PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT
GENERAL COMMITTEES

Public Bill Committee

HOUSING AND PLANNING BILL

Ninth Sitting

Thursday 26 November 2015

(Afternoon)

CONTENTS

PUBLISHED BY AUTHORITY OF THE HOUSE OF COMMONS
LONDON – THE STATIONERY OFFICE LIMITED

£6·00

PBC (Bill 075) 2015 - 2016

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not later than

Monday 30 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

Thursday 26 November 2015

(Afternoon)

[Sir Alan Meale *in the Chair*]

Housing and Planning Bill

2 pm

The Chair: I have reflected on Mr Thomas's earlier point of order about information and its availability and, after liaising with the Department, I have been informed that the matter is one not for the Chair, but for the Government. I take note that the Minister drew attention to some information, but perhaps in the next couple of days he will reflect on what information is required and write to the members of the Committee. That would be helpful, Minister.

The Minister for Housing and Planning (Brandon Lewis): Sir Alan, I will happily let the hon. Member for Harrow West have the website address of the National Housing Federation, where the information can be found.

The Chair: Whatever.

Mr Gareth Thomas (Harrow West) (Lab/Co-op): I am very grateful to the Minister for the spirit of his response to my point of order this morning. I have been on the website and I can see information about the offer that was made to the Government in October, but no additional information appears to be there about the detail of further discussions or, specifically, of the arrangements with the five housing associations that are proceeding with the pilot. If the Minister were able to give us further information ahead of Tuesday's sittings, that would be extremely helpful.

Brandon Lewis: Obviously we are now somewhat outside the scope of the Bill, but I am sure that there will be information over the next few months as we answer questions and make Government statements about what we are doing. The National Housing Federation and the housing associations themselves will also be publishing such information. I am pleased that, as of last night, the five pilots are in place and people may go and register for the right to buy their own home.

The Chair: We will move on.

Clause 51

Warning notices

Teresa Pearce (Erith and Thamesmead) (Lab): I beg to move amendment 107, in clause 51, page 22, leave out lines 34 to 37.

This amendment removes subsections 4 and 5 of Clause 51 from the Bill which would remove the ability for a landlord to deliver the first of the two letters needed to evict a tenant suspected of abandoning the property before they have missed rent.

The purpose of the amendment is to get some clarification from the Government. I realise that they have their own amendment to improve this part of the Bill slightly, but we have moved our amendment because the Bill states:

"The first warning notice may be given even if the unpaid rent condition is not yet met",

which appears to be against the spirit of what the Minister was saying this morning.

If a warning notice may be given without the unpaid rent condition being met, a warning notice could be given when the tenant has done nothing wrong. We were a little confused about that and would welcome clarification and some reassurance about why the provision is in the Bill and what it is intended to do. As we said earlier, we are talking about only a few tenancies a year, but the measure seems to be outside the scope of what the Minister said earlier.

Will the Minister tell us something else? In discussion of earlier amendments, the Minister did not answer the question of what pressure or lobbying had happened. Why is the provision in the Bill? The problem is a small one, for a small number of people, so although I understand everything that has been said about the problems for landlords, I wondered whether there was another reason for the measure.

For example, in my area we have two local courts, both under severe pressure. One is very inefficient and people find it difficult to get their cases through the court, so I wondered whether the provision was in the Bill because of a problem with the court, or for another reason. The Minister did not really mention that earlier, so may we have some clarity on what subsection (4) is meant to do and why it is there?

The Parliamentary Under-Secretary of State for Communities and Local Government (Mr Marcus Jones): I hear what the hon. Lady says and her intentions are important, but I reassure her and the Committee that the amendment is unnecessary, because the case is already covered by the Bill as drafted.

The clauses are carefully drafted, but no doubt seem complex. The second warning notice cannot be served unless there is unpaid rent of at least eight consecutive weeks. Given that the second warning notice must be given at least two weeks and no more than four weeks after the first warning notice, in practice the first warning notice cannot be served unless there is unpaid rent of at least four consecutive weeks.

The hon. Lady is looking at me in a rather perplexed fashion, but I understand what she is saying and, if she reads my comments and compares them carefully with the two subsections that she is looking to the Committee to remove from the Bill, I am sure she will realise that no consequence of our measure will diminish the position of a tenant. As I have explained, we are keen to strengthen rather than diminish the position of tenants in the Bill.

The hon. Lady mentioned her two courts in connection with the reason for the provisions. The reason why we are introducing the provisions is to bring forward at the earliest practicable opportunity, in a way that protects tenants, a means to bring properties that have been abandoned back into use so that people may be housed in them. That is the purpose of the chapter. There is no ulterior motive to reduce the number of times that

people go to court. I hope she accepts my explanation in the spirit in which it is intended and withdraws the amendment.

Teresa Pearce: I thank the Minister for his explanation. Without meaning to give offence, I will probably have to read back what he said to convince myself. It seems confusing that a warning notice may be given without the unpaid rent condition being met, but the Minister says that that would not happen. It is, however, complex and I am pleased about the third notice, which is an improvement. In that spirit, I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Amendments made: 120, in clause 51, page 22, line 39, at end insert—

'( ) The third warning notice must be given before the period of 5 days ending with the date specified in the warning notices under subsection (2)(b).'

See Member's explanatory statement for amendment 118.

Amendment 121, in clause 51, page 22, line 39, at end insert—

'( ) The Secretary of State may make regulations setting out the form that the third warning notice must take.'—*(Mr Marcus Jones.)*

See Member's explanatory statement for amendment 118.

Clause 51, as amended, ordered to stand part of the Bill.

Clause 52

Reinstatement

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

Mr Jones: Sir Alan, given that we have debated the subject in general earlier, will it be acceptable—

Mr Thomas: I thought I knew the direction of the Minister's remarks, so rather than necessarily having to make a formal speech in a clause stand part debate, I thought I might simply intervene to ask a question and, I hope, not have to press matters further.

Subsection (2)—and, indeed, subsection (1)—states that the tenant must have "a good reason" to press for reinstatement. I wonder whether the Minister might set out on the record what those good reasons are. I say that in the spirit of him wanting to help tenants, as the clause implies, who have unfairly or wrongly had their tenancy terminated under section 49, and I ask in a context in which occasionally, debates when legislation is being introduced can be used to provide guidance to the courts about what the purpose in the Government and Parliament's mind was behind particular clauses.

Simply, will the Minister set out in more detail than perhaps he was initially intending what constitute, in his mind, the good reasons that might see a tenant wanting to go to a county court to get a reinstatement order, and indeed, being successful?

Mr Jones: I thank the hon. Gentleman for that question. As he rightly points out, that would be a matter for the court, but to reassure him about the spirit in which the clause on reinstatement is intended, let me give him an example. A tenant may go away on holiday for a short period, during which they have a serious accident that possibly hospitalises or incapacitates them for some time. It may well be that that renders any contract with the landlord impossible for them to fulfil, and therefore, the courts may decide, on the basis of those extenuating circumstances that the tenant could not do anything about, that it would be right and proper to reinstate the tenancy. I hope that reassures the hon. Gentleman about the thinking behind the clause.

Mr Thomas *rose—*

The Chair: Briefly, Mr Thomas.

Mr Thomas: I apologise for detaining the Committee on this clause, which is helpful, as was the Minister's example. He will be aware from our discussions this morning that a series of other examples were discussed, such as short prison sentences, someone being taken ill with a mental health condition, or someone perhaps with the early onset of an incurable condition such as Alzheimer's. Does the Minister see those examples, similarly, as a good reason for the county court to reinstate the tenancy?

