order, Sir Alan. I was seeking to intervene on the Minister, and it is a courtesy for the Minister to give way to Opposition Members. I hope that through the usual channels, Sir Alan, you might gently remind the Minister of his responsibilities in that respect.

The Chair: As a Minister of long standing, albeit in the Department for International Development and others, the hon. Gentleman will know that that is a matter for the Minister himself, not the Chair. We will move on.

Mr Thomas: On a point of order, Sir Alan. Is this not the opportunity for the shadow Front Bencher to wind up the debate?

The Chair: I am terribly sorry.

Teresa Pearce: Thank you, Sir Alan. The Minister misunderstands what the amendment is meant to do. We are trying to establish a way for tenants and prospective tenants—someone who is about to enter into a legal lease—to check with the local authority whether the person offering the lease is a fit and proper person. Someone could call up their local housing authority and say, "This person has offered me a lease. Are they fit and proper, or are they a banned landlord?" If the answer is no, and the landlord is not on the list, the person could proceed, or remain silent if the landlord is on the list. The only other way of giving individual tenants such protection would be to give some sort of kitemark to all landlords except those who are not fit and proper, which would be onerous.

The amendment is quite simple, but I thought long and hard before tabling it. Many people contacted me to say they wanted a public database, which I think would be a step too far, because there could be misunderstandings if there are people with similar names. That would not be right.

Matthew Pennycook: I appreciate that the Minister did not want to take an intervention, but it is important the Committee gets some clarity on this. What is different in data protection terms about the rogue employers that are named, shamed and listed by the Government? Why can the deviation or derogation from the Data Protection Act in that respect not apply in this respect, to empower tenants?

Teresa Pearce: I completely agree. We should be protecting people from engaging in a legal lease with someone who the local authority knows should not be offering that because they have been banned. We would therefore like to press the amendment to a vote.

Question put, That the amendment be made.

The Committee divided: Ayes 6, Noes 11.

Division No. 3]

AYES

Blackman-Woods, Dr Roberta	Pearce, Teresa
Hayes, Helen	Pennycook, Matthew
Morris, Grahame M.	Thomas, Mr Gareth

NOES

Bacon, Mr Richard	Jones, Mr Marcus
Caulfield, Maria	Kennedy, Seema
Griffiths, Andrew	Lewis, Brandon
Hammond, Stephen	Philp, Chris
Hollinrake, Kevin	Smith, Julian
Jackson, Mr Stewart	

Question accordingly negatived.

5.45 pm

The Chair: Before we proceed to the stand part debate, Dr Roberta Blackman-Woods would like to raise a point of order.

Dr Blackman-Woods: On a point of order, Sir Alan. This is on the programme motion. When we had the meeting of the Programming Sub-Committee, a draft timetable was presented to us in advance of that meeting. It was firmly agreed at that Committee that it was simply advisory and that the Government were not signalling an intention to put knives into the process, and yet we are now being presented with—*[Interruption.]* Sorry, may I continue with my point of order? We are now being presented with a timetable that the Government are insisting that we stick to, regardless of whether that brings about good scrutiny of this legislation or not. I wish to seek clarification from you, Sir Alan, as to what status that document has, because we were led to believe that we were doing one thing, and if the Government are seeking to put knives into the process, they have to be very clear that that is what they are doing.

The Chair: That is not really a matter for the Chair. I can tell the hon. Lady that such a programme agreement, which is entered into by all parties subject to the membership of the Committee, is advisory, because ultimately, how the Committee operates is a matter for the Committee. However, when there is conflict with the rules of laying motions and amendments related to other matters that need to be heard, it gives you the opportunity to make a direct appeal elsewhere, beyond this Committee, via the normal channels, which you are aware of, to the Chairman of Ways and Means. It is not actually a matter for the Chair. The Chairman of Ways and Means may consider whether it is a valid request, whether extra time should be found, and whether the time should be amended accordingly.

Can we move on?

