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Public Bill Committee

HOMELESSNESS REDUCTION BILL

Sixth Sitting

Wednesday 18 January 2017

(Morning)

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Sunday 22 January 2017

The Committee consisted of the following Members:

Chair: Mr Christopher Chope

† Betts, Mr Clive *(Sheffield South East)* (Lab)
† Blackman, Bob *(Harrow East)* (Con)
† Buck, Ms Karen *(Westminster North)* (Lab)
† Burrowes, Mr David *(Enfield, Southgate)* (Con)
† Donelan, Michelle *(Chippenham)* (Con)
† Drummond, Mrs Flick *(Portsmouth South)* (Con)
† Hayes, Helen *(Dulwich and West Norwood)* (Lab)
† Jones, Mr Marcus *(Parliamentary Under-Secretary of State for Communities and Local Government)*
† Mackintosh, David *(Northampton South)* (Con)
† Matheson, Christian *(City of Chester)* (Lab)
† Monaghan, Dr Paul *(Caithness, Sutherland and Easter Ross)* (SNP)
† Pow, Rebecca *(Taunton Deane)* (Con)
† Quince, Will *(Colchester)* (Con)
† Slaughter, Andy *(Hammersmith)* (Lab)
† Thewliss, Alison *(Glasgow Central)* (SNP)
† Tomlinson, Michael *(Mid Dorset and North Poole)* (Con)

Glenn McKee, *Committee Clerk*

† attended the Committee

Public Bill Committee

Wednesday 18 January 2017

(Morning)

[Mr Christopher Chope *in the Chair*]

Homelessness Reduction Bill

Clause 12

Suitability of private rented sector accommodation

9.30 am

Question (11 January) again proposed, That the clause stand part of the Bill.

David Mackintosh (Northampton South) (Con): During my time as a council leader, the Government introduced a number of measures aimed at combating rogue landlords. We have heard real horror stories of how some private landlords are behaving, so those measures were welcome and, in my view, long overdue. That minority of rogue landlords gave the whole industry cause for concern, but the changes mean that local authorities now have experience in and knowledge about dealing with them. Further changes introduced in the Housing and Planning Act 2016 will also help.

That experience will be really important in relation to the clause, because the new prevention and relief duties mean that we are helping to house more people in the private rented sector, and they may be vulnerable. Local authorities will already be checking the suitability of accommodation for those deemed to be in priority need under existing legislation. However, as more people are brought into that classification, it is right to ensure that additional protections apply to people deemed vulnerable, so that we can safeguard them against rogue landlords or unsuitable accommodation.

I am pleased that the provisions are clear about, for example, the need for the property to have fire safety precautions, a gas safety certificate, compliance with electrical safety regulations and precautions against carbon monoxide poisoning. Those are all things we would want in our own homes, and it is right that we seek the same protections for vulnerable people who are going through a difficult time in their lives. I welcome the inclusion of those protections.

Michael Tomlinson (Mid Dorset and North Poole) (Con): It is a pleasure to serve under your chairmanship, Mr Chope, for what we hope is the final day of consideration of the Bill in Committee. I, too, rise to support this important clause. My hon. Friend the Member for Northampton South picked up an aspect that I want to touch on briefly, which is carbon monoxide poisoning.

Many of us know either personally or from constituents what a deadly killer carbon monoxide can be. I know that my hon. Friend the Member for Enfield, Southgate and others are officers of the all-party parliamentary group on carbon monoxide, and there are a number of similar groups. This issue highlights the importance of ensuring that there are additional protections against rogue landlords.

It is right to say that the Government have already made large steps in that direction, but inserting this provision into article 3 of the Homelessness (Suitability of Accommodation) (England) Order 2012 will strengthen those protections further. I welcome the other measures in the clause, but the carbon monoxide poisoning provision is particularly worth dwelling on.

Will Quince (Colchester) (Con): It is a pleasure to serve under your chairmanship, Mr Chope. Like my hon. Friend the Member for Northampton South, I used to be a councillor. I recall numerous cases—I am sure we all can, as Members of Parliament—of constituents coming to me about rogue landlords in the private rented sector, where there is a local housing allowance relationship. Part of the problem is that the vast majority of landlords are very good. Rogue landlords—I do not particularly like that term—are a small few, and they give most landlords, who are very good, a bad name. Nevertheless, we have to protect people from those few.

I would rather the legislation went much further. I would like to see local authorities making checks on all the properties they let out, but that would be extremely onerous on local councils and would undermine the premise that the vast majority of people are capable of making those checks themselves and determining whether a property has the necessary gas safety certificate, carbon monoxide detection equipment, smoke alarms and the other things we have come to expect, whether we are renting or own our own properties.

Michael Tomlinson: Does my hon. Friend agree that this is a balancing act? As he says, there are many good landlords out there, but there are a few for whom I believe "rogue landlord" is the right expression. However, in this clause, as in others, it is a matter of getting the balance right, so that we have sufficient landlords—without them there would be no property to rent—but with sufficient safeguards and protections to ensure that the most vulnerable are protected.

Will Quince: My hon. Friend makes a good point. As much as we would like to extend the protections to all, we have a duty to safeguard the most vulnerable—people who are not necessarily able to make those checks or to make informed decisions because of their financial position, a disability, a mental health issue or all sorts of other reasons that mean the council has an additional duty to safeguard them.

I support the clause. As much as I would like to see it go further, I am realistic about what we can achieve. Protecting the most vulnerable is what we should aim to do, and that is exactly what the clause does.

Mrs Flick Drummond (Portsmouth South) (Con): I, too, am delighted to support the clause. It continues the Government's work in the previous Parliament to tackle rogue landlords, such as introducing the new code of practice on the management of property in the private sector, the requirement for landlords to be a member of a redress scheme and the production of guides for tenants and local authorities.

The landlord accreditation scheme run by my local authority in Portsmouth seeks to impose both physical condition and management standards on the private rented sector, not only through the provision of encouragement, support and incentives, but by actively working with, and publicly recognising, those landlords who are willing to adhere to good property standards. The council is well supported in that by the Hampshire constabulary and fire and rescue service, Portsmouth University and, crucially, the Portsmouth & District Private Landlords' Association.

There are some 4,000 private landlords in Portsmouth, and their association acknowledging the benefits of accreditation is of huge benefit to prospective tenants. The reassurance that a landlord has accreditation that is supported by the emergency services and two significant providers of accommodation in the city—the University and the council—is so important to tenants in my city. It is especially important when accommodating the homeless. In those situations, there is a danger that individuals and families might feel obliged to take up whatever is on offer, even if they have serious concerns about its standard of upkeep. The clause should ensure that such fears do not arise.

Responsible local authorities and landlords are already accustomed to checks to ensure quality. Does the Minister agree that the clause will complement existing work, such as that being done in Portsmouth? There is every reason to think that landlords and local authorities will welcome it.

Michelle Donelan (Chippenham) (Con): By extending the provision to vulnerable people, and not only those in priority need, the clause goes to the heart of the Bill, which is about expanding what we do for everybody who needs the help on offer.

The checks we are talking about are important; things such as gas safety and electricity records are essential not only to people's wellbeing but their lives. Vulnerable people would not necessarily be able to ensure that those checks had been done beforehand. Of course, a lot of people who rent in the private sector are aware of the necessary checks and are quite capable of getting them all the way through. A lot of vulnerable people will be able to do so too, but there are groups of people who cannot, and it is important that we look after their wellbeing and ensure that they are in safe accommodation.

Several hon. Members have spoken about rogue landlords and work that has already been done and work that still needs to be done. The clause must be seen in conjunction with tackling rogue landlords and not in isolation, because alone it is not sufficient. It is important to note that not all landlords are rogue landlords. They provide a great deal of service by providing housing, but we must look after those who are affected by housing that is not up to standard.

I note that many councils throughout the country are already doing these checks. Wiltshire Council, which covers my constituency, already provides checks for a number of vulnerable people. However, we need one standard across the country, and we need to ensure that, no matter where someone lives or is homeless, they get the same provision of care. That is very much what the Bill seeks to initiate.