Mr Jones: Although I understand where the hon. Gentleman is coming from, as I said—I have already given a reasonable example of where we are coming from in proposing the clause—it would be for the court to decide on the particular circumstances at a particular time and on whether they deem those circumstances as such that the tenancy should be reinstated.

Peter Dowd (Bootle) (Lab): May I push the Minister on that and seek a bit more clarity? Take, for example, a person going into hospital on a section 2, which means detention for up to 28 days, and then that is transferred or transformed to a section 3, which means a much longer period of time. Ought we not to be making it clear that, in situations in which somebody is detained under the Mental Health Act 1983 and through due process, there should be an exemption specifically for the purposes of the clause?

Mr Jones: Again, it is for the court to decide in those circumstances and in any other circumstances whether or not a tenant should have their lease reinstated. I hear what the hon. Gentleman has said, but I do not, in our deliberations, see an amendment that he has tabled to make the case for what he is saying. In the spirit of the clause, it is for the court to decide, and I am sure that, in the majority of cases, the court will make the right decision for the tenant involved.

Question put and agreed to.

Clause 52 accordingly ordered to stand part of the Bill.

Clause 53

Methods for giving notices under sections 49 and 51

Amendments made: 122, in clause 53, page 23, line 11, at end insert—

"( ) This section sets out the methods for giving—

(a) a notice under section 49;

(b) the first or second warning notices under section 51."

See Member's explanatory statement for amendment 118.

Amendment 123, in clause 53, page 23, line 12, leave out—

"A notice under section 49 or 51"

and insert "The notice".

See Member's explanatory statement for amendment 118.

Amendment 124, in clause 53, page 23, line 14, leave out—

"A notice under section 49 or 51 that"

and insert "If the notice".

See Member's explanatory statement for amendment 118.

Amendment 125, in clause 53, page 23, line 15, after "person" insert "it"

See Member's explanatory statement for amendment 118.

Amendment 126, in clause 53, page 23, line 21, at end insert—

", and

( ) in the case of a tenant, leaving it at or sending it to every postal address in the United Kingdom of every guarantor, marked for the attention of the tenant.

'( ) In subsection (2) "guarantor", in relation to a tenant, means a person who has agreed with the landlord to guarantee the performance by the tenant of any of the tenant's obligations under the tenancy."—*(Mr Marcus Jones.)*

This amendment requires certain notices to be sent to a tenant's guarantors, marked for the attention of the tenant. This requirement applies unless the tenant has been given the notice in person.

2.15 pm

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

Mr Jones: As I have mentioned throughout our debate on the abandonment provisions, it is important that the landlord demonstrates he has given the tenant and any named occupier every opportunity to respond to warning notices. It is also important to try to ensure that the notice under clause 49 ending the tenancy is brought to the attention of the tenant so that they are notified of the fact, and so that the former tenant can take appropriate action—for example, reclaiming anything the landlord has stored or, where appropriate, notifying the council. The landlord must serve three written warning notices before he can end the tenancy under clause 49. The third notice must be affixed to a conspicuous part of the premises and be in a form prescribed by the Secretary of State, as I have explained.

Clause 53 provides that the first two warning notices and the notice ending the tenancy can be delivered to the tenant or named occupier in person. In practice, that is unlikely to happen, given that they are likely to have disappeared on abandoning the property. Alternatively, the notices must be delivered to the tenant and any named occupier by leaving it at or sending it to the premises to which the tenancy relates, or by leaving it at or sending it to any other postal address in the UK that the tenant or occupier has given the landlord. They must also be served on the tenant care of any person who has agreed with the landlord to guarantee the tenant's performance under the tenancy. Finally, the landlord must serve those notices by sending them to every email address the tenant or occupier has given the landlord.

Question put and agreed to.

Clause 53, as amended, accordingly ordered to stand part of the Bill.

Clauses 54 and 55 ordered to stand part of the Bill.

Clause 84

ASSESSMENT OF ACCOMMODATION NEEDS

The Chair: Exceptionally, this hollow starred amendment, together with other hollowed starred amendments in the name of Teresa Pearce, has been selected.

Teresa Pearce: I beg to move amendment 136, in clause 84, page 34, leave out lines 19 and 20.

This amendment would retain sections 225 and 226 of the Housing Act 2004 regarding accommodation needs of gypsies and travellers.

I thank you, Sir Alan, and the Committee for allowing this hollow starred amendment to be considered. Before I start, I would like to express my personal interest in this subject. Thamesmead was built on the marshlands on the south of the Thames, where many marsh Gypsies and Travellers have historically lived, so we have a large Traveller community in my constituency of Erith and Thamesmead, and this is therefore something I feel quite strongly about.

Amendment 136 would lead to the retention of sections 225 and 226 of the Housing Act 2004. Section 225 requires every local authority, when carrying out a review of local housing needs under section 8 of the Housing Act 1985, to carry out an assessment of the accommodation needs of Gypsies and Travellers who reside in the area. Section 226 provides for the Secretary of State to issue guidance on how local housing authorities can meet those needs. Clause 84 will remove the requirement for local authorities to make an assessment of the accommodation needs of Gypsies and Travellers when considering local housing need.

There has clearly been, and continues to be, a need to recognise the differing housing needs of Gypsies and Travellers. Anyone with a basic understanding of Gypsies and Travellers would appreciate that they have different housing needs. The impact assessment states that the aim of the policy is to

"ensure that all members of the community are treated equally";

but we can treat people equally only if we fully assess their needs. People should be treated equally, but without a needs assessment, I do not think that can happen. The assessment also states:

"The Government recognises a perception of differential treatment in favour of Gypsies and Travellers."

There may be such a perception, but surely we should legislate on the basis not of perceptions but of facts.

The Committee has seen a wealth of evidence about how devastating the impact on Gypsy and Traveller communities could be. The Joseph Rowntree Foundation noted:

"The former Commission for Racial Equality concluded in 2006 that Gypsies and Irish Travellers are the most excluded groups in Britain today".

Provision for the accommodation needs of Gypsies and Travellers continues to be lacking, and the foundation commented:

"The Equality and Humans Rights Commission, in reviewing activity since the 2004 Act, concluded that the overall rate of progress was slow, but that there were a number of positive aspects emerging, in terms of the types of sites being developed, and their permanence."

The foundation went on to call for

"a continued focussed assessment of this community's particular needs"

and for the requirement to assess Gypsy and Traveller needs to be retained.

The national charity Friends, Families and Travellers submitted evidence to the Committee. It is concerned that the provisions that are in place weaken the understanding of the specific accommodation needs of Gypsies and Travellers. The 2007 Department for Communities and Local Government guidance on Gypsy and Traveller accommodation needs assessments—that is a long title—states:

"In the past, the accommodation needs of Gypsies and Travellers…have not routinely formed part of the process by which local authorities assess people's housing needs. The consequences of this have been that the current and projected accommodation needs of Gypsies and Travellers have often not been well understood."

Friends, Families and Travellers is concerned that removing the requirement specifically to assess the accommodation need of Gypsies and Travellers will result in an even higher rate of homelessness in the communities as even fewer sites to meet their assessed need will be delivered, and even less land will be allocated in local plans. It highlights the concern that, as a result of the shortage of authorised sites, Gypsies and Travellers will have no alternative but to camp in an unauthorised manner, which has an impact not only on their community but on surrounding settled communities. Without authorised sites, they will have difficulty in getting access to running water, toilets, refuse collections, schools and employment opportunities. Local authorities already spend millions of pounds each year on unauthorised encampments, in legal costs, evictions, blocking off land from encampment and clear-up costs. Friends, Families and Travellers highlights a lose-lose situation, where Gypsies' and Travellers' needs are not assessed or met, and local communities are affected as a consequence.

The Community Law Partnership also expressed concern about the impact of the clause. It is concerned that Gypsy and Traveller accommodation needs will be

"buried within general housing need."