Brandon Lewis: Further to that point of order, Sir Alan. It is important to respond to the hon. Lady's point of order, because it does not give a clear picture. We need to be very clear about this: we are very happy, and I am very keen, to see proper debate and scrutiny of the Bill, which is why we are happy to take the time to go through this properly. There are no knives, and, as far as I understand it, we even gave flexibility and moved on from the original agreement, as we did on Thursday—when we spent a whole session of an hour and a half discussing one line with no votes, if I remember it correctly—and I even suggested to the hon. Lady then that we would be willing to accept late amendments in order to facilitate helping the Opposition. So I think the hon. Lady is being very disingenuous, to be blunt, in making that point. It is important that we keep a good pace to make sure that we are able to stick, with flexibility, to what was agreed some time ago, bearing in mind that what was agreed was that we would work towards getting to clause 48. We are, indeed, still just on clause 30.

Dr Blackman-Woods: Further to that point of order, Sir Alan. The Minister has just emphasised my need to make a point of order. That timetable was not discussed at the Programming Sub-Committee, and nor was it agreed to. In fact, we said the opposite: we asked for it to be very clear that we were not agreeing to the timetable set out by the Government Whip. My hon. Friend the Member for Easington asked for clarification of its status, and we were told that it is advisory. We also made it very clear that we did not agree to it and we did not consider it a formal part of the business of the Programming Sub-Committee. The Government responded by saying that they were not putting down knives, which we now seem to have before us. The reason for my point of order has been clarified.

The Chair: May I confirm for clarity that it is not for the Chair but the Chairman of Ways and Means or the usual channels to determine these matters? However, if it interferes with the due process of tabling amendments, which may not be tabled in adequate time to qualify—I appreciate that the Minister made some helpful suggestions—I have a helpful suggestion. I know that, a little later in the programme, there are two or three clauses that the Government want to change. Could we get to that point and then possibly have a review? It was proposed to me in the previous break that there are difficulties with the Opposition's seeking decisions today that might determine that amendments may need to be tabled for Thursday and beyond for discussion the following Tuesday. It might be found to be reasonable to give them time to do that, although I am not the one who makes such a decision. I do not want people outside this Committee to make decisions about it one way or the other. I suggest that we move on to the changes that the Government want to progress with, and thereafter have a review to see whether we can move forward on this issue. Does that make sense? We have to think about it while we debate clause stand part.

Clause 30 ordered to stand part of the Bill.

Clause 31

USE OF INFORMATION IN DATABASE

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

Mr Thomas: I am grateful for the opportunity to speak to clause 31. Again, I want to probe the Minister's intentions, rather than suggest that the clause should be deleted. Following the decision on clause 30, the database applies only to housing authorities in England. I want to ask two questions. First, if housing authorities in Wales, Scotland or Northern Ireland have suspicions that rogue landlords operating in their area are active in a part of England, will they be able to provide or seek information under clause 31 to help them make a judgment about the use or otherwise of their own legislation to crack down on rogue landlords in those other nations?

My second question relates to the information on the database and whether it might be used by bodies other than housing authorities. This is almost the reverse of the point I was making earlier about banks and HMRC. If a rogue landlord is operating, it is possible that their behaviour will have come to the attention of HMRC, which might want to gather information for a prosecution. Under clause 31, would any information from particular housing authorities that is on the database be available for use by HMRC and other public authorities?

Similarly, would the information be available to private sector bodies that fulfil a purpose of benefit to the community? Perhaps oddly, I mention the example of banks: would rogue banks that want to prosecute an individual, or that are worried that a rogue landlord is perpetuating a fraud against them, be able to access information in the database? I come back to a point I made earlier about freedom of information: would banks

or other private sector bodies be able to use freedom of information requests to access data on the database? Under certain circumstances, I would instinctively be comfortable with other public bodies being able to access such information, particularly if they were trying to ensure that proper levels of tax were paid. In some cases, I might be comfortable with banks being able to access some of the information in certain circumstances, but in other cases I would not.