I will touch on a point that was raised by an Opposition Member in the last sitting. Although the Bill extends the provision to include vulnerable people, not everybody who is in need, such as pregnant women, will fall into that category. There are a host of other anomalies that will slip through that gap; people who, if we sat back and thought about it, we would realise are very much in need of the extra checks on their private accommodation. I urge the Minister to think about expanding the clause. Thinking about pregnant women and other vulnerable people in my constituency, it would be harrowing for them if they were unable to get these additional checks, and it would be to the detriment of all of us working on the Bill. We need to ensure that it is inclusive and encompasses help for all.

Mr David Burrowes (Enfield, Southgate) (Con): It is a pleasure, Mr Chope, to take part in the debate on this crucial clause on suitability. We all have experience of constituents who have been placed in unsuitable accommodation. What we need is evidence to back up what we all know about the importance of suitable housing for vulnerable households.

I want to refer briefly to the evidence commissioned by Crisis and Shelter, both of which are well placed to tackle homelessness. They undertook a 19-month study, published in 2014, looking at 128 people who had been rehoused. The evidence is very relevant because it makes an important, though perhaps obvious, point that private rented accommodation, which is now the predominant housing option available, is not suitable for everybody, particularly those who are vulnerable.

Tenants were found in properties that were in poor condition and where there had been issues with the landlord. Accommodation was cramped, unsuitable and often affected by damp, mould and insect infestation. With a lack of suitable fixtures, fittings and furniture, many tenants struggled to pay household costs, which often resulted in debt. The relevance is that the physical condition of accommodation is compounded in vulnerable households that might have multiple and complex needs. If they are placed in accommodation without suitable fixtures, fittings and furniture, leading to debt, their complex needs are compounded. I want to ask the Minister whether particular attention will be given through better practice and guidance to those vulnerable households.

Under the existing law, local housing authorities need to consider whether the accommodation is affordable for the person, as well as its size, condition and location. Are those considerations all tailored to vulnerability? The issues of affordability, size, condition and location are different for different and complex needs. On affordability, there are extra associated costs for those with complex needs, and size and location might also be important for those with mental health needs.

An example that has come to my attention recently that illustrates the point about location concerns people with addictions and in recovery. Location is relevant for an addict in recovery, for instance if their placement is in an area where drug use is prevalent or other addicts are around. That is particularly pertinent when considering suitable accommodation. Will the Minister tell us whether that factor will be taken into account? Those vulnerable individuals need to be placed in suitable accommodation to assist their recovery. It is one thing to get them off drugs, but it is another to keep them in sustained

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recovery. Appropriate and suitable housing is crucial to long-term recovery. The Government are due to publish soon an updated drugs strategy, and no doubt housing will be a key part for sustainable recovery. It is important that accommodation is suitable, so location must be taken into account.

Legal obligations predominantly address physical issues. My hon. Friend the Member for Colchester rightly mentioned carbon monoxide, an issue I have taken an interest in through the all-party parliamentary group. However, location also includes who is present, although I am not sure that will come under the purview of this provision. A placement could be in a licensed multiple occupation property. Will account be given to how appropriate it is to place a vulnerable household in accommodation where there might be peers who are not conducive to someone's long-term recovery? Will it get into that kind of detail to ensure that suitability is also based on who is present in the accommodation, or who is nearby?

9.45 am

The other issue I want to pick up on relates to a matter that has been raised previously, but it is particularly relevant to suitability: the challenge of ensuring that accommodation is affordable, together with the issue of location. We read again about Westminster City Council feeling obliged to place vulnerable households in accommodation in outer London and far beyond, because of affordability issues. Its representatives may well say—it has been said in the Communities and Local Government Committee, and Kensington and Chelsea representatives have said it as well—that because of affordability and supply issues they must plainly look outside the borough when placing households. They are looking to Enfield and further afield.

Ms Karen Buck (Westminster North) (Lab): Does the hon. Gentleman recognise that Westminster has explicitly stated that it is doing that because of Government policy on cuts to the support for temporary accommodation, the benefit cap, cuts in local housing allowance and a range of other measures? It is not an accidental development; it is the result of deliberate Government policy.

Mr Burrowes: I hear the hon. Lady's point, and that is what the local authorities pray in aid as the reason they are obliged to do as they are doing. Nevertheless, they have duties and legal responsibilities. That is why I am interested in how far the Bill and the measures on vulnerable households will bite and oblige local authorities to look at the matter more seriously, rather than under the banner of "We are pressurised and do not have affordable accommodation", taking the easier option of putting households in Enfield, for example, which has associated costs.

I have been talking to the Minister and to the relevant director of finance about both the local government finance settlement and this particular issue. I have also talked to the deputy Mayor of London, who I understand has been trying to bring about a more collaborative approach with directors of housing so that they cannot simply come up with the easy excuse of, "It's just the Government's fault." They have legal responsibilities and should not just shunt their problems on to outer London boroughs.

We have had a debate about appropriate location and ensuring that households—particularly vulnerable households—are not moved away from supportive networks in relation to education, as well as other family and care support. How far will clause 12 ensure that Westminster housing officers deciding about vulnerable households will not place them in areas such as Enfield so easily? Yes, with suitability there is an issue of affordability, but there is also an issue of location. When there is a competing interest, which is the one that will really kick in? Can the Minister advise us on the discussions that he is having about ensuring that decisions are appropriate?

The Select Committee recommended that placing vulnerable households away from the area and their supportive networks should be not a first option but a last resort. I do not hear that it is being thought of as a last resort.

Michael Tomlinson: My hon. Friend talks about location. Article 3 of the Homelessness (Suitability of Accommodation) (England) Order 2012 is relevant. He also mentioned houses in multiple occupation. Does he see, when he talks about location—and thinking about neighbours as well—that there would be a difficulty in an extension beyond HMOs, and the licensing regime within that structure? I understand his point about the suitability of the people nearby, but does he recognise that it would be difficult under article 3 to draw provisions as widely as he suggests?

Mr Burrowes: My hon. Friend is right, but we shall probably hear later about the extent of inspections, and it may well be that when an inspection is done to make normal physical checks, an eye can be given to wider concerns that might affect vulnerable households. The multiple occupation provisions are an issue of licensing—it is a question of checking unlicensed multiple occupation premises. It is important to check that, because it is not surprising that there are extra risks in unlicensed multiple occupation premises, not least for those in recovery or with other needs. It is those unlicensed premises that need attention. The inspection regime will ensure that the current law is extended to vulnerable households and that accommodation in unlicensed houses in multiple occupation will be deemed unsuitable. That will help to ensure that vulnerable households will not be exposed to other risks.

Michael Tomlinson: As I understood the point my hon. Friend was making a few moments ago, he was seeking to draw the regime wider than HMOs, whether licensed or unlicensed. Does he not see that, as drafted, article 3 does not catch accommodation that is wider than that, and that there would be difficulty in drawing it more widely? Certainly HMOs, whether licensed or unlicensed, can be looked at, but if we go wider than that it will be very difficult to assess the suitability of accommodation under article 3 by dint of looking at the suitability of the neighbours, unless it is specifically in relation to HMOs.

Mr Burrowes: I concede that point. I am trying to encourage us to look at the wider duties in the Bill and its wider application to prevention duties that might assist. I accept my hon. Friend's point.

This is an important clause and we want to hear from the Minister that we are making the best of what we can do here. I appreciate that we will come to implementation and costs, which must be proportionate. We want to ensure that they are not open-ended. I want to hear from the Minister that he is open to seeing how we can extend the checks to ensure that we do the best for vulnerable households and ensure that they receive suitable accommodation.

The Parliamentary Under-Secretary of State for Communities and Local Government (Mr Marcus Jones): The Government welcome the introduction of greater protection for vulnerable persons placed in the private sector under the new homelessness prevention and relief duties. Existing legislation already requires local housing authorities to be satisfied that accommodation is suitable when exercising their part 7 functions on homelessness and the prevention of homelessness in relation to factors such as size of accommodation, affordability and accessibility. I hear what my hon. Friend said and I will certainly go into more depth on his important points. I feel under a little pressure from Conservative Members and get the impression that they have reflected on the comments of the hon. Member for Westminster North, who talked much the same language at our previous sitting.

