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HOUSE OF COMMONS
OFFICIAL REPORT
GENERAL COMMITTEES

Public Bill Committee

BUILDING SAFETY BILL

Sixth Sitting

Thursday 16 September 2021

(Afternoon)

CONTENTS

CLAUSES 3 TO 20 agreed to, one with an amendment.
Adjourned till Tuesday 21 September at twenty-five minutes
past Nine o'clock.
Written evidence reported to the House.

No proofs can be supplied. Corrections that Members suggest for the final version of the report should be clearly marked in a copy of the report—not telephoned—and must be received in the Editor’s Room, House of Commons,

not later than

Monday 20 September 2021

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The Committee consisted of the following Members:

Chairs: †PHILIP DAVIES, PETER DOWD, CLIVE EFFORD, MRS MARIA MILLER

- | | |
|---|---|
| † Amesbury, Mike (<i>Weaver Vale</i>) (Lab) | † Mann, Scott (<i>Lord Commissioner of Her Majesty's Treasury</i>) |
| † Bailey, Shaun (<i>West Bromwich West</i>) (Con) | Osborne, Kate (<i>Jarrow</i>) (Lab) |
| † Baillie, Siobhan (<i>Stroud</i>) (Con) | † Pincher, Christopher (<i>Minister for Housing</i>) |
| Byrne, Ian (<i>Liverpool, West Derby</i>) (Lab) | † Rimmer, Ms Marie (<i>St Helens South and Whiston</i>) (Lab) |
| † Cadbury, Ruth (<i>Brentford and Isleworth</i>) (Lab) | Saxby, Selaine (<i>North Devon</i>) (Con) |
| † Clarke, Theo (<i>Stafford</i>) (Con) | † Young, Jacob (<i>Redcar</i>) (Con) |
| Clarke-Smith, Brendan (<i>Bassetlaw</i>) (Con) | Yohanna Sallberg, Adam Mellows-Facer, Abi Samuels,
<i>Committee Clerks</i> |
| † Cooper, Daisy (<i>St Albans</i>) (LD) | |
| Hopkins, Rachel (<i>Luton South</i>) (Lab) | |
| † Hughes, Eddie (<i>Parliamentary Under-Secretary of State for Housing, Communities and Local Government</i>) | |
| Logan, Mark (<i>Bolton North East</i>) (Con) | † attended the Committee |

Public Bill Committee

Thursday 16 September 2021

(Afternoon)

[PHILIP DAVIES *in the Chair*]

Building Safety Bill

Clause 3

THE REGULATOR: OBJECTIVES AND REGULATORY PRINCIPLES

Amendment proposed (this day): 11, in clause 3, page 2, line 14, at end insert—

- “(c) mitigating building safety risks due to climate change, including—
- (i) flood risk
 - (ii) coastal erosion, and
 - (iii) overheating of buildings.”—(*Mike Amesbury.*)

This amendment would mandate the building safety regulator to mitigate for risks to building safety due to climate change.

2 pm

Question again proposed, That the amendment be made.

The Chair: Before we begin, I remind Members that it is only in order to debate the specific group of amendments or clauses before the Committee. It is not in order to have a general debate on the Bill as per Second Reading or Third Reading.

The Minister for Housing (Christopher Pincher): Welcome to the Chair, Mr Davies; it is a great pleasure, as always, to serve under your chairmanship.

After that brief hiatus, I am pleased to return to consideration of the Opposition’s amendment 11. I am grateful to the hon. Member for Weaver Vale and his colleagues for raising the important issue of climate change and the role of the new Building Safety Regulator. Because of the issues that we have with the amendment, I am afraid that the Government will not be able to accept it, but I appreciate the opportunity that it affords us to set out the regulator’s new role in this area and the wider action that the Government are taking. I will focus on three areas of concern: the existing powers that the regulator will be able to utilise; the levers available elsewhere in Government; and the confusion that the amendment would, I am sure unintentionally, cause.

I can assure the Committee that the objectives of the Building Safety Regulator and its functions already give the regulator the remit it needs to focus on ensuring that our building regulatory regime takes the appropriate steps to mitigate the effects of climate change. The existing statutory objective around securing safety would cover safety issues resulting from climate change, including risks of overheating. I also draw the Committee’s attention to the regulator’s objective to improve the standard of buildings. Standards are defined broadly by clause 29, which we shall come to in due course.

Standards will include all the matters that can be dealt with by the building regulations. Section 1 to the Building Act 1984 ensures that building regulations can cover sustainable development, the protection or enhancement of the environment, and furthering the conservation of fuel and power. Paragraph 8(5A) of schedule 1 to the Building Act also allows for building regulations to cover flood resistance and flood resilience.