It highlighted the fact that Gypsies and Travellers

"are traditionally hard to reach groups, and as such require focused guidance for local authorities to assess their needs."

It is also concerned that there has not been consultation on the proposals, and questions the recent consultation on planning and Travellers.

Mr Stewart Jackson (Peterborough) (Con): Does the hon. Lady agree that good local authorities that plan ahead put arrangements in place, by way of emergency stopping places, which allow, in extremis, a number of Gypsies and Travellers to reside there temporarily? Although it takes time and is subject to consultation, which can be very fraught, that is the case with many authorities.

Teresa Pearce: That is the case with good local authorities but, as we all know from experience, some local authorities are better than others. We want people to be treated equally, no matter which local authority they fall within.

The London Gypsy and Traveller Unit is also concerned at the intention to,

"incorporate the needs of Gypsies and Travellers within the general housing needs assessments."

It even produced three short films to raise awareness of the proposed changes within the Gypsy and Traveller community. It believes that,

"general housing needs studies such as Strategic Housing Market Assessments are unable to pick up the needs of marginalised, hard to reach communities such as Gypsies and Travellers."

It adds that,

"these studies are based on demographic projections which are not disaggregated by ethnicity"

and often on limited direct surveys, which are likely to miss off the entire Gypsy and Traveller population. The unit believes that as

"Gypsy and Traveller site provision is generally faced with enormous opposition, it is crucial to have in place positive policies that recognise the full extent of need, as well as site allocations which enable the delivery of Gypsy and Traveller accommodation in suitable locations."

The National Federation of Gypsy Liaison Groups—the umbrella group for liaison groups across the UK—submitted written evidence questioning the proposal's compatibility with the Human Rights Act and the Equality Act 2010. Heine Planning Consultancy submitted written evidence supporting the retention of a duty to consider Traveller housing need and expressing further concerns at the impact of removing that requirement.

Michael Hargreaves, of Michael Hargreaves Planning, raised concern about the implications of deleting sections 225 and 226. He raised concern about the confusion and uncertainty for local authorities and about the impact on Gypsies and Travellers, and he believes the change will lead to anger and frustration in that community. He supports widening, not narrowing, the support to meet Travellers' and Gypsies' housing need.

The Derbyshire Gypsy Liaison Group believes that it is important that we have a mechanism to assist Gypsy and Traveller families with their accommodation needs, and that the proposals will worsen the housing situation for those communities.

The Traveller Movement, a leading national charity working in partnership with the community, highlights a number of concerns. All available data show that Gypsies and Travellers do not receive favourable treatment in the planning system. The Traveller Movement highlights a chronic shortage of Traveller sites and says that that shortage will grow in the future. It notes:

"Gypsies and Travellers already experience some of the poorest social outcomes of any group in our society and accommodation is a key determinant of these wider inequalities."

It questions the legal implications of the proposals, which I will come to in a moment, and it does not support the removal of sections 225 and 226.

We also saw submissions from Ruston Planning Ltd, Hereford Travellers Support and the all-party group on Gypsies, Travellers and Roma, which raised further concerns about the proposals. In addition, we saw a written submission from the Showmen's Guild of Great Britain, the main representative body for travelling showpeople, which shared its extreme concern about these proposals and their impact on its members' work. I would be grateful if the Minister could outline the impact on travelling showpeople. I would also be grateful for any reassurances he can give the guild and showpeople that the provisions will not impact them.

Policy on this issue is different across the nations. The Welsh Government are taking a different approach, introducing a statutory duty on local authorities to facilitate site provision for Gypsies and Travellers.

[Teresa Pearce]

The amendment is necessary to continue support for Traveller and Gypsy communities, which are some of the most excluded groups in Britain. There are also legality issues, which I hope the Minister will be able to respond to.

The Community Law Partnership highlights the public sector equality duty. Romany Gypsies and Irish Travellers are recognised as ethnic minorities, and the Government acknowledge that there is a shortage of suitable sites for them, so will the Minister comment on the potential under-provision of suitable sites, given that the needs of these groups will not be properly assessed?

The European Court of Human Rights has held that the UK has an obligation to facilitate the traditional way of life of Gypsies and Travellers. I shall be grateful if the Minister can confirm whether the removal of sections 225 and 226 would go against that.

Our amendment would ensure the retention of sections 225 and 226. That would ensure that Gypsies' and Travellers' housing needs continue to be assessed by local authorities. That would make sure that safe sites can continue to be identified for Gypsies and Travellers, avoiding the lose-lose situation in the Bill, where an under-represented group faces the prospect of its housing need being swallowed up by general housing need.

As it stands, the clause would lead to many unintended consequences: a shortage of authorised sites for Gypsies and Travellers; a rise in unauthorised sites; less safety for Gypsies and Travellers; and greater pressures on local authorities and local communities. I therefore hope the Committee will consider the amendment.

Mr Jackson: I rise to oppose the hon. Lady's position and to support the Government. The Government's position is quite courageous, because this is obviously an incendiary issue, not least at local level. We in the east of England have been bedevilled over the years by unauthorised and illegal encampments. Indeed, I have had some choice words with my own local superintendent, who has failed to properly use his powers under the relevant legislation, even when emergency stopping places have been provided for Traveller families. The position in the north of Cambridgeshire is not quite as bad as it has been in the south, around Cambridge, but it has nevertheless been very difficult.

2.30 pm

My concern with the Opposition's position on this issue is that it effectively seeks to disaggregate a particular group of people in a prescriptive way, and in so doing casts aside local autonomy and local-level decision making. There is no way around this: the settled community are quite often irritated in the extreme by the behaviour of what I accept and am happy to put on the record is a minority of Traveller families, who occupy land that they are not entitled to and cause damage and difficulties with cleaning up. I have seen such behaviour myself. That situation gives rise to resentment, and sometimes worse, against the majority of decent and, let us be honest, law-abiding Traveller families. To enshrine in primary legislation a special prerogative for those individuals, notwithstanding the hon. Lady's rather tendentious praying in aid of article 8 of the European convention on human rights—

Grahame M. Morris (Easington) (Lab): I fully accept that this is a controversial measure, not least for the settled community—as much in Easington as in Peterborough, I am sure. Does the hon. Gentleman accept that—perhaps by accident—the Government might be making things worse, if the outcome is that fewer temporary or permanent sites are allocated by local authorities?

Mr Jackson: I am just developing my comments, and I will not detain the Committee too long. But let us establish something right from the outset. The general housing needs of the population, which will reflect the social, economic and demographic profile of a particular district, borough, city, unitary or county council, are reflected in the housing plan and the decisions taken by an authority based on the evidence available from professional officers. That evidence is given to elected members so they can bring forward the county structure plan, which is now the regional spatial strategy—the local district plan. That will take into account the preponderance in favour of local authorities having to house Gypsy and Traveller families.

Were the legislation to be changed along the lines set out by the hon. Member for Erith and Thamesmead, it would single out a particular group, and circumscribe the autonomy of the local housing authority and its authority to make reasonable changes and accommodations for particular individuals. That would exacerbate the resentment—and sometimes anger—among the settled community, who would feel that their housing needs were being disregarded in favour of a special group. Whether we agree with that or not, that is the perception there would no doubt be.

I say to the hon. Lady that I agree that the Government would be wise to look at the issue of accommodation for Gypsies and Travellers, but let us see whether we can nuance the existing legislation, which, as I have mentioned, gives rise to the provision of emergency stopping places. If there is a proper consultation, then let us all be honest: in the London Borough of Greenwich, in Northumberland and in Durham, there will be brownfield sites, which are not in commercial or industrial use and may be near an urban centre, that could be used as emergency stopping places.