As my hon. Friend the Member for Harrow East said, when making an offer in the private rented sector for those in priority need under the main homelessness duty, existing legislation also requires local housing authorities to make additional checks to ensure the property is in a reasonable physical condition, and is safe and well managed. The points to be considered are set out in the Homelessness (Suitability of Accommodation) (England) Order 2012. Local authorities are therefore already used to making those checks and reputable landlords should be readily able to provide the requisite documentation.

I heard the comments of my hon. Friends the Members for Colchester and for Chippenham. They are quite right to say that most landlords are extremely responsible and do the right thing by tenants, but we know that 3% of landlords are rogues and do not do the right thing by their tenants. Frankly, the Government want to drive them out of renting property, particularly to vulnerable people. We have taken significant steps to drive out those rogue landlords through the Housing and Planning Act 2016. I will not go into the detail of that Act.

Michael Tomlinson: Before the Minister moves on to what the Government are already doing, if I understood and heard him correctly, he said that they deem only 3% of landlords to be rogue landlords. Perhaps he could clarify where that evidence comes from, but if he is right, does he not agree that it is a matter of balance—of making sure that we are not punishing those landlords who are doing a perfectly good job already, and potentially deterring and putting off other people from becoming landlords and providing much-needed accommodation?

Mr Jones: My hon. Friend makes an important point. A number of studies have been done around this issue, and that is where the figure of 3% comes from. As Members of this House—I am not, personally, a residential landlord but I know other Members who are—it is easy for us not to understand the challenges of being a residential landlord. The last thing we want to do is drive residential landlords out of the market so that we have less rental property for the people who we are trying to help to access good accommodation.

Helen Hayes (Dulwich and West Norwood) (Lab): I am concerned by the number of references Government Members have made to how small the number of rogue landlords is. The 3% refers to the definition of rogue landlords from the data that the Government have. My experience is that there are very many more landlords who, although they might not fall into that category—nevertheless, 3% is a lot of landlords—of the most unscrupulous, are not as responsible and rigorous as they might be and do not provide tenants with the right level of service. This requirement is about local authorities being able to check that repairs that should have been done, have been done and that the property is in a fit state to move in to. Consistently this morning, the comments from Government Members have undermined the nature of the problem and the extent of the challenge that my constituents face.

Mr Jones: I hear what the hon. Lady says, but my understanding of what I have heard this morning is that Government Members, including myself, are extremely concerned to make sure that people who are vulnerable have the right accommodation and are supported in accessing it. The hon. Lady was on the Housing and Planning Bill Committee in late 2015, before the Bill became an Act in 2016, so she will know that local authorities now have a real incentive to tackle rogue landlords. If that legislation leads to our identifying more rogue landlords because they are genuinely rogue, so be it. That is a good thing as far as I am concerned.

Michael Tomlinson: I do not disagree with what the hon. Member for Dulwich and West Norwood said, save for this: 3% is a relatively small number. To my mind, one rogue landlord is one rogue landlord too many—I am very happy to put that on record. Perhaps the Minister has other evidence of a second tier of bad landlords that do not reach rogue status and therefore are not in that top 3% but may be below it. Either way, the point from this side—certainly, I speak for myself—is that one rogue landlord is one rogue landlord too many, but 3% is relatively small and there should be a balance in relation to this clause and the whole Bill.

Mr Jones: I completely agree with my hon. Friend. The legislation in relation to rogue landlords means that civil penalties of up to £30,000 can be levied against them. Those civil penalties can be retained by the local authority to put towards the enforcement that they make in this regard. There are strong powers there, which is a good thing if there is a second division of rogue landlords that we need to uncover. However, my hon. Friend is right: we need to get a balance.

Mr Burrowes: For clarification, the 3%—an upper tier that is not wholly relevant to the wider issue of the suitability of property and of landlords—deals with the number of rogue landlords, but does not account for the number of properties held by those landlords. If rogue landlords are particularly known for having large

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numbers of properties, the figure does not properly reflect the huge number of unsuitable properties under their control.

10 am

Mr Jones: That was why the civil penalty was raised to £30,000—to reflect that it needed to be a penalty that had teeth for the type of people that my hon. Friend is talking about. On the point about banning orders, that also relates to companies where a rogue landlord might be a director. There are many ways in which the legislation will help in that sense.

I must move on. As I said, local authorities already make some checks so they have significant experience. However, we should recognise that there is a cost to the providing and checking of relevant information that local authorities need to do. That is why the approach to the Bill is to extend that additional protection to where it is needed most, to protect those who are most vulnerable, as described by my hon. Friend the Member for Harrow East in his opening speech, which seems quite a long time ago.

This is a proportionate approach, which hon. Members have stressed is important. To require similar checks for all tenants would place additional burdens on local authorities and generally be unnecessary. Tenants who secure accommodation in the private rented sector already do so without the local authority's carrying out additional checks on their behalf. Those who are themselves able to ensure suitability of property should do so.

However, I listened carefully to the hon. Member for Westminster North, who expressed concern that the group of people protected because they are defined as vulnerable is narrower than the group in priority need. She gave the example of pregnant women or those with children. I do not dismiss her comments and I hope I can reassure her that I share her concern that people do not live in homes that are unsafe or badly managed. I believe that all homes should be of reasonable standard and all tenants should have a safe place to live regardless of tenure.

The proportion of tenants in the private rented sector living in non-decent housing fell from 47% in 2006 to 28% in 2014 and 80% of private renters are satisfied with their accommodation and stay in their homes for an average of four years. I know that people will say that that is an average and may not be the case in London. That is why we have had to look in the Bill at the situation around 12-month tenancies and settle on a minimum of a six-month tenancy because of the challenges that certainly exist in London.

While I discuss the challenge raised by the hon. Lady about people who fall between the groups defined as vulnerable and in priority need, it is important to pick up points from other hon. Members. Several of my hon. Friends have thrown down the gauntlet on this issue. My hon. Friend the Member for Mid Dorset and North Poole mentioned carbon monoxide. We all know that is a silent killer and it is extremely important that landlords keep their gas safety checks up to speed, to ensure that gas appliances such as a boiler, cooker or gas fire are not a threat to people who are in a commercial transaction with the landlord. They are paying a good rent and deserve a good and safe service.

David Mackintosh: Does the Minister agree that some local authorities would be better at this than others, and that when the measure is introduced we must make sure all authorities are acting in the same way and that training or information is provided when necessary?

Mr Jones: My hon. Friend has had significant experience as a councillor and at one point was a council leader, so he is well placed to speak on this matter. He is absolutely right. We have had a number of discussions on the same theme and part of the Government's work is to bring forward from our Department a team of advisers. Local authorities do not often go out of their way to get something wrong or deliberately not follow guidance, but there are occasions when it is helpful to have someone working alongside to go through the guidance and to help develop local policy. That is certainly what we intend to do with our advisers. It is about assisting local authorities to get this right and I am sure all local authorities want that.

There is an existing framework that offers local authorities strong powers to make landlords improve a property. The health and safety rating system is used to assess health and safety risk in residential properties. Local authorities can issue an improvement notice or a hazard awareness notice if they find a defect in a property. In extreme circumstances, a local authority may even decide to make repairs themselves or to prohibit the property from being rented out. In the worst case scenario of an unsafe gas appliance, no member of the Committee would want that property to be rented out.

The Government are determined to crack down on rogue and criminal landlords. I mentioned the Government's significant progress. I will not go into more detail, but in addition to the civil penalties I was talking about, we have provided £12 million to a number of local authorities. A significant amount has gone to London authorities to help tackle acute and complex problems with rogue landlords. More than 70,000 properties have been inspected and more than 5,000 landlords are facing further enforcement action or prosecution. We have also introduced protection for tenants against retaliatory eviction when they have a legitimate complaint. All members of the Committee will agree with that.