The Building Safety Regulator will be under a duty, under clause 5, to keep the safety and standards of buildings under review, including safety issues relating to the building, such as overheating or flooding. The regulator will be able to recommend to Ministers or to industry changes needed to buildings and building standards to mitigate those issues. Therefore, the regulator will already have an important remit to provide independent advice to Ministers and industry on ensuring that building standards are appropriate and mitigate the effects of climate change.

It is also important that the role of the Building Safety Regulator is seen alongside action that the Government are already taking to ensure that building standards are improved to tackle the challenge of climate change and ensure that homes are built more energy-efficiently and in a way that is better for our environment, as my hon. Friends the Members for Stroud and for West Bromwich West alluded to. The Government’s new future homes standard will mean that from 2025 homes built to that standard will produce at least 75% fewer CO₂ emissions compared with those built to current standards. To pave the way to 2025, we are making changes now to part L of the approved documents to ensure that new buildings, both domestic and non-domestic, produce meaningfully fewer CO₂ emissions.

Theo Clarke (Stafford) (Con): Does my right hon. Friend agree that clause 5 already deals with the issues set out in the amendment and that it is better to allow the Building Safety Regulator to lead on this work on building safety?

Christopher Pincher: My hon. Friend makes a valid point, which I will come to later in my remarks. We want to ensure that the Building Safety Regulator has a clear remit and that its responsibilities are not confused or occluded by too much unnecessary verbiage.

The future homes standard will mean that homes in this country are fit for the future, better for the environment and affordable for consumers to heat, with low-carbon heating and very high fabric standards. We will be introducing a future building standard that will ensure that buildings that we use every day—cafés, shops, cinemas—will also be better built to ensure that they are more energy-efficient and produce fewer CO₂ emissions.

Ruth Cadbury (Brentford and Isleworth) (Lab): I thank the Minister for assuring us that the building regulations will be amended to take account of climate change. He mentioned addressing the issue of the heating of buildings in the future being low carbon. Many of the flats built in the last 20 years in my constituency suffer from the opposite problem and are impossible to cool. Will the building regulations also take into account the cooling of residential accommodation and buildings for other uses to ensure that they stay within a reasonable temperature for human use?

Christopher Pincher: I am grateful to the hon. Lady for introducing that matter. She will know that we look frequently at issues such as the heating and overheating of properties, the sizes of windows and ventilation. These are matters for building regulation, but they are not specifically matters for this Bill or for the Building Safety Regulator.

The Committee should also consider the risk involved in giving the Building Safety Regulator an explicit objective focused on coastal erosion and flooding. That approach risks confusing the role of the regulator by giving it an objective to tackle issues where other Government bodies have been given the lead. The Building Safety Regulator does not have the levers that other Government bodies and agencies have to deliver that objective.

Shaun Bailey (West Bromwich West) (Con): My right hon. Friend is being incredibly generous with the interventions he is taking. He has made a good point about the Building Safety Regulator not necessarily having the levers, but does he agree that it will be imperative for the BSR to ensure that it engages proactively with all the different Government stakeholders that do have the levers to pull, to ensure that, irrespective of the limitations it may have as a stand-alone organisation, it can still achieve the broader objective that this amendment seeks to articulate?

Christopher Pincher: I am grateful to my hon. Friend for that intervention. Yes, we want the Building Safety Regulator to consult with its peers across the sector, including with other Government agencies. As we work our way through the Bill, my hon. Friend will see that that is an objective.

The location of buildings is primarily an issue for the planning system. The Building Safety Regulator will have responsibility for the construction materials and the design, construction and occupation of buildings. My Department is responsible for planning, and I take that responsibility very seriously, hence our consultation on a planning reform Bill—

Mike Amesbury (Weaver Vale) (Lab) rose—

Christopher Pincher: The Committee will see the bones of it—the hon. Member for Weaver Vale may be about to ask me about that—very soon.

Mike Amesbury: For the sake clarity on gateway 1, what responsibilities will the Building Safety Regulator have in that journey?

Christopher Pincher: We want the Building Safety Regulator to have responsibilities with respect to gateway 1, and that will become clear to the hon. Gentleman as we address further clauses. I beg him to have patience, and he will see that there is a clear responsibility and involvement of the BSR.