I am not convinced that local authorities have been sufficiently robust in investigating those options. Perhaps the Department for Communities and Local Government has more to do to encourage them to consult and to look at best practice. It has been a tortuous process for my city council, not least because many of the councillors in the nice leafy villages to the west of Peterborough did not want them there; they wanted them in the east of Peterborough, which I represent. I lost out and three of our emergency stopping places are now in the east of Peterborough. We have borne that burden for the good of the community, and more local authorities can learn from their neighbours in that respect.

Teresa Pearce: I am listening carefully to the hon. Gentleman. He seems to be saying that local authorities should be pressed to do more, but surely they would be so pressed by getting them to assess housing needs. That is not contradictory.

Mr Jackson: That is if one assumes that local authorities are not already discharging their proper statutory functions in providing appropriate housing, where they can, with

registered providers to everyone who needs it in their local community. My difficulty with the hon. Lady's amendment is that it singles out a particular group and would exacerbate community tension. I am not convinced that in practical, pragmatic terms it would deliver more housing for that group. I agree that more work needs to be done, but we need a less prescriptive, less heavy-handed approach. For that reason, I will resist the amendment.

Grahame M. Morris: I do not intend to detain the Committee for too long, but I want to make a couple of brief points and put a number of questions to the Minister. I am not completely at odds with the hon. Member for Peterborough, and I recognise the potential for discord and disruption among the settled community, to which I am no stranger in Easington.

I should also declare an interest in that I am an honorary member of the Showmen's Guild. The Travellers group that we are referring to is not homogeneous, and the Showmen's Guild, which is familiar to many of us and travels around the country establishing fairs and particular events at particular times, tends to cause many fewer problems. In fact, there are virtually no problems and it is an asset in many respects. The amendment moved by my hon. Friend the Member for Erith and Thamesmead is reasonable and sensible, because the deletion of sections 225 and 226 of the Housing Act 2004, regarding the accommodation needs of Gypsies and Travellers, may create more problems through the law of unintended consequences than the Committee or the Government intend.

Mr Jackson: Will the hon. Gentleman give way?

Grahame M. Morris: I have not really started, but I will.

Mr Jackson: I have to say that I had not imagined that the hon. Gentleman had run away from the circus to join the Whips Office. Does he agree that the description is a catch-all because there is an entirely different cultural predisposition in terms of housing need between, say, Czech or Slovak Roma and Irish showpeople? They cannot really be lumped together, which is why they need to be considered as disparate groups on a local basis.

Grahame M. Morris: I do accept that it is a disparate group, but even though it is a relatively small group compared with the settled community, I have had experience of disruption and antisocial behaviour in my constituency arising from a lack of temporary Traveller sites, and I think it is beholden on the local authority to make provision. That might not be a popular view, but it is part of the solution in the long run.

I recognise the hon. Gentleman's description of spending many hours with the police and the local authority in trying to ameliorate the impact of temporary horse fairs and so on that attract a large influx of Travellers from across the country. The problem, however, arises from a failure to provide permanent or, indeed, temporary sites, which is particularly acute during the summer months. Is the Minister concerned that the change proposed to the assessment of Gypsies' needs will reduce the number of sites and lead to a shortage of accommodation for the Traveller community if they are assessed only as part of general housing need and not with their specific needs in mind?

Without wishing to detain the Committee further, I would appreciate it if the Minister outlined precisely what he seeks to achieve by removing the requirement for local authorities to adequately address the travelling community's needs. Do we not risk worsening the problem of unauthorised encampments?

Dr Roberta Blackman-Woods (City of Durham) (Lab): My hon. Friend is raising the extremely important issue, which we both felt in our constituencies over the summer, of problems with illegal encampments for travelling people, who fall into various categories, because of a lack of either temporary or permanent sites. It is important to ensure proper assessment of all communities' needs and proper planning so that there are enough sites and we do not end up with illegal encampments, which can be unpleasant for everyone.

Grahame M. Morris: I agree. That was the point I was trying to make, albeit in a rather laboured and long-winded fashion. Let me conclude by reminding the Committee that Catriona Riddell, the strategic planning convenor for the Planning Officers Society, said that there is real concern about councils misinterpreting the new rules. She said that the change is

"almost like handing local authorities, which are reluctant to plan for travellers, an excuse not to do it."

That warning should ring in our ears before we delete the provision in the Housing Act 2004.

Brandon Lewis: Before I touch on the amendments directly, may I say that I appreciate the opening remarks made by the hon. Member for Erith and Thamesmead? I was happy to accept the idea of debating the amendment today and, as I said to the hon. Member for City of Durham, I am happy to flex the agenda next week to suit their request for debates and time to be spent on certain parts of the Bill. I am particularly pleased that we are considering the amendment, because it has opened my mind to the whole new world of the talents of the hon. Member for Easington. My mind boggles at what those talents might be—*[Interruption.]* We are getting a short demonstration now—I look forward to popping into the Labour Whips Christmas party to see him in action.

On a more serious note, I support the intention of the hon. Member for Erith and Thamesmead in the amendment to retain a duty on local authorities to assess the accommodation needs of Gypsies and Travellers, so I want to be clear: the clause does not remove that duty. As hon. Members have said—and, in particular, in the light of the closing remarks of the hon. Member for Easington—it is right that planning authorities understand that the clause does not remove that duty. Rather, we seek to remove any possible perception that because Gypsies and Travellers have specific mentions in legislation, they somehow receive more favourable treatment.

Planning law and planning should treat everyone equally and fairly. The clause makes it clear that the needs of those persons who reside in or resort to the area with respect to the provision of caravan sites or moorings for houseboats are considered as part of the review of housing needs. That would include all those who are assessed at present and potentially those who simply choose to live in a caravan, irrespective of their cultural traditions or whether they have ever had a nomadic way of life.

[Brandon Lewis]

We want local authorities to assess the needs of everyone in their communities. Our clause emphasises that Gypsies and Travellers are not separate members of our communities, and it takes on board the points made by my hon. Friend the Member for Peterborough and the hon. Member for Easington: that local authorities must properly assess the needs of all in their community, with reference to their community. Local housing authorities will be able to consider how best to assess that need, whether as a whole or to provide individual assessments for specific groups of people. I hope that that deals with the point that was made. However, we do wish to assist local authorities in meeting their duties and will therefore be happy to consider incorporating any necessary elements of the current "Gypsy and Traveller Accommodation Needs Assessments Guidance" in wider planning guidance, to which local authorities must have regard.

2.45 pm

I will go a bit further, because I want to reinforce and make clear the fact that this clause does not remove the requirement to assess the specific accommodation needs of Gypsies and Travellers. Local housing authorities will still need to consider their protected characteristics and cultural links to caravan dwelling. Local housing authorities will continue to decide how best to undertake their duties to assess the needs of all their residents and those who resort in their area. This will be in accordance with the legal obligations in the Equality Act 2010 and, as was rightly outlined, human rights considerations.

I hope that, with those explanations and assurances, the hon. Member for Erith and Thamesmead will agree to withdraw the amendment.

Teresa Pearce: I thank the Minister for his reassurances. I am still concerned about there not being a provision in the legislation to make local authorities do something. Not all local authorities act in the same way, but I am minded to accept the reassurances given. I look forward to seeing further evidence as we go forward, but I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Clause 84 ordered to stand part of the Bill.

Clause 85

Licences for HMO and other rented accommodation: additional tests

Brandon Lewis: I beg to move amendment 127, in clause 85, page 34, line 26, leave out subsection (3) and insert—

"(3) In section 66 (tests for fitness and satisfactory management arrangements: houses in multiple occupation)—

(a) after subsection (1) insert—

'(1A) A local housing authority in England must also have regard to any evidence within subsection (3A) or (3B).';

(b) in subsection (2), in paragraph (c), after 'tenant law' insert '(including Part 3 of the Immigration Act 2014)';

(c) after subsection (3) insert—

'(3A) Evidence is within this subsection if it shows that P—

(a) requires leave to enter or remain in the United Kingdom but does not have it; or

(b) is insolvent or an undischarged bankrupt.