I want to pick up a couple of other points made by my hon. Friend the Member for Enfield, Southgate. He mentioned vulnerability and complex needs, and I think his concern was about this group of people who are not necessarily caught by the definition of "vulnerable" or "priority need". I am not unsympathetic to what he was saying and will consider it and the comments by the hon. Member for Westminster North. I also noted the challenge from my other hon. Friends.

My hon. Friend the Member for Enfield, Southgate made a good point about temporary accommodation. We are absolutely clear that wherever practicable, local authorities should place people in their own area. Obviously, there are situations where that is not practicable and we are clear that factors such as where people work, where their children go to school and so on are taken on board. Local authorities should—we fully expect this—take those factors on board in meeting their statutory responsibility.

Ms Buck: As the Minister knows, Westminster is now reversing its practice of maintaining most temporary accommodation in-borough and announced last week

that most homeless households will, in future, be discharged into the private rental sector outside the borough. Will he define "practicable" for this purpose and will he clarify whether that means "affordable", given that Westminster is praying in aid Government policy and cuts to housing support as an explanation for that policy?

Mr Jones: We are being very clear: when we say that local authorities have got to take steps to house people in their borough unless it is not practicable, we mean that they must use every means and method at their disposal to ensure that they house people in their local area. If they do not, they have to take people's circumstances into account. It is very difficult to see how any local authority could take an approach where, for example, a family with two children, both doing their GCSEs at a school in a particular borough, are sent to another part of the country at such a vital time, without it breaking the law. It would clearly not be taking that family's situation into account.

I heard the earlier point made by the hon. Member for Westminster North. We are absolutely committed to replacing the temporary accommodation management fee with a flexible grant from this April. Funding of £616 million is available in that sense, and for the next three years. The grant will give local housing authorities far more flexibility on how they manage homelessness pressures. My officials are working with London authorities on temporary accommodation procurement. I am well aware that, in certain circumstances, London local authorities compete against one another for temporary accommodation. We need to look at all that can be done to try to avoid that situation.

As I mentioned, the Housing and Planning Act 2016 included measures to crack down on rogue landlords and we plan to implement those in 2017. That also includes the rogue landlords database for property agents, and banning orders for the most serious and prolific offenders.

In summary, we expect prevention and relief activity to increase following the implementation of the Bill. The provision seeks to ensure that those who are vulnerable are afforded the necessary protection. I believe it strikes the right balance, although I have listened carefully and heard what hon. Members on both sides of the Committee have said. I will take the concerns that they have raised about the way in which clause 12 will work back to the Department and will look at it further.

Question put and agreed to.

Clause 12 accordingly ordered to stand part of the Bill.

Clause 13

EXTENT, COMMENCEMENT AND SHORT TITLE

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

Bob Blackman (Harrow East) (Con): To conclude the debate on clause 12, the original intention, as I said in my speech last week, was rather broader. The concerns that colleagues—not least the hon. Member for Westminster North—have raised need to be looked at again. I am glad the Minister has agreed to do so to see what further action we can take to broaden the scope of clause 12.

Clause 13 is the final clause in the Bill, but this is not the final debate we will have. It is a relatively straightforward clause that obviously relates to the usual matters, namely the extent of the Bill, the provisions for commencing its clauses, the ability of the Secretary of State to lay regulations as necessary and the title.

10.15 am

There have been some questions about the fact that the Bill, if it becomes an Act, would extend to Wales. For the avoidance of doubt, I will explain the wording in the Bill. If the Bill is passed and becomes an Act, it will form part of the law of England and Wales. It would not make sense for a Bill to extend to England and not to Wales, because England and Wales form a single jurisdiction—legislation cannot form part of the law of England without forming part of the law of Wales. However, the application of the Bill's substantive provisions, which is basically their practical effect, will be restricted to England. I understand that the Welsh Government have confirmed that they are happy with that approach and with the way in which the Bill works in relation to their legislation.

One major facet of the clause is the statutory instruments that may follow from the Secretary of State when the Act comes into force if it is passed by both Houses. I hope that the Minister, in his response to the debate, outlines some of the actions that may be required to bring the Act into being. Yesterday, we had the long-expected announcement of the finance that comes with the Bill. Without the finance, it would be extremely difficult if not impossible for most local authorities to implement the Bill, make it live and help the people whom it is intended to help. The Government announced some £48 million to implement the Bill, which was extremely welcome. However, I have heard some local authorities voicing concerns that the funding that the Government have provided will not be sufficient to deliver the burdens of the Bill.

We still have clauses and Government amendments to debate, but it is important that we examine how the Government intend to roll out the measures. If the Bill becomes an Act, does it become operational on 1 April or on another day in early April? If so, does that mean that local authorities will suddenly be faced with a burden of how to implement the provisions of the Bill?

My intention in promoting the Bill was always to change and revolutionise the culture of local authorities, and to ensure that people who face the terrible crisis of homelessness or are threatened with homelessness receive help, advice and support from their local authority as soon as possible. However, I recognise that it will not necessarily be in the gift of every local authority in this country suddenly to implement this very revolutionary legislation and new burden.

Equally, there is a concern that, although there is funding in the next financial year and in the following one, the Government obviously consider that the Bill will be revenue-neutral thereafter. I would love to be in a position whereby we can say that we have solved the problem of homelessness, and that no one will be threatened with homelessness or become homeless.

The Chair: Order. I am interrupting the hon. Gentleman because we are moving into a discussion about financing. Obviously it is legitimate to have a discussion about financing, but we will have only one such discussion.

[The Chair]

I had rather expected that it would be when we were discussing clause 1 or clause 7 stand part rather than now. My own view is that it would be better to discuss financing in the context of clause 1 rather than in the context of the commencement date.

Bob Blackman: I will take your guidance, Mr Chope. As the Bill's promoter, I am very happy to discuss finance under clause 1.

Michael Tomlinson: I, too, see the force of discussing finance under clause 1. On clause 13, my hon. Friend mentioned timings, on which he is being understandably sensitive. As the promoter of the Bill, when does he envisage the measures we have been debating so extensively coming into force?

Bob Blackman: In an ideal world, I would like this to be implemented immediately, but I recognise that councils will need time to prepare, and to recruit and train staff. They will also need to capture a lot of data. Local authorities that do a good job on homelessness prevention will have data on potential landlords, properties that may be available, help and advice from the third sector and other organisations that have the capability to provide the help and assistance required under the legislation. The concern is that a large number of local authorities are not in that position and will need time to gear up. They will need to begin the process of staff recruitment and the time to train people. They will need to change the culture in which they work—we must remember that the original culture is denial of service to homeless people unless they are in priority need. The Bill will change the cultural aspects. I hope local authorities around the country are planning how they will implement the legislation.

Will Quince: Further to the point made by my hon. Friend the Member for Mid Dorset and North Poole, and notwithstanding your comments, Mr Chope, on financing, when the finances are likely to be made available to local authorities so that they can undertake transitional work is clearly of some importance for commencement.

Bob Blackman: In planning how they implement the legislation, local authorities will need to consider how much it is going to cost them. I take your guidance, Mr Chope, that you do not want us to debate finance at this point, but in putting together those plans, local authorities will have concerns about the resources that they will need as well as the potential for large numbers of people, knowing that the Bill has become law, turning up at their local authority, which is when I suspect we will discover large numbers of hidden homeless people in this country—the sofa surfers that we spoke about in earlier debates.

David Mackintosh: Does my hon. Friend have any idea how and on what timeframe the cultural change took place in Wales? Could the Minister look at that? The Bill will affect a larger number of people, but we can learn lessons from what happened there.

The Chair: Order. We are discussing changing the law, not the culture. This is a very narrow clause about the extent, commencement and short title of the Bill. Normally, such a clause in a Bill would go through virtually on the nod at the end. It is only because we have changed the order in which we are considering the provisions of the Bill that we have not discussed finance. I have already made it quite clear that I think the best occasion to do that is in the clause 1 stand part debate. I am not going to allow this essentially succinct debate on commencement to develop into a Second Reading debate about the whole Bill.