We work closely with the Department for Environment, Food and Rural Affairs on planning issues around flooding. However, the Building Safety Regulator is not designed to replicate or oversee the planning system. The planning system already ensures that the risks outlined in the hon. Gentleman's amendment are considered

in the decision-making process. Specifically, the national planning policy framework sets out that development plans should take a proactive approach to mitigating and adapting to climate change, taking into account the long-term implications for flood risk, coastal change and the risk of overheating from rising temperatures.

Tackling flooding and coastal erosion are also critical issues, as the hon. Gentleman rightly acknowledges. The Environment Agency supervises and works with other organisations to manage the risk of flooding and coastal erosion in England. It also directly manages flood risk from main rivers, the sea and reservoirs. It would therefore not be right for the Building Safety Regulator to replicate that important role. Tackling flooding and erosion is a priority for DEFRA and the EA, and the Government are investing £5.2 billion to build 2,000 new flood defences across the country over the next six years. That investment will better protect 336,000 properties from flooding and coastal erosion.

I welcome the opportunity to debate the action the Government are taking to mitigate the effects of climate change. That includes—as part of clause 3—creating a new Building Safety Regulator that will provide independent advice to Ministers on how building standards need to change to effectively mitigate climate change. I do not believe, however, that the amendment would have the effect that the hon. Gentleman wishes. It would confuse the role of the Building Safety Regulator, giving it an objective that would be hard to deliver when other bodies lead on crucial elements and are actually responsible for that objective. It would give the Building Safety Regulator responsibility without power, and I do not think that that is a sensible way to build agencies and undertake good governance.

The Building Safety Regulator will have the best chance of success with two clear objectives around the safety and standards of buildings, on which it has clear levers to deliver. In the light of those points and of the reassurances that I have provided, I hope that the Committee will recognise that the powers and objectives that we have set out for the Building Safety Regulator are sufficient to undertake the law as required, with respect to climate change. Other Government agencies, such as the Environment Agency, are also undertaking that important work. I urge the hon. Gentleman to withdraw the amendment.

Mike Amesbury: I am not going to force the matter to a Division, so I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

2.15 pm

Mike Amesbury: I beg to move amendment 10, in clause 3, page 2, line 33, at end insert—

“(6) In this Part, ‘safety’ means risk of harm arising from the location, construction or operation of buildings which may injure the health and wellbeing of the individual.”

This amendment defines safety within this part of the Bill.

The Chair: With this it will be convenient to discuss clause 3 stand part.

Mike Amesbury: It is a pleasure to serve under your chairmanship, Mr Davies. For many of us in this room our homes have been a place of sanctuary and safety,

[Mike Amesbury]

but for far too many that has not been the case. We have remained in our homes to protect the NHS and save lives, but too many have been housed in cramped, damp, poorly designed and shoddily constructed homes. Their immediate environment has been polluted by the air they breathe, and they have lacked space, whether communal or recreational. We have an opportunity to apply the lessons of the pandemic, which we are all familiar with, particularly our constituents, to create safe and healthy homes and communities.

By broadening the definition of safety in this part of the Bill, the amendment provides an opportunity to speak about risks beyond high-rise buildings and fire, and would address housing health and safety issues the Bill's title claims to address. The Town and Country Planning Association's written evidence points out that health risks and harms such as air pollution, overheating and noise pollution, as well as more indirect issues, such as poor accessibility or walkability, insecurity, lack of access to green space and cramped living conditions, are not covered by the Bill but undermine people's wellbeing and health and ultimately their safety. I therefore hope that the Minister will consider the amendment.

Shaun Bailey: It is a pleasure to serve under your chairmanship, Mr Davies. Again, I find myself being slightly repetitive. I do not disagree with the sentiments of the hon. Member for Weaver Vale. On this point, he and I will probably find a lot of common ground. However, the amendment strays slightly into the planning space—I almost get the impression that the hon. Gentleman is perhaps trying to tease the Minister to give us a sneak peak of what might be in the planning Bill in the Queen's Speech. Our local planning authorities should consider these matters when they determine planning, and I know from the local councils I deal with that they do. They do have conversations when they look at the design of a particular development. They consider what impact it will have, whether there will be space to live, and whether people will feel they can live there meaningfully.

Ruth Cadbury: I understand the hon. Gentleman's belief that the amendment strays into planning, but it talks about the

“risk of harm arising from the location, construction or operation of buildings which may injure the health and wellbeing of the individual.”

Where, particularly in the construction or operation of buildings, are the planning issues? If a building is operating unsafely or the construction is unsafe, irrespective of the height or what the building is used for, the lack of safety is not a planning issue, but a construction issue.