It would be helpful if the Minister could spend a little time dwelling on those two issues. Will housing authorities in the other nations of the United Kingdom be able to access information in the database in any way? There is probably merit in trying to ensure that information about our rogue landlords, who presumably operate across borders in the UK, could be shared with housing authorities in Northern Ireland, Scotland and Wales. Will other public bodies and certain private sector bodies be able to access the information in the database? I look forward to the Minister's response.

Mr Jones: Clause 31 sets out the purposes for which the information in the database can be used. It provides that the Secretary of State may use it only for statistical and research purposes. For example, that might include using the information to help to monitor the effectiveness of the legislation and to develop Government policy for the private rented sector.

Local housing authorities may use the information only for specified purposes, including for carrying out their functions under the Housing Act 2004—for example, to identify whether a property should be licensed under that Act. The information can also be used to promote compliance with the law by persons entered on the database—for example, by providing advice or training on the law and/or best practice. It may also be used to investigate whether there is any contravention of the law by a person on the database. That could include, for example, an investigation into whether a person has breached a banning order or carried out an unlawful eviction. Such information may also be used for the purpose of taking proceedings against persons on the database for banning order offences or other contraventions of housing or landlord and tenant law. The information may also be used by local authorities for statistical or research purposes.

In response to the hon. Member for Harrow West, housing, as he knows, is a devolved issue in Scotland, Wales and Northern Ireland, but I understand where he is coming from. It is something that we could consider, but I heavily caveat that on the basis that this part of the Bill relates to England only. I will certainly take that point away with me from today's debate.

6 pm

Mr Thomas: I am grateful to the Minister. I simply give him the example of a rogue landlord operating in Gloucester, for example. Newport is not far away, so why should the landlord not operate there, too? I recognise, however, that this part of the Bill covers England only and that the EVEL provisions in our Standing Orders complicate things. I am grateful to the Minister for his response and strongly encourage him to mull over whether there is some way of providing the other nations with access to the database held by English housing authorities.

Mr Jones: I thank the hon. Gentleman for his comments. I refer him back to my comments before his intervention and will carefully consider the issue.

The hon. Gentleman mentioned examples relating to tax compliance. HMRC has its own powers to investigate when it thinks that a person has not complied with tax law, so I do not deem it necessary to take up his suggestion.

Question put and agreed to.

Clause 31 accordingly ordered to stand part of the Bill.

Clause 32

INTRODUCTION AND KEY DEFINITIONS

Amendment made: 34, in clause 32, page 15, line 14, at end insert—

'7	This Act	section (*Offence of breach of banning order*)	breach of banning order'

.—(Brandon Lewis.)

In the Bill as introduced a rent repayment order is available where a person commits an offence to which Chapter 4 of Part 2 applies or breaches a banning order. NC3 makes breach of a banning order a criminal offence so it is now possible to treat it in the same way as other offences to which Chapter 4 applies. That is the purpose of this amendment and various other amendments to Chapter 4.

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

Brandon Lewis: Clause 32 and chapter 4 of part 2 of the Bill relate to rent repayment orders and the first-tier tribunal's power to make such an order in certain cases. The new provisions apply in England only. A rent repayment order requires a landlord to repay money paid as rent. It is currently available in situations in which a landlord has failed to obtain a licence for housing that ought to be licensed under the Housing Act 2004. The order is obtained by application to the first-tier tribunal, which has the power to make a rent repayment order for an amount equivalent to any rent received during the period of the offence up to a maximum of 12 months' rent.

The clause provides that a rent repayment order may be made if a landlord commits an offence to which this chapter applies, which includes the following offences: the control and management of a house in multiple occupation that is subject to licensing but is unlicensed, and the control and management of a house that is subject to selective licensing, but is unlicensed. That consolidates the existing provision under the 2004 Act and that a rent repayment order may be made in respect of offences of using violence to obtain entry to a dwelling under the Criminal Law Act 1977, illegal eviction or harassment of occupiers of a dwelling under the Protection from Eviction Act 1977, failure to comply with an improvement notice or a prohibition order issued for a dwelling under the 2004 Act, or breach of the new banning order introduced in chapter 2 of this part of the Bill.