Bob Blackman: Thank you, Mr Chope. I take your guidance. We do not want another Second Reading debate—we had one that was well attended and covered a wide range of contributions. It is fair to say that I have had representations from London Councils and the Local Government Association, including from its leadership, on the implications of enacting the Bill. There needs to be a discussion among the Committee so that we send a clear signal to the LGA and its membership about how the Bill will be enacted and delivered.

I hope the Minister sets out some of the Government's proposals for delivering the Bill and the sort of support that will be available from the Department for Communities and Local Government. Following your guidance, Mr Chope, we will not discuss finances, but the resources, training and special assistance that may need to be provided to local authorities are vital. Homeless people and people threatened with homelessness need to know at that crisis point in their lives that they will get support and assistance, and that local authorities are geared up and ready to deliver them. Without that, many of the great aspects of the Bill may fall into disrepute, and as its promoter I am determined that we should not reach that position.

Ideally, we would not have to change the law in this way, but all parties are determined to change the culture by changing the law. We have already said in debates on other aspects of the Bill that further sticks will be applied if they are needed to ensure that local authorities deliver on the promises that we expect them to make. I look forward to the Minister setting out further details on how the Bill will be delivered, so that local authorities have certainty about what they will be expected to do and what support they can provide.

Mr Jones: I will not delay the Committee for too long on this clause. I hear your guidance on discussing cost, Mr Chope, and I welcome the fact that we can debate costs when we consider clause 1.

My hon. Friend the Member for Harrow East is not making an unreasonable challenge on implementation. Given the questions he has asked, I hope the Committee will allow me a little time to provide reassurance. His questions were mainly concerned with the speed—or lack of it, as the case may be—of the Bill's implementation, which other hon. Members also raised. In an ideal world, it would be great to see the Bill implemented as soon as Royal Assent takes place. However, my hon. Friend is experienced enough as a parliamentarian to be well aware that a Bill of this type takes time to be implemented because of the secondary legislation that will follow, the code of guidance that will have to be updated and the statutory code of practice that may

need to be implemented if things do not go to plan. Those processes will certainly require consultation with local authorities. We will work closely with them to implement these important measures because we understand their concerns that they will be stepping into the unknown—they will be supporting a group of people to whom they have not hitherto had to provide such support.

It is difficult to give exact timings. I am not going into finance, but what I can say to my hon. Friend is that the funding for the measure would be available now if we were in a position to implement now, and it will be available when we come to that point.

10.30 am

Mr Burrowes: Will the Minister be learning lessons from Wales, where there was a lead-in time before implementation? That helped to bring together a collaborative effort. Will he be relying on the trailblazers to be at the forefront, to ensure delivery as we transition to full implementation?

Mr Jones: My hon. Friend has brought me to where I wanted to be and prompted me on to my next two subjects.

First, we can look to the Welsh legislation to learn from its implementation. My officials are certainly doing that, and we have done it in relation to a number of areas in the Bill so far. My hon. Friend suggests an extremely sensible approach.

Secondly, I was about to come on to the prevention trailblazers. We have given £50 million to local authorities to undertake the rough sleeping work. Authorities across the country will already be gearing up for the legislative changes—testing new methods, gathering new data and working with external organisations to meet the aims we all want to achieve. I assure my hon. Friend that in that sense we are looking to what Wales has managed to achieve in a relatively short space of time, and we are also looking carefully at the prevention trailblazers. I have considerable hopes that those prevention trailblazers will really blaze a trail in creating the culture that we need to implement the legislation successfully and help people to get off the streets.

We are absolutely committed to the implementation of the Bill. We will be working closely with local housing authorities to ensure that the process takes no longer than it must, but it cannot be rushed. We have to get it right if we are to make a success of the Bill. On that basis of co-operation and in the spirit of how the Committee has worked, I will leave my comments there.

Question put and agreed to.

Clause 13 accordingly ordered to stand part of the Bill.

Clause 7

Deliberate and unreasonable refusal to co-operate: duty upon giving of notice

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

Bob Blackman: As the Committee knows, we reordered the business because we anticipated amendments being tabled to this key clause. It is clear, however, that we do not have any amendments to discuss today. I know that many of us will be disappointed by that, and I want to update the Committee on the situation and the reasons why we have reached this position.

In our last sitting before Christmas, I reported that we had discovered a technical problem with clause 7 —specifically, that the clause was drafted too widely. At that time, we believed that a simple amendment would resolve the issue, tightening up the circumstances in which the provisions of the clause could be triggered. However, when drafting the amendments and the consequential amendments to other parts of the Bill, the local government sector and the charities that work day-to-day with homeless people—namely Shelter and Crisis—identified further issues with how the prevention and relief duties would be ended should an applicant refuse an offer of suitable accommodation. That is obviously a key part of how the Bill will work in incentivising applicants to work co-operatively with local housing authorities. If it did not work correctly, there would be a very real risk that the Bill would create an unacceptable new burden on local housing authorities and would fail to achieve the policy objectives.

I have been working with my hon. Friend the Minister and with Shelter, Crisis and the Local Government Association to address the issues that have been identified. The priority has been to ensure that we maintain protections for all applicants who co-operate with the new duties. That has involved working through the complex relationship between the Bill and the existing legal framework to ensure that the protections for those in priority need are not affected unacceptably. We want no reductions in how priority need households are assisted. We want to make it clear to new applicants that we are providing help and assistance, but it is not a one-way street.

We are now exploring potential solutions and hope to be in a position to resolve the situation on Report, with amendments tabled by Friday. I hope that if colleagues have concerns they will place them on the record so that I, as the Bill's promoter, and the Minister can look at them in the round and make sure we deal with the issues that have rightly been raised by the charities and the LGA and in other representations we have received on this clause.

When we debated clause 3 in December, we discussed the new duty on local housing authorities to assess the applicant's case and agree a personalised plan. Clause 7 outlines the important steps that must be followed in those hopefully rare cases where an applicant deliberately and unreasonably refuses to co-operate with the key required steps set out in the plan that they agreed with their local housing authority. This process is designed to include safeguards that will protect vulnerable applicants from abuse of the process.

When people who are threatened with homelessness or are actually homeless present themselves to the local authority, they might be in a state of difficulty not only from a mental health point of view, but in facing this problem for the first time in their lives. If that is the case and they are directed to do things by a housing authority, they may not appreciate and understand the plan. Throughout the development of the Bill, I have listened carefully to the views of the homelessness charities to ensure that vulnerable individuals are not unfairly penalised for non-co-operation on some of the very issues that caused them to seek assistance in the first place.

[Bob Blackman]

The clause includes numerous safeguards that I will outline briefly. I can assure the Committee that, in the recent discussion of amendments, my key driver has been to protect those safeguards and to enhance them if possible, so that no one is placed in a position whereby they feel they have been fooled and tricked into accepting something that they do not want.

Michael Tomlinson: Before Christmas, my hon. Friend characterised the clause as "tough love". Given his recent comments, does he anticipate that that will remain his attitude in relation to the clause, or has it changed?

Bob Blackman: I do characterise the clause as tough love. I do not believe it is acceptable for someone to arrive at a local authority and say, "Under the law, you have to provide me with housing; I do not have to do anything," and then fold their arms, sit back and wait for the local authority to do things. Part and parcel of the clause is to say that there are responsibilities on the local authority and on individual applicants.

Clause 3 is about personalised plans. Under clause 7, if applicants do not co-operate with the local authority, it can terminate the duty. That is the tough love that I previously described. That is where the bar is placed in terms of a deliberate and unreasonable refusal to co-operate. I am very clear that we want to ensure the bar is sufficiently high so the local authorities do not disadvantage applicants, but at the same time make it clear to them that they have to co-operate with the local authority that is assisting them in alleviating their homelessness or threat of homelessness.

The personalised plans will clearly set out the required steps that have been agreed between the applicant and the local housing authority. The steps must be those that are most relevant to securing and retaining accommodation. In some cases, the applicant and the local housing authority may not be able to reach an agreement about the actions despite trying very hard to do so. If that is the case, the required steps will be those recorded in writing and considered reasonable by the local housing authority.