(3B) Evidence is within this subsection if—

(a) it shows that any person associated or formerly associated with P (whether on a personal, work or other basis) is a person to whom subsection (3A)(a) or (b) applies; and

(b) it appears to the authority that the evidence is relevant to the question whether P is a fit and proper person to be the licence holder or (as the case may be) the manager of the house.'

(4) In section 70 (revocation of licences), in subsection (2), in the words after paragraph (c)—

(a) for 'Section 66(1) applies' substitute 'Section 66(1) and (1A) apply';

(b) for 'it applies' substitute 'they apply'."

This amendment, together with amendment 128, ensures that amendments made by clause 85 apply only to England.

The Chair: With this it will be convenient to discuss Government amendment 128.

Brandon Lewis: Clause 85 amends the fitness test applied to persons who apply for licences to let a house in multiple occupation or subject to selective licensing. It adds criteria to those that local housing authorities must currently take into account under sections 66 and 89 of the Housing Act 2004. Amendments 127 and 128 are minor and technical amendments to ensure that the additional criteria apply only to England.

Amendment 127 agreed to.

Teresa Pearce: I beg to move amendment 137, in clause 85, page 34, line 37, at end insert—

"(g) has a current entry on the Database of Rogue Landlords and Letting Agents as set out in Part 2 of the Housing and Planning Act 2015."

This amendment would deny those with an entry on the Database of Rogue Landlords and Letting Agents from being granted a licence for a HMO.

This amendment would ensure that those with an entry on the database of rogue landlords and letting agents are not granted a licence for a house in multiple occupation. Anybody subject to a banning order would not be allowed to be granted a licence for an HMO, but we would like that to apply also to those with an entry on the database of rogue landlords and letting agents. As we discussed at length on Tuesday, it is important that we crack down on rogue landlords, who drive down the whole private rented sector. We support measures to tackle those people, both to ensure the security and safety of tenants and to penalise criminal landlords. One way in which that could be furthered is by amending clause 85 to include those with an entry on the database of rogue landlords and letting agents, so that they would be denied a licence for an HMO.

Clause 85 currently amends previous legislation to include further measures in the fitness test for a landlord to be granted an HMO licence. We would like this further measure to be added to ensure that rogue landlords could not be granted HMO licences. I was encouraged to see the consultation document that the Government put out earlier this month on HMOs. No doubt I will

respond to that in due course, but this amendment would assist in ensuring that those licensed to run an HMO were fit to do so.

As the Committee will be aware, a local housing authority may include other persons on the rogue landlords database, rather than applying for a banning order, in a case where a person's offences are slightly less serious and the local authority considers monitoring of that person to be more appropriate than seeking a banning order. With this amendment, we seek an assurance that those people would not be considered for an HMO licence. It would have the added bonus of ensuring that the local housing authority checked with the rogue landlords and letting agents database to ensure that the applicant was allowed, which would ensure that nobody subject to a banning order slipped through.

If in future the database of rogue landlords and letting agents were to be expanded, it would provide further protection for tenants against such people. As discussed before, we are supportive of measures to tackle rogue landlords, both to ensure the security of tenants and to penalise criminal landlords. I believe that the amendment would help to drive up standards across the sector by protecting tenants in HMOs from such people. I therefore hope that the Committee will consider the amendment.

Brandon Lewis: I appreciate that the amendment would require a local authority to have regard to the fact that a landlord had been included in the database of rogue landlords and letting agents when considering an application from that landlord for a licence to operate a house in multiple occupation or for selective licensing.

If the Committee will bear with me for a few moments, I want to go into a bit of detail to give the hon. Lady a full answer. A local authority is already required to have regard to a range of factors when deciding whether to grant a licence. Those include whether the applicant has committed any offence involving fraud or other dishonesty, violence or drugs, practised unlawful discrimination, or contravened any provision relating to housing or landlord and tenant law.

That last factor—contravention of housing or landlord and tenant law—would include all the offences leading to inclusion in the database. The database will be a key source of information for local authorities when taking decisions on whether to grant a licence. Those safeguards are very important, as it is clearly essential that a local authority can be confident that a licence is granted only to a landlord who can demonstrate that they are a fit and proper person to operate a house in multiple occupation, or a property subject to selective licensing, and will not pose a risk to the health and safety of their tenants, many of whom may be vulnerable.

Grahame M. Morris: That is a very interesting point. Is the Minister effectively advising us that he considers someone who is a rogue landlord not to be a fit and proper person to hold a licence for a house in multiple occupation?

Brandon Lewis: As I have outlined, we want to ensure that the licence is granted only to a landlord who can demonstrate that they are a fit and proper person to operate a house in multiple occupation. To build on a good point raised by the hon. Member for Harrow West the other day, there was an example in my constituency over the summer when somebody contravened the law. I would make the case that that person should never have been allowed again to be a landlord in the first place, people having lost their lives when that person was previously a landlord. We all want to ensure that we do everything we can to stamp out the chance of that kind of individual ever being a landlord again.

If the hon. Member for Easington will bear with me, I want to go a bit further. Clause 85 includes two further safeguards by providing that in future a local authority would also be required to have regard to whether the landlord has leave to remain in the UK or is an undischarged bankrupt or is insolvent. The aim of the amendment is to ensure that local authorities fully consider the past behaviour of landlords and agents who apply for a licence.

The Government and I are extremely sympathetic to that aim. To do that, local authorities need access to information about the previous activities of the landlord and will need to share that information across local authority boundaries. The database will be an important step forward in sharing information about convictions for housing-related offences.

Having heard the strength of feeling in the Committee both today and previously, particularly on Tuesday, I want to look further at whether local authorities have access to the right information, beyond convictions, to enable them to make the right judgments about who is a fit and proper person to hold a licence. I hope that, with that assurance, the hon. Member for Erith and Thamesmead will agree to withdraw the amendment.

Mr Jackson: I would like to add briefly to the important point the Minister has made. Members of the Committee might have heard "World at One" a few weeks ago when it focused on high levels of immigration in the Peterborough constituency. They followed around a housing enforcement officer of 20 years' experience, who found, in a two-bedroom house, a family comprising a mother on her own and eight children. That is pertinent because it is important to make the point that is no good for individual local authorities to collect those data if they do not cross-reference them with other regulatory and statutory bodies.

It is appalling not only that that mother was living with eight children in a slum, and a greedy, rapacious landlord was skimming money off the state and plunging them into misery; frankly, that lady should not have been in the country because she is a Slovak national. She was not exercising her EU free movement directive rights because she was not employed, self-employed, looking for work or a student. She should not have been in the UK accessing UK benefits. Over and above the housing issue, we need a much tougher and more robust regulatory framework to share information with organisations such as Border Force. I hope that we are able to do that in some way because, frankly, we want to drive some landlords out of the market, but we also want to ensure that the right people are in the country accessing the scarce public resources.

Mr Thomas: Very briefly, I want to press the point about the jurisdiction of the database. It clearly relates to England, but rogue landlords operating in the Gloucester area or on the borders of Wales might have properties in Wales. It might be similar with the border areas close

[Mr Gareth Thomas]

to Scotland. It would be useful, as part of the Minister's helpful commitment to look at how the database might be made even more robust, to think about co-operation with Welsh, Scottish and even Northern Irish housing authorities.