Mr Thomas: It is delightful to have the Minister back. I hope he is feeling less grumpy than he was this morning and that he will adopt the same, more measured tone of the Under-Secretary when good and sensible points are made by Opposition Members and agree to

[Mr Gareth Thomas]

go away and reflect on them with a view to coming back on Report with sensible amendments.

Clause 32 reads well, but I rise to make one particular point. Assuming that a housing authority goes to the first-tier tribunal to take action against a rogue landlord, a tenant may well want a rent repayment order to be issued as part of the package of action taken against that landlord. Does the Minister envisage that legal aid will be available to tenants so that they can access quality legal advice and make robust representations at the first-tier tribunal rather than rely on the good will or not of the housing authority bringing the action?

The clause could be helpful for the tenants of the 10,500 rogue landlords, but we need to ensure that tenants are properly represented and have the means to benefit from it. It would be helpful to hear from the Minister whether any discussions have taken place with the Ministry of Justice about whether tenants in such a position who want a rent repayment order to be issued might be able to secure legal aid for quality representation at the first-tier tribunal. I look forward to his response.

Brandon Lewis: We published a document in August seeking comments on a range of issues in relation to tackling rogue landlords and these clauses came out of the responses to that. Of those who responded, 88% said that we should introduce rent repayment orders when a landlord has failed to comply with the statutory notice and 85% said that we should introduce rent repayment orders for situations in which a tenant has been illegally evicted. This measure is therefore very much driven by the people who responded, including tenants,

I take on board the points that the hon. Gentleman made, though I ignored some of his remarks that do his own good humour no justice. I will have a look at those points and come back to him in the next few days.

Question put and agreed to.

Clause 32, as amended, accordingly ordered to stand part of the Bill.

Clause 33

Application for rent repayment order

Amendments made: 35, in clause 33, page 15, leave out line 24.

See Member's explanatory statement for amendment 34.

Amendment 36, in clause 33, page 15, line 27, leave out first "breach or".

See Member's explanatory statement for amendment 34.

Amendment 37, in clause 33, page 15, line 27, leave out second "breach or".

See Member's explanatory statement for amendment 34.

Amendment 38, in clause 33, page 15, line 29, leave out "the breach occurred or".

See Member's explanatory statement for amendment 34.

Amendment 39, in clause 33, page 15, line 32, leave out "breach or".—*(Brandon Lewis.)*

See Member's explanatory statement for amendment 34.

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

Brandon Lewis: The clause enables a tenant or local housing authority to apply for a rent repayment order against a landlord who has committed an offence listed in clause 32.

Question put and agreed to.

Clause 33, as amended, accordingly ordered to stand part of the Bill.

Clause 34

Notice of intended proceedings

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

Brandon Lewis: The clause specifies that, before a local housing authority applies for a rent repayment order, it must give the landlord notice of intended proceedings. That notice must inform the landlord that the local housing authority proposes to apply for a rent repayment order and explain why. It must also state the amount it seeks to recover and invite the landlord to make representations, giving them not less than 28 days' notice.

The local housing authority must consider any representations received before deciding whether to proceed with the application. The local housing authority must wait until after the notice period has expired before applying for a rent repayment order. The notice of intended proceedings must be given within 12 months beginning on the day that the landlord breached the banning order.

Question put and agreed to.

Clause 34 accordingly ordered to stand part of the Bill.

Clause 35

Order following breach of banning order

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

Brandon Lewis: Clause 35 should not stand part of the Bill.

Question put and negatived.

Clause 35 accordingly disagreed to.

Clause 36

Amount of order under section 35

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

Brandon Lewis: Clause 36 should not stand part of the Bill because, as with clause 35, the breach of a banning order is now a criminal offence, so the clause is no longer required.

Question put and negatived.

Clause 36 accordingly disagreed to.