The local housing authority will be required to keep under review both its assessment of the applicant's case and the appropriateness of the required steps. If the local housing authority considers that the applicant is deliberately and unreasonably refusing to co-operate, it must give them a warning—it is not acceptable that it ends its duty at that point—explaining the consequences for the duties owed to the applicant if they do not begin to co-operate. At that point, if the individual sits back and says, "I'm not doing anything. I'm not taking the steps that I have agreed to take," the authority can use a sanction.

The local housing authority must also allow a reasonable period for the applicant to comply and take external advice if necessary. If the applicant continues to refuse to co-operate following the warning, the local housing authority can choose to issue a notice that brings to an end the duties under proposed new section 195(2), the duty to take reasonable steps to help the applicant prevent homelessness, and proposed new section 189(b)(2), the duty to take reasonable steps to help secure suitable accommodation for those homeless and eligible for assistance.

Michael Tomlinson: My hon. Friend mentioned a reasonable period, which appears in proposed new subsections (4)(b) and (8), but, unless I have missed it, there is no precise definition in clause 7 itself of what a reasonable period is. As he knows, a reasonable period for one man may be a very unreasonable period for another. Can he, as the promoter of the Bill, indicate to the Committee what he envisages would and would not be a reasonable period?

Bob Blackman: If I could just continue the point. The notice must explain the reasons for giving the notice and its effect, and inform the applicant of their right to request a review of the decision to issue a notice and the time period for doing so. My hon. Friend is a learned lawyer, and reasonableness is an issue that has been tested by the courts on many occasions. What is reasonable to an applicant facing a crisis and what is reasonable to a local authority may be two different things. It is difficult to lay out every detail in the Bill; regulations may be required to specify the period, and in the code of guidance that will be issued when the Bill becomes an Act, I expect to see a clear statement to local authorities of what is considered to be a reasonable period. If local authorities are acting in what the Minister and the Department consider to be an unreasonable manner, we may have to insist on a code of practice to set out that detail. I trust that local authorities will see that they are seeking to end the duties that they have to the applicant, so they must act in a reasonable manner.

As a final safeguard, where the prevention or relief duty has been ended under these measures, rendering the main housing duty inapplicable, the local housing authority has a further duty to the applicant if they are homeless, eligible for assistance, in priority need and became homeless through no fault of their own. In such cases, the local housing authority must as a minimum make a final accommodation offer of an assured shorthold tenancy of at least six months. To ensure that that measure and the safeguards work effectively, the clause also allows the Secretary of State to issue regulations setting out the procedures to be followed by local housing authorities in connection with notices.

10.45 am

There is therefore clearly a safeguard for my hon. Friend the Member for Mid Dorset and North Poole in the Bill, in that regulations can be laid if necessary to set out this whole process. I do not think it is reasonable for us to set out all those processes and procedures in the Bill, because they may change during its operation. As we have said previously, we are changing many aspects of legislation, much of which goes back 40 years, and this is clearly one of the areas in which we will have to see how the Bill operates. One challenge may be the level of homelessness, the number of applications a local authority receives and the resources available to it.

The clause will help to establish a process whereby people who are homeless or at risk of becoming homeless are encouraged to work proactively with their local housing authority to take responsibility to prevent or end their homelessness as soon as possible. Taken together

with the other clauses in the Bill, the clause means that if applicants who are threatened with homelessness up to 56 days prior to becoming homeless put together a plan with the local authority and that plan is followed, no one should become homeless. We all understand that people will face more direct crises and need to approach a local housing authority much nearer the time that they become homeless, and may become homeless through no fault of their own and need assistance, but the clause is intended to ensure that applicants understand that this is not a one-way street where they turn up to the local housing authority, set out their case and then wait for the local authority to provide them with somewhere to live. The clause means that there will be a requirement on them, and importantly, if they do not accord with the plan and the steps that they have agreed to implement—

Mr Burrowes: Will my hon. Friend give way?

Bob Blackman: I will.

Mr Burrowes: My hon. Friend has indicated that there have been discussions about amending the clause. So that the Committee is clear, is he concerned that although the clause ensures that the full rehousing duty is retained for those in priority need if there is a failure to co-operate—as Shelter and others have said, that is an important backstop—it is currently too wide and could lead to a penalty, not just in terms of compliance with the plan but in relation to the wider prevention and relief duties?

Bob Blackman: Clearly, the intention is to lay out that individuals have responsibilities and must follow their actions. There is however a concern that in some local authorities—not all, but some—there could be an impact on priority need and vulnerable households. I expect that amendments will be tabled on Report to revise the position and make clear that we are talking, as I have said, about those who deliberately and unreasonably refuse to co-operate, but also to ensure that we do not impact the main relief duty. We have striven from the word go not to change the impact on individuals who are owed a responsibility by their local authority already.

I will continue to work with my hon. Friend the Minister to bring forward a package of amendments on Report, which I hope we will all be able to support. If Committee members want to put particular comments on the record so that we can use them in our deliberations between now and Friday, when we need to table the amendments for Report, I would be very keen to hear them. I will be working on the amendments over the next week, and I hope that Members will be able to support them when they come before the House.

Andy Slaughter (Hammersmith) (Lab): It is a pleasure to serve under your chairmanship, Mr Chope. I greatly missed the Committee last week.

Bob Blackman: We missed you, too.

Andy Slaughter: I hear what the promoter is saying, but I am sure that it is not true, because the Committee had the services of my hon. Friend the Member for Westminster North. It is always dangerous to ask someone to stand in for you when they are more experienced, competent and knowledgeable on the subject, but there we are.

I will not be long on this clause. With all due respect to the promoter and the Minister, if we are to debate it all over again on Report, and we have yet to have the benefit of the amendments, I would rather wait and see what happens then. It is unfortunate that the Bill has had to be sliced in this way, and that we are jumping around from clause to clause. I understand that we all want to get it right, but it is not an ideal way to proceed, as will be clear when we come to clause 1. We Opposition Members will try to be as disciplined and organised as we can be, in order not to repeat ourselves or lengthen the debate more than is necessary, which is the guidance we have heard from Mr Chope as well.

Therefore, all I will say on clause 7 is that we do not oppose it; it is a necessary clause, because there has to be some sanction or limitation on the relationship between the applicant and the local authority. The key issue is getting the balance right. What is the balance? I pose the question, which may be better answered on Report, when we know the full extent of the clause. We are all familiar with the term "unreasonable", but are perhaps less familiar with the term "deliberate". There have been perfectly reasonable representations from both sides, if I can put it that way—from Shelter and from the Association of Housing Advice Services. One side of the argument is that it is essential that the bar is set very high, so that local authorities cannot evade their duty; on the other hand, the process must not be overly bureaucratic, or effectively provide no sanction because the applicant would be entitled to the same assistance as they would if they had not deliberately and unreasonably refused to co-operate. That question hangs in the air. As for the definition of "deliberate" and what might constitute that behaviour or how authorities would define it, that is a question that the Minister or the promoter may wish to deal with, although it may not be a matter for today.

I reserve any further comments. It is regrettable that we are doing this on Report. I remember having a conversation early on with the promoter, in which I said, "We might wish to table some clauses on Report," and he said, "Can you please ensure that you do that in Committee, so that we have a clean run at Report and Third Reading?" I think I may have to table something on Report myself now; we will see.

Michael Tomlinson: The hon. Gentleman mentioned unreasonable behaviour. I completely take his point and agree with what he says, but in clause 7, there is a definition to help local authorities define what the characteristics of unreasonable behaviour would be. Would he anticipate, as I do, that that sort of subsection will be essential in any sort of rewriting, to ensure that the most vulnerable are protected?

Andy Slaughter: Yes, but "unreasonable" is a term with which we and, more importantly, the courts are familiar, if a matter has to reach that point. "Deliberate" is a rarer and higher standard, and that term gives me pause, but I think the consensus is that it needs to be there, because "unreasonable" is not sufficient. I only ask for a slightly clearer exemplification.