Teresa Pearce: I am reassured by the Minister's comments. We all agree that we want to drive those sorts of people out of business, because of the suffering of their tenants and the impact on the communities in which they live—on schools and on the NHS. Slum landlords overcrowding properties is a problem in all constituencies, particularly in London. I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Amendment made: 128, in clause 85, page 35, line 5, leave out subsection (5) and insert—

"(5) In section 89 (tests for fitness and satisfactory management arrangements: certain other houses)—

(a) after subsection (1) insert—

'(1A) A local housing authority in England must also have regard to any evidence within subsection (3A) or (3B).';

(b) in subsection (2), in paragraph (c), after 'tenant law' insert

'(including Part 3 of the Immigration Act 2014)';

(c) after subsection (3) insert—

'(3A) Evidence is within this subsection if it shows that P—

(a) requires leave to enter or remain in the United Kingdom but does not have it; or

(b) is insolvent or an undischarged bankrupt.

(3B) Evidence is within this subsection if—

(a) it shows that any person associated or formerly associated with P (whether on a personal, work or other basis) is a person to whom subsection (3A)(a) or (b) applies; and

(b) it appears to the authority that the evidence is relevant to the question whether P is a fit and proper person to be the licence holder or (as the case may be) the manager of the house.'

(6) In section 93, in subsection (2), in the words after paragraph (c)—

(a) for 'Section 89(1) applies' substitute 'Section 89(1) and (1A) apply';

(b) for 'it applies' substitute 'they apply'."—*(Brandon Lewis.)*

See Member's explanatory statement for amendment number 127.

Clause 85, as amended, ordered to stand part of the Bill.

Clause 86

Financial penalty as alternative to prosecution under Housing Act 2004

Teresa Pearce: I beg to move amendment 138, in clause 86, page 35, line 24, leave out "as an alternative" and insert "in addition"

This amendment would allow for a financial penalty as an addition, rather than as an alternative, to prosecution.

The amendment is a probing one. I would like to query this with the Minister. The amendment would amend clause 86. The clause introduces schedule 4, which amends the Housing Act 2004 to allow financial penalties to be imposed as an alternative to prosecution in certain offences. The amendment would ensure that financial penalties could be sought in addition to prosecution, rather than as an alternative.

On Tuesday in Committee, there appeared to be a growing consensus that the Bill could go further to penalise criminal landlords to deter them from committing crimes and from returning to the sector, as well as providing an adequate punishment for the offence. I hope the amendment might meet with a similar consensus.

We support the measures to tackle rogue landlords and to penalise criminal landlords. By seeking further provisions to penalise criminal landlords, we would ensure that they do not get away with the offences they commit. At present, the Bill allows for a financial penalty to be sought instead of criminal prosecution in cases from failure to comply with improvement notices to letting an unlicensed HMO. Clearly, there will be cases where a financial penalty will be more appropriate, as well as ones where a court route will be more appropriate. However, there may well be other situations where both routes will be appropriate, and the amendment would allow both routes to be taken. That would also help in situations where the impact of the offence is unclear. A local authority may deem a financial penalty to be appropriate, but for repeat offenders, or if the impact of the original offence escalates, there may also be a wish to seek an additional prosecutorial route. Making provision for both routes will allow greater flexibility. Local authorities could choose to fine or they could choose to prosecute, but they could also choose to seek both measures.

I hope that the Minister will consider my amendment and explain to me why he believes that local authorities should be able to do one or the other, but not both. Is there something that forbids local authorities from placing large fines, or some other reason why they cannot do both? We want to deter people from committing the crimes we are talking about and from returning to the sector, so we want to provide adequate punishment. I look forward to hearing the Minister's explanation of why the clause has been phrased as it has.

3 pm

Mr Thomas: I rise to support my hon. Friend's amendment and to push the Minister gently for clarity about why, as the Bill stands, someone who was subject to a banning order could not be subject to a financial penalty as well. Given the significant costs that any housing authority will incur in taking action against one or other of the 10,500 rogue landlords that the Minister estimates there to be, why should not a financial penalty be imposed to help to recover some of the costs of taking action against them?

The hon. Member for Peterborough was a particular fan of the examples of rogue landlords in a recent article in the Conservative party newspaper *The Guardian*. I cannot think of any reason why any of those individuals who has already been convicted of being a bad landlord and who may or may not be subject to a banning order under this legislation should not also face a financial penalty. I hope that the Minister might, on this occasion, welcome my hon. Friend's amendment and accept it for inclusion in the Bill.

Brandon Lewis: I appreciate what the hon. Member for Erith and Thamesmead has said about the amendment being a probing one, and I hope that I can satisfy her queries. While we are still considering this part of the Bill, I want to pick up on the points made by the

hon. Member for Harrow West a few moments ago about how the information is spread and the databases. I am committed to looking at what we can do about that. Obviously, we have devolution and some of those matters are devolved. An amendment would be required to the Bill, but the details could be set out in a memorandum of understanding. That is part of what we are looking at now. We all share the desire to make it as difficult as possible for anybody who is not a fit and proper person ever to be able to be in a similar position again.

Amendment 138 would make a change to clause 86 to allow a local housing authority to impose a civil penalty in addition to, rather than as an alternative to, prosecuting a landlord, as the hon. Member for Erith and Thamesmead has quite rightly outlined. My hon. Friend the Member for Peterborough talked in the last few minutes about rapacious landlords. I will take his "rapacious" and raise him this: I want to make sure that we drive out avaricious landlords, as much as rapacious ones, so that they cannot act in the market again.

We have to make sure that we get the balance right, however. The Bill provides local housing authorities with a choice about whether to go down the civil penalty route or the prosecution route, depending on the seriousness of the offence. That is a matter for them to review in the light of their local circumstances. I think it would be disproportionate to use both regimes in relation to the same conduct, especially when local authorities will also benefit from other measures in the Bill. As we have outlined over the last few days, we are keen to look at going further and making this even harder on people. For instance, local authorities can apply for a rent repayment order where rent has been paid from housing benefit or universal credit and where certain housing offences have been committed, as set out in part 2 of the Bill. That is in addition to the powers already available through the Housing Act 2004, under which magistrates can rightly impose unlimited fines for the most serious housing offences. I hope that, given that short explanation, hon. Members will agree to withdraw their amendment.

Mr Thomas: I hear the Minister's point about the need for proportionality. It seems eminently sensible. For a first offence, one clearly would not want to impose both a financial penalty and some other form of penalty. However, for the very worst sorts of landlord, I do not see why one could not add the option of a financial penalty as well, as part of the armoury of tools available to a first-tier tribunal in dealing with a rogue landlord.

Brandon Lewis: Obviously, it depends on the seriousness of the offence. It is for local authorities to decide whether to go down the civil or criminal route. If they do the latter and use the Housing Act 2004, of course, magistrates have an unlimited ability to fine for that kind of offence. It is absolutely covered in that sense; they can impose unlimited fines. For the most serious housing offences, it is right that they should have that freedom and flexibility. I hope that hon. Members will agree to withdraw the amendment.

Teresa Pearce: As I outlined earlier when moving the amendment, it was a probing amendment, so we do not wish to proceed to a vote. I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Clause 86 ordered to stand part of the Bill.

Schedule 4

Financial penalty as alternative to prosecution under Housing Act 2004

Teresa Pearce: I beg to move amendment 139, in schedule 4, page 78, line 9, leave out "but must not be more than £5,000".

This amendment would remove the limit for the amount of a financial penalty imposed by the local housing authority under the section.

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

Amendment 140, in schedule 4, page 78, line 42, leave out "but must not be more than £5,000".

This amendment would remove the limit for the amount of a financial penalty imposed by the local housing authority under the section.

Amendment 141, in schedule 4, page 79, line 32, leave out "but must not be more than £5,000".