Clause 37

ORDER FOLLOWING OFFENCE

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

Brandon Lewis: Clause 37 enables a rent repayment order to be made if the first-tier tribunal is satisfied beyond reasonable doubt that a landlord has committed an offence and an application has been made under clause 33. The offences that are covered by this clause are where a landlord has not complied with an improvement notice, a prohibition notice or the licensing requirement as set out in the Housing Act 2004; and where a landlord has been found guilty of violent entry into a property or where they have unlawfully evicted a tenant. The amount of rent to be repaid will be determined in accordance with clause 38 if a tenant makes the application, with clause 39 if the application is made by the local housing authority, or with clause 40 if the landlord has been convicted.

Question put and agreed to.

Clause 37 accordingly ordered to stand part of the Bill.

Clause 38

AMOUNT OF ORDER UNDER SECTION 37: TENANTS

Amendment made: 42, in clause 38, page 17, line 23, leave out "or 6" and insert ", 6 or 7"—*(Brandon Lewis.)*

See Member's explanatory statement for amendment 34.

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

Brandon Lewis: Clause 38 specifies the amount of rent to be repaid following a decision by the first-tier tribunal to make a rent repayment order in favour of the tenant. Where the grounds for the order are that a landlord has effected a violent entry to a property or has illegally evicted or harassed the tenant, the amount must relate to rent paid by the tenant in respect of the period of 12 months ending with the date of the offence. Where a landlord has not complied with an improvement notice, a prohibition notice or licensing requirements, or where they have breached a banning order, the amount must relate to a period not exceeding 12 months during which the landlord was committing the offence.

The amount of rent that the landlord may be required to repay must not exceed the rent paid in respect of that period, less any relevant award of universal credit or housing benefit paid in respect of rent under the tenancy during that period. In determining the amount to be repaid, the tribunal must, in particular, take into account the conduct of the landlord—and, indeed, of the tenant—the financial circumstances of the landlord and whether they have, at any time, been convicted of an offence to which this chapter applies.

Question put and agreed to.

Clause 38, as amended, accordingly ordered to stand part of the Bill.

Clause 39

AMOUNT OF ORDER UNDER SECTION 37: LOCAL HOUSING AUTHORITIES

Amendment made: 43, in clause 39, page 18, line 8, leave out "or 6" and insert ", 6 or 7"—*(Brandon Lewis.)*

See Member's explanatory statement for amendment 34.

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

Brandon Lewis: Clause 39 specifies the amount of rent to be repaid following a decision of the first-tier tribunal to make a rent repayment order in favour of a local housing authority. The grounds I outlined in clause 38 apply all the way through.

Question put and agreed to.

Clause 39, as amended, accordingly ordered to stand part of the Bill.

Clause 40

AMOUNT OF ORDER FOLLOWING CONVICTION

Amendment made: 44, in clause 40, page 18, line 30, leave out "or 4" and insert ", 4 or 7" —*(Brandon Lewis.)*

See Member's explanatory statement for amendment 34.

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

6.15 pm

Brandon Lewis: The clause specifies that the amount to be repaid to a tenant or local housing authority is to be the maximum that the first-tier tribunal has power to order in certain circumstances. Those circumstances are, first, that the order is made against a landlord who has been convicted by a court of an offence to which the chapter applies, or who has received a civil penalty in respect of the offence, and that the period of appeal against the penalty has expired or any appeal has been finally determined or withdrawn.

Secondly, the maximum will be payable when the order is made in favour of a local housing authority in respect of any offences to which the chapter applies. Where the order is made in favour of a tenant, however, the maximum will be obligatory only in respect of the new grounds of commission of an offence of violent entry, or of unlawful eviction or harassment, failure to comply with an improvement notice or breach of a banning order, but not in respect of a licensing offence. When the first-tier tribunal considers repayment of the full amount unreasonable because of exceptional circumstances it might not be required.

Question put and agreed to.

Clause 40, as amended, accordingly ordered to stand part of the Bill.

Clause 41

ENFORCEMENT OF RENT REPAYMENT ORDERS

Teresa Pearce: I beg to move amendment 111, in clause 41, page 19, line 10, at end insert—

", and about what extra charges the local housing authority may levy to fund investigation, enforcement, and other matters related to the operation of rent repayment orders."