Will Quince: I am conscious that there are likely to be further amendments on Report. I want to touch briefly on the new duty to assess cases and agree a plan. I very much support the idea of a personalised plan, whereby we empower those who seek help with a number of key steps that they are expected to take, which are reasonable, proportionate and, most importantly, achievable. That will encourage positive action and working together to find a solution, rather than people simply turning up at the council saying, "You have a duty to house me because I'm homeless." Instead, we will say, "Let's look at the steps we can take together to address the issues"—and, in many cases, the complex needs—"behind your homelessness or risk of homelessness before the situation gets worse."

No doubt we have all seen situations involving councils. It is difficult, because the vast majority of local authorities are excellent and take their duties and responsibilities very seriously. Some, however, discharge their homelessness duties far too easily, which has knock-on effects on other areas and local authorities. For example, if a borough or district council discharges its duty on homelessness for whatever reason, it puts added pressure—especially if children are involved—on either the unitary authority or the county council in respect of social services, and that is often hugely expensive compared with the action that could have been taken by the local authority.

There have been a number of comments on deliberate and unreasonable refusal to co-operate and the definition of "unreasonable". Clear guidance on what is unreasonable would certainly be helpful, but the addition of that word adds a safeguard. I used to be a lawyer as well.

Michael Tomlinson: Hear, hear.

Will Quince: I used to be; I am not any more, I am glad to say. The addition of that word protects those with mental health issues or complex needs. We know that the vast majority of people who are at risk of homelessness or are homeless have very complex needs.

I very much welcome the safeguards in the Bill, including the concept of a warning letter that clearly and succinctly sets out what will happen if someone fails to co-operate and the clear steps that will be taken after that. On the whole discharging of the duty, I welcome the fact that those who are found to have deliberately or unreasonably failed to co-operate, even after the warning letter, will still receive, as a minimum, an offer of suitable accommodation, with an assured shorthold tenancy of six months. That adds the necessary protection and safeguard. and stops additional pressure being put on county councils.

David Mackintosh: I am pleased that the clause is included, because I strongly believe in the principle of personal responsibility. Of course, public bodies have a duty to help people, especially those who are vulnerable or traumatised. I am sure we have all seen cases of people in difficult circumstances who, inexplicably, do not co-operate with the local authority, even in challenging situations.

Local authorities may well worry about how this new legislation will affect them. That is why I welcome the proposals. Action plans can be agreed between the council and the person seeking help, with proper, agreed actions for both parties to undertake. The council, of course, has a responsibility to help, but this also allows people to help themselves; as my hon. Friend the Member for Colchester put it, it helps to empower people. They are an active participant in the process and take some responsibility for their destiny. This is about much more than finding a home and helping someone in the short term. This helps people to set off on their future path, and create their own future.

11 am

Of course, the action plan must be realistic and achievable, but the principle is very important. I am pleased that clause 7 also sets out for local authorities what to do if a homeless applicant deliberately and unreasonably refuses to co-operate or follow the actions in their personal action plan. If someone is deemed to be unreasonably refusing to co-operate, written warnings will be issued and the authority can take action. It is helpful and appropriate that this will not affect anyone who does not co-operate because of mental health issues or other complex needs. Having a plan is halfway to solving the problem, so the clause is a helpful part of the Bill, and I welcome it.

Helen Hayes: It is a pleasure to serve under your chairmanship, Mr Chope. I want to put on the record my disappointment that we are not able to debate amendments to the clause in Committee. The judgments and the balance of responsibilities involved in the clause are among the most complex and sensitive of any aspects of the Bill. We should have the opportunity to consider the balance of responsibilities and judgments in full in Committee with the wording that is likely to make it into the Bill.

The case that the hon. Member for Harrow East described of a person who simply sits back and does nothing about their circumstances is indeed clear cut, but in my experience such cases are extremely rare. Much more common are cases that involve judgments around the location and type of property. Those judgments involve issues about which many of us, if we had the misfortune to find ourselves homeless, would also feel strongly. People who find themselves homeless often feel, quite rightly, a strong sense of injustice and a high level of distress around their circumstances. They want things to be put right in such a way that they can imagine rebuilding their life in acceptable circumstances. Judgments as to what somebody would regard as a suitable offer of accommodation are therefore necessarily very difficult and sensitive.

The Bill also seeks to bring about a change in homelessness culture and practice in local authorities. In its inquiry, the Communities and Local Government Committee certainly saw evidence of gatekeeping practices in some local authorities. It was common practice for them to look for minimal reasons to discharge the duty; we have to get rid of such practices.

The change in culture, the complexity of the judgments, the balance of responsibilities and the definitions of reasonableness and suitability that will apply to cases are sensitive and complicated matters and should not be left for us to consider in full on Report. I look forward to debating them further on Report, but I want to put on the record at this stage my disappointment that the Government have left this matter so late.

Mr Burrowes: I will follow on from those points in a similar vein. We are, in a somewhat rarefied Committee, looking at deliberate and unreasonable refusals to co-operate, while being far removed from the challenging circumstances faced by people, particularly those with complex needs. Even with revisions to the Bill on Report, we must be clear that the bar is set at a level that will ensure that there is understanding, particularly of those with mental health and complex needs, and that those needs are taken into account when considering what is deliberate and unreasonable. That does not mean that those people will not be liable to being deemed to have refused to co-operate. We need to look sensitively at how we ensure that the most vulnerable are taken account of properly.

On discharging duties, I recall a case in which the NHS was able to discharge its duty of care to a vulnerable constituent who had complex needs and was paranoid. When people knocked on the door to see whether he was going to co-operate, unsurprisingly he did not answer, because he was paranoid; it was a part of his condition. He repeatedly refused to answer the door, so the NHS discharged its duty of care to him. As for the safeguards in this provision, there is a warning letter. We need to look in detail—this matters—at how that warning letter will be communicated and take proper account of people's needs, which include communication difficulties.

Michael Tomlinson: That is exactly the point I made a few moments ago. Subsection (6) refers to taking into account the "particular circumstances and needs" of the applicant. My hon. Friend's story highlights the reason why we need that safeguard in any future redrafting of the clause—to protect exactly the sort of people he is talking about.

Mr Burrowes: We need to ensure that when the rubber hits the road, there is a reality to this, so that there is not the lowest common denominator of just discharging a duty, but there is a real, positive intent to meet people's particular needs.

It is important to ensure there is reassurance and the backstop provided by new section 193B(4). The full rehousing duty for those in priority need must be maintained. We have often praised the Welsh for getting there first with the prevention duty, but this clause will do a lot better. It will ensure that, in this case, we do not follow the Welsh example, where legislation allows an authority to discharge all duties for those who refuse to co-operate and where there is evidence of one in eight households now being refused further help; emerging evidence suggests that they are often vulnerable people with support needs. That is despite codes of guidance, which we talked about in previous deliberations.

It is so important that we get this right. This is where it could go wrong, despite all the codes of guidance that might be produced. I welcome the care that has been given to ensuring that we get this right. The litmus test is those with complex, particular needs. We need to ensure in this deliberation on what is deliberate and unreasonable that we have a true understanding of vulnerable people.

Michael Tomlinson: I, too, rise to say that I am disappointed by the difficulty that this Committee has been put under in not being able to look at clause 7. I agree entirely with my hon. Friend the Member for Enfield, Southgate and with the hon. Member for Dulwich and West Norwood that this is one of the most crucial parts of the legislation, and that a delicate balancing act needs to be got right.

That said, I support the principle. I agree with my hon. Friend the Member for Harrow East, the Bill's promoter, when he characterises this as tough love. My hon. Friend the Member for Northampton South mentioned personal responsibility, and the phrase "help to empower" was also used. I entirely agree with the principle behind the clause but am disappointed that we cannot thrash out more of the detail. I will certainly take up the invitation from my hon. Friend the Member for Harrow East to set out what I believe needs to be within the clause, although I support the thrust of it.

I had a meeting with a representative of East Dorset District Council—a local authority that you know well, Mr Chope, because East Dorset covers three constituencies: mine, yours and that of my hon. Friend the Member for North Dorset (Simon Hoare). The council is concerned not only about the potential burden on local authorities, but about the risk of this going wrong. The interplay between local authorities and housing associations was also raised.