This amendment would remove the limit for the amount of a financial penalty imposed by the local housing authority under the section.

Amendment 142, in schedule 4, page 80, line 20, leave out "but must not be more than £2,000".

This amendment would remove the limit for the amount of a financial penalty imposed by the local housing authority under the section.

Teresa Pearce: The amendments are grouped together and seek a similar aim. They are probing amendments, like the previous amendment. As discussed during debate on the previous amendment, amendments 139 to 142 relate to schedule 4, which allows for a financial penalty as an alternative to prosecution. Each amendment goes through schedule 4 to omit the upper limit on the financial penalty. What they seek is further scrutiny of the financial penalty of £5,000 or, in the case of an offence under section 139(7), £2,000.

On Tuesday, when we discussed part 2 of the Bill, a consensus appeared to be growing that the Bill could go further to penalise criminal landlords, and there appears to be a consensus in this room that that is what we all wish to do. Offences in schedule 4 are met with a similar fine and could be sought as an alternative to, rather than in addition to, prosecution. It is therefore appropriate to consider closely whether the amounts are suitable to the offence committed and do enough to deter rogue landlords from committing their crimes.

Can the Minister outline why those particular financial penalties have been set, and why those amounts are deemed appropriate? We believe that, particularly if the fines are sought as an alternative to prosecution, they need to penalise adequately. Why then do offences under section 95 of the Housing Act 2004, which relates to controlling or managing a house that is required to be licensed but is not—a house in multiple occupation—receive a fine of up to £20,000, while this Bill says that a local authority can impose a fine of up to only £5,000? Surely if a financial penalty can be issued as an alternative to prosecution by the local authority, the Bill must provide for as tough a penalty as the original Act does when seeking a prosecution. I would be grateful if he responded with the rationale for the level of the fines.

Brandon Lewis: Amendments 139 to 142, as the hon. Lady has outlined, would remove the £5,000 limit for a civil penalty or, in the case of a contravention of an overcrowding notice, £2,000. Instead, they would allow the local housing authority to impose an unlimited fine where the landlord has: failed to comply with an improvement notice; not obtained a licence for a licensable HMO; failed to comply with licence conditions; not obtained a licence for a property subject to selective licensing; failed to comply with licence conditions; or contravened an overcrowding notice. To turn to our conversation a few moments ago, obviously, at a point where an offence is that serious, the local authority has the opportunity to take a view about which course of action to take. Under the Housing Act 2004, magistrates courts have the ability to bring forward unlimited fines. However, as we discussed on Tuesday, it is right that these breaches carry as strong a penalty as possible, so that they are strong enough as a deterrent that no one wants to breach them in the first place. That is the best way to drive out these disgraceful rogue landlords.

I heard the strength of feeling that the civil penalties set out in the Bill must be high enough to damage a rogue landlord's business model and make it untenable, and that the current penalties may not be sufficient. If the Committee will bear with me, I would like to consider the points raised by the hon. Lady in more detail than I have had the opportunity to today. I will return to the topic on Report. With that in mind, I hope she will feel able to withdraw her amendment.

Teresa Pearce: I am pleased to hear what the Minister says, which is similar to what was stated on Tuesday when we talked about the level of fine. We do not want something that is revenue-raising; we want something that is truly a deterrent, and the Bill needs enough teeth to do that. I welcome his remarks, and I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Schedule 4 agreed to.

Clause 87

Tenancy deposit information

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

The Chair: With this it will be convenient to consider clause 88 stand part.

Stephen Hammond (Wimbledon) (Con): I do not want to detain the Committee for long, but this may well be a pertinent time to raise the issue that my hon. Friend the Member for Hornchurch and Upminster (Dame Angela Watkinson) raised on Second Reading about information that can be collected at the same time that council tax information is collected. She made a powerful speech on the point. As the Minister knows, her contention is that whenever a billing authority requests council tax information from the resident, owner or managing agent of any dwelling, the authority should also request the provision by that person of tenure information in respect of the dwelling.

I would like to reiterate the points made by my hon. Friend on Second Reading and test the Minister's appetite for bringing something forward on Report. Although the Minister will potentially respond by saying that some local authorities make such a request already, or that all local authorities recognise they have the power to do so, in reality, this is a very easy request for local authorities to make when asking for council tax information. Making tenure information available would provide some protection for tenants and would secure the reputation of landlords in general. It would provide a useful tool for local authorities when carrying out their housing functions, in terms of information about the various tenures available in their area, and making even more information available would be helpful.

I think we all want to see the information for rogue landlord databases widely spread. This would be a simple addition, so I am keen to hear whether the Minister is receptive either to bringing such a measure forward himself or to a Member tabling such a new clause or amendment on Report.

Teresa Pearce: I am pleased that the hon. Gentleman raises that point, because it is interesting. Would he be surprised to learn that I wrote a year ago to Lin Homer, the head of Her Majesty's Revenue and Customs, to ask what she thought the tax gap was for rental income, and that she estimated it to be in the region of £500 million? Would what he suggests not be a way to have a full register of landlords who can then be reported to HMRC, to ensure they are filling in their tax returns properly?

Stephen Hammond: Having been on the Public Accounts Committee for six months at the end of the previous Parliament, nothing surprises me about the inefficiency of HMRC. It is a body that needs almost complete reform. I am not sure I will be tempted down the line that the hon. Lady suggests, however, because there would be an issue with what the database was then being used for, but she may wish to ask the Minister about that. I am keen on a simple question that could be added to inform local authorities, helping with what the Government are trying to get to in the thrust of their Bill. With those few remarks, I am raising the issue with the Minister.

3.15 pm

Mr Jones: The clause inserts into the Housing Act 2004 proposed new section 212A, which will require tenancy deposit protection schemes to provide, when requested, tenancy deposit information to local housing authorities and other relevant bodies in England. Local housing authorities tell us that they have a limited picture of the size and scale of the private rented sector in their area.

My hon. Friend the Member for Wimbledon, who is on the Committee, and my hon. Friend the Member for Hornchurch and Upminster, who is not, have shown an interest in ensuring that local authorities have the information that they need to crack down on rogue landlords. I assure my hon. Friends—my hon. Friend who is not on the Committee will, I am sure, be paying close attention to our proceedings—that I completely agree with the aim they set out and it is exactly what the clause intends.

The three tenancy deposit schemes in England hold information on nearly 3 million tenancy deposits. That information will help local housing authorities in England to identify privately rented housing and enable them to

target the small minority of rogue landlords who knowingly rent out unsafe and substandard accommodation, often to vulnerable tenants. The information to be shared will relate to the tenancies of properties in the local housing authority's area. The type of information to be shared and the mechanism for sharing will be specified in contractual arrangements between the Department and the tenancy deposit protection schemes. Local housing authorities tell us that the information of most use is the property address of the rented property, the address of those managing the property and the number of tenancy deposits registered at the property address. Such data are the types intended to be shared.

Proposed new section 212A(3) allows tenancy deposit schemes to charge local housing authorities the costs associated with making the information available. Proposed new subsection (5) restricts the ways in which the information may be used by a local housing authority. The information may be used only to carry out an authority's statutory functions under parts 1 to 4 of the Housing Act 2004 and for investigating whether any offence has been committed under those parts of the Act. The purposes may be amended by secondary legislation subject to the affirmative procedure. Parts 1 to 4 of the Housing Act relate to improving housing conditions, licensing of HMOs and selected licensing of other accommodation. The Government consider that by restricting the use of data to those purposes, the proposal satisfies data protection principles and provides adequate protection for the rights of data subjects. In addition, arrangements between the Department and the tenancy deposit schemes will require that data subjects are notified that their information will be used for such purposes.