[Teresa Pearce]

This amendment would ensure that local housing authorities are able to levy a landlord who is ordered to pay a rent repayment order, in order to fund their related activities.

The amendment is probing, so we only want some clarity from the Minister. It would enable a levy by local housing authorities to fund investigation, enforcement and other matters relating to the operation of rent repayment orders. The Bill allows the orders to be covered by the local housing authority in cases of universal credit or housing benefit, or by tenants. We welcome the provision, which seeks to ensure that tenants are not at a loss financially after their landlord commits a housing offence or if they let from a landlord in breach of a banning order. Local housing authorities, however, might have no incentive to investigate allegations.

Clauses 42 and 43 mandate authorities to consider applying for a rent repayment order and to assist tenants in applying for one, but under clause 41 the powers rest with the Secretary of State to make provision by regulation for how local housing authorities are to deal with amounts recovered under rent repayment orders. We do not know what the secondary legislation will be, so the amendment would ensure that the local housing authorities are able to levy additional moneys from a landlord who is ordered to pay a rent repayment order to fund their investigations and enforcement actions.

If rent repayment orders are to be successful operationally, local authorities need to be able to fund their work. The amendment seeks to introduce a measure that would allow them to do so. Will the Minister outline his view of how local housing authorities should use the amounts recovered and whether they are to receive a proportion of receipts to compensate them for their investigatory work? Local authorities will be expected to do a great deal, whether assisting a tenant or acting on their own behalf. There will be pressures on council staff time and resources and, should the matter go to the first-tier tribunal, there will undoubtedly be more legal costs or costs for legal advice.

Grahame M. Morris: My hon. Friend is making an important point and I am interested to hear the Minister's response. I am thinking, once again, about some of the acute problems we have in east Durham with absentee landlords. Many of them have bought up large blocks of properties and there is difficulty in identifying who actually owns them. Given the pressures that local authorities are under, it would be useful if they were in a position to recover some of the costs.

Teresa Pearce: That is what we are probing, and I hope to hear the Minister's view on that. Without such compensation, local authorities could be unmotivated to act. When local government finance is squeezed, it is incredibly important for local authorities to be able to undertake fully any additional work that we expect of them. We must ensure that they may take on their responsibilities.

Helen Hayes (Dulwich and West Norwood) (Lab): Does my hon. Friend agree that if the Government do not accept the amendment it will be yet another example of their determination to ensure that their regulatory framework for rogue landlords lacks teeth? We have just heard the Government refuse to allow tenants the opportunity to use the database of rogue landlords to inform their consumer choices about whether to rent a property. By refusing to allow local authorities the ability to levy charges to cover the additional burdens associated with rent repayment orders, this will inevitably hamper their ability to undertake effective investigation and enforcement. The Government are introducing regulations that will effectively have no teeth in practice.

Teresa Pearce: I completely agree. Some local authorities will be able to do this, but some local authorities simply will not be able to do it because they do not have the funds. We have moved this probing amendment to ask the Minister whether that has been considered and how the Government intend to make the measure work if a local authority does not have the resources to carry out the work set out in the Bill.

Brandon Lewis: I am slightly surprised by some of the comments made by the hon. Member for Dulwich and West Norwood. Bear in mind that, as I think those on both sides of the Committee have agreed—it has certainly been agreed outside—there will be a fairly stringent set of measures to do what we can to crack down on rogue landlords. The hon. Member for Harrow West mentioned a situation in my constituency that I think I mentioned on Second Reading, and those are exactly the sorts of landlords we need to drive out of the system. I absolutely support anything we can do to do that. It is disappointing that Labour did not do those things in 13 years and it has taken a full Conservative Government to get to grips with the issue.

The hon. Member for Dulwich and West Norwood might also want to look back at the comments made by the Under-Secretary of State on what we will consider in order to ensure that the list is properly used and well used, allowing for the Data Protection Act issues and the fact that sometimes these are organisations that have a legitimate right to run their business. Criminal prosecutions and banning orders are still part of the process; I think the hon. Lady has forgotten some of what was debated earlier.