Perhaps when the Minister gets to his feet in a few minutes, he will give me and those at East Dorset some reassurance on the clause as drafted, or as we hope it will be drafted in future, and on the interplay with housing association duties. Many of our local authorities own very little stock and rely on housing associations to perform many of their functions and duties. What is the interplay between that and the clause? Is there a risk that housing associations will fall short or have a lower standard than is the aim and intention behind the clause?

I have said before that we are looking at the most vulnerable. I agree that there should be a strict definition in clause 7. As drafted, the tough love aspect is whether an applicant has deliberately and unreasonably refused to co-operate. I agree with the hon. Member for Hammersmith that this is familiar territory for lawyers and courts. In my view, it is helpful to have as much detail in the Bill as possible. That is why I welcome proposed new section 193A(6), which states that the characteristics—correction, circumstances—and needs of the applicant should be taken into account. Perhaps the Minister and promoter of the Bill should consider characteristics.

My hon. Friend the Member for Enfield, Southgate gave a striking example of why it is necessary to take into account the circumstances and needs of the applicant. Knocking on the door might be sufficient for one applicant but not for another. Therefore, clause 7 needs that additional safeguard in its redrafted form.

The term "reasonable period" is also fertile territory for lawyers. My concern is that, if it is left in the Bill, lawyers will argue the toss that the local authority says, "Yes, it was a reasonable period," while the applicant says, "No, it was not because more time was required." I understand entirely the difficulty of putting that sort of detail in the Bill. An indication of the timeframe from the Minister when he is looking at redrafting may be helpful, although I do understand the risk of causing problems.

[Michael Tomlinson]

Finally, like my hon. Friend the Member for Colchester, I welcome the additional safeguard of a notice to inform and explain to the applicant. The Minister might pick up on one caveat. As drafted, subsection (8) provides for what would happen if a notice were not received. In an ideal world, we would need to ensure that notices are received. As we know, sometimes the serving of notices is not as straightforward in practice as it is to set out in a document. The Minister might consider and emphasise the need to ensure that notices are received.

David Mackintosh: Does my hon. Friend agree that it is important that there should be a written warning or notice rather than just a verbal statement? People could be confused and lose bits of paper, so it is important to have this written down.

Michael Tomlinson: I agree in part with my hon. Friend, but in fact it would be helpful to have both. Depending on the needs and circumstances of the individual, it could be helpful to have the notice read out. Of course, it should also have the fall-back authority of a piece of paper or document.

I would like the Minister to pick up the point in subsection (8) about the notice being

"made available at the authority's office".

Given we are considering the most vulnerable people, is that sufficient to draw attention to the fact that their rights are to be taken away under the homelessness provisions?

Mrs Drummond: My hon. Friend makes an extremely good point. If that information is not put very clearly in writing to the vulnerable person, surely the appeals will be more difficult. Will we see an increase in appeals if we do not get the clause absolutely right in the detail?

Michael Tomlinson: That is absolutely right. It is not only the difficulty with appeals, but the rise in the number of appeals, exactly as my hon. Friend says. As a former lawyer, I want fewer of these cases appearing in front of court. Far too often, we have seen lawyers arguing over clauses exactly like this one by picking up points of technicality and trying to say whether a notice was served. Every effort should be made to ensure that notices are brought to the attention of individuals, and I would like reassurance from the Minister specifically on that point because the clause takes away rights that we are seeking to give to individuals.

While I entirely support the thrust, aim and intention of the clause and its characterisation as tough love, I regret the fact that we are not able to debate its final form. We are almost shadow boxing in anticipation of what may or may not be incorporated into clause 7. I encourage the Minister to take on board all the points that have been made.

11.15 am

Mr Jones: I am afraid that I must start with an apology to the Committee. I know that the Committee was expecting to see the amendments today. Indeed, I was fully expecting to be able to introduce the amendments for consideration. I am sorry that circumstances have meant that that has not been possible.

My hon. Friend the Member for Harrow East has already provided a significant overview of the concerns we have been investigating over the past few weeks, so I will not go into too much detail in that regard. I simply say that we are addressing the two issues that have been identified with the clause. The first is that the clause is drafted too widely. While an applicant could be penalised for deliberately and unreasonably refusing to co-operate with the required actions as set out in the personal housing plan, as the clause is drafted they could also be penalised for deliberately and unreasonably refusing to co-operate with the authority in relation to the prevention or relief duties more generally. That is a broader formulation of the clause and is certainly not the one intended.

The second issue is that we are not confident that the balance between incentives and protections is right in cases where an applicant refuses a suitable offer of accommodation at the relief stage. We have been working closely with homelessness charities to resolve that and develop a way forward, and I hope to be in a position to say more before Report.

My hon. Friend has made it clear to the Committee this morning that we have spent significant time in the intervening period since the previous sitting and before then working with external stakeholders. We have been working with local authorities that have expressed concerns about what my first point may mean in relation to their duties, as well as with the charities that he mentioned, which obviously have significant concerns about the second point.

This is a very unusual situation. We have a private Member's Bill, and the Select Committee has looked at it and proposed amendments. The Government have worked with the Member to come up with a form of Bill that works. Within that, we have also had significant engagement with local authorities, the LGA and stakeholders, including charities. My hon. Friend mentioned Crisis and Shelter. It is a complex situation, and I am determined to work with him to get the legislation right. I reiterate my disappointment that I have not been able to debate what I would have liked and expected to debate with the Committee, and again tender my apologies to the Committee.

A number of measures in the clause remain pertinent. Many times during our consideration of the Bill, Members have spoken about the importance of culture change in building a more co-operative relationship between the local housing authority and those who need their services. That is already the case in the best local authorities. We want to encourage those who are homeless or at risk of homelessness to work with their local housing authority to prevent or relieve their homelessness as soon as possible. We believe that such a co-operative approach is better for the individual or family, and is better for local housing authorities, too.

The clause sets out the actions a local housing authority may take if an individual who has made a homeless application subsequently deliberately and unreasonably refuses to follow the steps in the personalised plan agreed between themselves and the local housing authority. In most cases, the local housing authority and the individual will take the agreed steps and work co-operatively to resolve the situation before it becomes a crisis. However, if the local authority considers that an applicant has deliberately and unreasonably refused to co-operate with the required actions agreed in their personal housing

plan, it must first issue a written warning explaining that that is the case, and that a failure to co-operate will result in the end of the duty to secure accommodation for the applicant. We will work with local housing authorities—this comes back to points that have been raised in the debate, on which I will now elaborate—to develop common-sense guidance on the meaning of "deliberate and unreasonable".

To pick up on the points made by my hon. Friends the Members for Harrow East, for Enfield, Southgate and for Mid Dorset and North Poole on applicants deliberately and unreasonably refusing to co-operate, statutory guidance will set out the Government's view on what that means. For example, it will include refusing to engage in negotiations with the landlord to prevent their tenancy from ending, or refusing to contact landlords or view properties. We have also talked about the definition of "suitable", which is set out in existing legislation.

Several hon. Members have asked what a "reasonable period" is. Reasonableness is a well understood concept in law, which my hon. Friend the Member for Mid Dorset and North Poole will understand. When considering what is a reasonable period, local housing authorities will have to have regard to all surrounding circumstances, which brings me to the point made by my hon. Friend the Member for Enfield, Southgate. We can consider saying more in guidance about the factors we expect local authorities to take into account when making the judgment. In doing that, I will take on board the comments made by hon. Members.

My hon. Friend the Member for North the Member for Mid Dorset and North Poole made a good point on the interplay with housing associations. Local housing authorities will work closely with a range of landlords as they deliver the Bill, as they are intended to do now. Housing associations are key partners in many respects, but the clause relates specifically to the applicant's co-operation with the steps that they agree with the local housing authority for their personal plan, and not with third-party organisations. I hope that clarifies the point for my hon. Friend.

The Chair: Before adjourning the Committee, I remind hon. Members that there are two substantial amendments to clause 1 to be debated. I think it would be convenient for the Committee to debate those two amendments together with clause 1 stand part.

11.25 am

The Chair adjourned the Committee without Question put (Standing Order No. 88).

Adjourned till this day at Two o'clock.