Proposed new section 212A(6) allows a housing authority to share the information with bodies providing services to it in the discharge of the functions under parts 1 to 4 of the Housing Act and investigating whether any offence has been committed under those parts. The clause is enabling and local housing authorities will not be required to access the data. It will be up to individual authorities to decide whether to access and use the data.

Clause 88 amends section 237 of the Housing Act to allow the Secretary of State to make regulations subject to the affirmative procedure to change the list of purposes for which a local authority may use the data that is obtained in relation to housing benefit or council tax. That is required to ensure that data obtained under proposed new section 212A and section 237 may still be matched with one another, should changes be made to section 212A(5).

Clauses 87 and 88 will help authorities to identify privately rented housing and to crack down on rogue landlords in their areas. That will help to improve conditions in rented properties, benefiting tenants as a result. It will cut the costs of enforcement and reduce the need to operate borough-wide licensing schemes that impact on good landlords.

Question put and agreed to.

Clause 87 accordingly ordered to stand part of the Bill.

Clause 88 ordered to stand part of the Bill.

Clauses 89 to 90 ordered to stand part of the Bill.

Schedule 5

Enfranchisement and extension of long leaseholds: calculations

Mr Jones: I beg to move amendment 129, in schedule 5, page 83, line 21, leave out "Secretary of State" and insert "appropriate national authority".

Amendments 129, 130, 131, 132, 133, 134 and 135 ensure that a regulation-making power may be exercised by the Welsh Ministers in relation to land in Wales as well as by the Secretary of State in relation to land in England.

The Chair: With this it will be convenient to discuss Government amendments 130 to 135.

Mr Jones: Amendments 129 to 135 to schedule 5 will ensure that new regulation-making powers can be exercised in respect of residential leasehold land by Welsh Ministers in relation to Wales, as well as by the Secretary of State in relation to England.

Clause 90 and schedule 5 amend the Leasehold Reform Act 1967 and the Leasehold Reform, Housing and Urban Development Act 1993 to allow a formula used in those Acts to be updated by regulations. The formula is used to calculate the value of minor superior leasehold interests and minor intermediate leasehold interests for the purposes of lease renewals and enfranchisement. The formula references a Government gilt—2.5% consolidated stock undated—that was redeemed by the Government in July 2015. It is, therefore, no longer listed and no longer available.

Residential leasehold is a devolved subject, so it seems only fair and just that Welsh Ministers are given the powers to make regulations for Wales, while the Secretary of State has the same powers for land in England.

Amendment 129 agreed to.

Amendments made: 130, in schedule 5, page 83, line 24, leave out sub-paragraph (4) and insert—

"(4) At the end insert—

(7) In sub-paragraph (1) "appropriate national authority" means—

(a) in relation to a tenancy of land in England, the Secretary of State;

(b) in relation to a tenancy of land in Wales, the Welsh Ministers.

(8) Regulations under sub-paragraph (1) may include transitional provision.

(9) Regulations under sub-paragraph (1) are to be made by statutory instrument.

(10) A statutory instrument containing regulations under sub-paragraph (1) is subject to annulment—

(a) in the case of an instrument made by the Secretary of State, in pursuance of a resolution of either House of Parliament;

(b) in the case of an instrument made by the Welsh Ministers, in pursuance of a resolution of the National Assembly for Wales.'"

See Member's explanatory statement for amendment 129.

Amendment 131, in schedule 5, page 84, line 3, at end insert—

"3 (1) Section 100 (orders and regulations) is amended as follows.

(2) In subsection (1), after 'Secretary of State' insert 'or the Welsh Ministers'.

(3) After subsection (2) insert—

(3) Any power of the Welsh Ministers to make regulations under this Part shall be exercisable by statutory instrument which (except in the case of regulations making only such provision as is mentioned in section 99(6)) shall be subject to annulment in pursuance of a resolution of the National Assembly for Wales."

See Member's explanatory statement for amendment 129.

Amendment 132, in schedule 5, page 84, line 9, leave out "Secretary of State" and insert "appropriate national authority".

See Member's explanatory statement for amendment 129.

Amendment 133, in schedule 5, page 84, line 16, at end insert—

"( ) After sub-paragraph (10) insert—

(11) In sub-paragraph (2) "appropriate national authority" means—

(a) in relation to a leasehold interest of land in England, the Secretary of State;

(b) in relation to a leasehold interest of land in Wales, the Welsh Ministers."

See Member's explanatory statement for amendment 129.

Amendment 134, in schedule 5, page 84, line 29, leave out "Secretary of State" and insert "appropriate national authority".

See Member's explanatory statement for amendment 129.

Amendment 135, in schedule 5, page 84, line 31, at end insert—

"( ) After sub-paragraph (9) insert—

(10) In sub-paragraph (2) "appropriate national authority" means—

(a) in relation to a leasehold interest of land in England, the Secretary of State;

(b) in relation to a leasehold interest of land in Wales, the Welsh Ministers."—*(Mr Marcus Jones.)*

See Member's explanatory statement for amendment 129.

Schedule 5, as amended, agreed to.

Clause 91

Redemption price for rentcharges

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

Mr Jones: The clause amends sections 9(4)(a), 10 and 12(2) of the Rentcharges Act 1977. It gives the Secretary of State regulation-making powers to provide a replacement financial instrument for the now redeemed 2.5% consolidated stock. That stock is referenced in the 1977 Act and is included in the formula used in the calculation of redemption of rentcharges under that Act.

Rentcharges are an annual sum paid by the owner of freehold land to another person who has no other legal interest in the land. They have existed since the 13th century, and have traditionally provided a continuing income for landowners who allowed their land to be used for development. Section 8 of the 1977 Act sets out procedures to enable the payers of rentcharges to apply to the Secretary of State for a redemption certificate, and it puts a duty on the Secretary of State to provide that service.

The algebraic formula applied by the Secretary of State to work out the redemption price uses the yield of the consolidated stock to calculate a lump sum that has the same value as the right to receive all the rentcharges over the remainder of the term. We believe that the possibility that the gilt would be redeemed was not envisaged at the time of the 1977 Act, which provides no means of replacing the gilt in the formula by the use of secondary legislation.

While the Secretary of State continues to have a duty to fulfil his statutory function with regard to redemption certificates, he is currently unable to calculate the redemption price following the redemption of the relevant gilt and so cannot fully discharge his duty. Until there is a replacement for the gilt in the formula used for the calculation, it is not possible for the Secretary of State to issue a redemption certificate and a rent payer's property will therefore remain subject to a rentcharge. The aim is to replace the gilt so that it continues to provide a balanced and fair settlement figure for all parties, so that they can retain confidence in the process.

Question put and agreed to.

Clause 91 accordingly ordered to stand part of the Bill.

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

3.26 pm

Adjourned till Tuesday 1 December at twenty-five minutes past Nine o'clock.

Written evidence reported to the House

HPB 84 Ruston Planning Limited

HPB 85 Showmen's Guild of Great Britain

HPB 86 Federation of Master Builders

HPB 87 APPG Gypsies Travellers Roma

HPB 88 TPAS

HPB 89 Future Housing Review

HPB 90 Chartered Institute for Archaeologists (CIfA)

HPB 91 A carer of a secure housing association tenant in London (submitter wishes to remain anonymous)

HPB 92 Mulberry Housing Co-op

HPB 93 Coin Street Secondary Housing Co-operative and Coin Street Community Builders

HPB 93A Attachment 1: Letter to the Secretary of State dated 23 September 2015 – Not published

HPB 93B Attachment 2: Letter from the Minister of State for Housing and Planning dated 13 October 2015 – Not published

HPB 93C Attachment 3: Letter to Department of Communities and Local Government dated 17 November 2015 – Not published