In response to the hon. Member for Erith and Thamesmead, other measures proposed in the Bill will allow local authorities to retain civil penalties and to receive moneys from rent repayment orders where the rent has been paid from housing benefit or universal credit. Local authorities can also recover their costs from prosecutions; we have to get the balance right so that we do not make the system disproportionate by imposing a levy on top of those other financial penalties that can be levied and held by a local authority. With that explanation, and although I have great sympathy for her ethos, I hope she will be able to withdraw her amendment.

Teresa Pearce: My concern is that different local authorities operate in very different ways. Some are resourced and some are not, and I would not want tenants in one local authority not to have the same protection as tenants in another local authority, but I accept what the Minister says. I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

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

Brandon Lewis: Clause 41 provides that an amount payable under a rent repayment order is recoverable as a debt. It further provides that such an amount payable to a local housing authority does not, when recovered by the authority, constitute an amount of housing benefit or universal credit recovered by the authority. The clause also provides that the Secretary of State may make regulations on how local authorities are to deal with the amounts so recovered, which consolidates existing provision under the Housing Act 2004 under which regulations have been made providing that recovered amounts are to be applied for purposes under the Act and that any amount remaining is to be paid to the Consolidated Fund.

Question put and agreed to.

Clause 41 accordingly ordered to stand part of the Bill.

Clauses 42 to 46 ordered to stand part of the Bill.

Clause 47

MEANING OF "LETTING AGENT" AND RELATED EXPRESSIONS

Amendments made: 45, in clause 47, page 21, line 1, leave out subsection (5)

See Member's explanatory statement for NC8.

Amendment 46, in clause 47, page 21, leave out lines 11 and 12—*(Brandon Lewis.)*

See Member's explanatory statement for NC8.

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

Brandon Lewis: Briefly, clause 47 provides a definition of a letting agent and what letting agency work includes for the purpose of part 2 of the Bill.

Question put and agreed to.

Clause 47, as amended, accordingly ordered to stand part of the Bill.

Clause 48

GENERAL INTERPRETATION OF PART

Amendments made: 47, in clause 48, page 21, line 21, leave out "47" and insert

"(Meaning of "property manager" and related expressions)"

See Member's explanatory statement for NC8.

Amendment 48, in clause 48, page 21, line 36, at end insert—

""property agent" means a letting agent or property manager;

"property manager" has the meaning given by section (Meaning of "property manager" and related expressions);"

See Member's explanatory statement for NC8.

Amendment 49, in clause 48, page 21, leave out line 37—*(Brandon Lewis.)*

See Member's explanatory statement to NC8.

Ordered, That further consideration be now adjourned.—*(Julian Smith.)*

6.26 pm

Adjourned till Thursday 26 November at half-past Eleven o'clock.

Written evidence reported to the House

HPB 59 Royal Town Planning Institute (RTPI)

HPB 60 Mid Sussex District Council

HPB 61 Solihull Council

HPB 62 Shelter

HPB 63 Wildfowl & Wetlands Trust

HPB 64 Councillor Philippa Roe, Leader, on behalf of Westminster City Council

HPB 65 Iroko Housing Co-op

HPB 66 Friends of the Earth England, Wales and Northern Ireland

HPB 67 Age UK

HPB 68 Paul Hodge

HPB 69 London Gypsy and Traveller Unit

HPB 70 National Federation of Gypsy Liaison Groups

HPB 71 Waverley Eighth Housing Co-op

HPB 72 David Cox, Managing Director, Association of Residential Letting Agents (ARLA)

HPB 73 Richard Max and Co Solicitors, specialising in Planning and Compulsory Purchase law

HPB 74 Alison Heine, Heine Planning Consultancy

HPB 75 Lincolnshire Rural Housing Association Ltd

HPB 76 Heathview Housing Cooperative

HPB 77 Tom McCready

HPB 78 Michael Hargreaves Planning

HPB 79 Derbyshire Gypsy Liaison Group

HPB 80 The Traveller Movement

HPB 81 Hereford Travellers Support

HPB 82 Association of Residential Lettings Agents (ARLA)

HPB 83 Home Group