Shaun Bailey: I thank the hon. Lady for her intervention, and I see her point, but I maintain the point that I made: we are slightly straying here. I see what she says, because if a building is fundamentally unsafe, of course the new Building Safety Regulator would need to intervene. I question whether we need the amendment to say that, though. I am concerned that perhaps these conversations are happening before time. Broadly speaking, although I agree with the sentiments behind the amendment, I just think that operationally—

Mike Amesbury: Will the hon. Member give way?

Shaun Bailey: Of course I will give way to the hon. Gentleman.

Mike Amesbury: We are all in agreement—including, very importantly, many of the witnesses who gave evidence—that the regulator sits correctly in the Health and Safety Executive. Health and safety are paramount under the Health and Safety at Work etc. Act 1974. When I think about how buildings are constructed, including some buildings that we are all very familiar with—thousands of buildings up and down the country—I see that the impact on our constituents, residents and leaseholders' mental health is tremendous. That is because of the built environment. The interplay between health, homes and communities is crystal clear.

The Chair: Order. Interventions should be brief. The hon. Gentleman seems to be reverting back to a speech. Can I ask him to get to the punch of his intervention?

Mike Amesbury: I take your very good point, Mr Davies.

Shaun Bailey: I do not disagree with the hon. Gentleman. One point that I would make, now that I have been able to gather my notes, is that clause 5 kind of addresses the issue. It says:

“The regulator must keep under review—

- (a) the safety of people in or about buildings in relation to risks as regards buildings, and
- (b) the standard of buildings.”

To pick up on the point that the hon. Member for Brentford and Isleworth made, the Bill already does that.

On the points that the hon. Member for Weaver Vale articulated very well on wellbeing and the need for homes that are placed so that people can live and thrive, from my experience those conversations are had at the planning stage and the determination stage. On the safety element, again I do not disagree with the hon. Member for Brentford and Isleworth. She is right that the regulator needs to look at that. From my reading of the Bill, clause 5 address that. Although the sentiments behind the amendment are absolutely right, clause 5 half deals with that, and we have a planning process that deals with the other half. From that perspective, we are already doing this within the structures in which we are already operating. Again, I agree with the sentiments, but operationally there are ways in which we are already doing it.

Daisy Cooper (St Albans) (LD): I have been struck by the outbreak of cross-party consensus on the content of this and the previous amendment. The dispute is about where it sits. If Government Members do not wish to see it in the Bill and we do not yet have a planning Bill to look at, I wonder whether the Minister might be able to provide some assurances that he would be willing to consider setting up an alternative mechanism that would be in between planning and housing, to look at precisely these kinds of issues that come up, as a form of horizon scanning.

On a slightly different note, which is slightly tangential to the amendment, we took evidence in our hearings, particularly from the Fire Brigades Union, on the need for a mechanism to do horizon scanning. I wonder

whether that might be the place to take up these kinds of issues, and whether the Minister might be willing to provide assurances that he would consider such a proposal.

Siobhan Baillie (Stroud) (Con): It is a pleasure to serve under your chairmanship, Mr Davies. I do not think I was articulate enough when discussing the previous amendment, when we talked about the process of adding amendments. I feel strongly that legislation needs to be functional and clear, and that it should be implemented as swiftly and simply as possible. It has to be understood by lay people, even if they are reading it in a rush, as we have seen with the amazing witnesses who have come forward, having become building experts because they have had to look into issues in their own buildings.

I fear that giving the regulator a role and an objective to prevent the injury of the health and wellbeing of an individual is a recipe for challenge and confusion, even though it may be well meaning.

Mike Amesbury: Will the hon. Member give way?

Siobhan Baillie: I will if the intervention is short.

Mike Amesbury: I will keep my intervention brief; you, Mr Davies, are seasoned in keeping them as such. The regulator is what it says on the tin: it is a health and safety executive, covering health and wellbeing and certainly safety. I actually disagree with the point that the hon. Member is making, quite eloquently and powerfully.

Siobhan Baillie: I will come to that intervention shortly, but I was just about to say that a quick google of the definition of the word “wellbeing” is quite telling. The top result notes that it is

“a state of being comfortable, healthy or happy.”

As Members know, one man or woman’s happiness and comfort is another man or woman’s woe. A quick search of “wellbeing” hashtags across Instagram is even more illuminating as to what makes people healthy, happy, and feeling that the “wellbeing” box is ticked. My overarching view is that we do not want to be too prescriptive to the regulator.

Shaun Bailey: I relayed this point to my right hon. Friend the Minister earlier. Does my hon. Friend agree that it is very important that the regulator should not be siloed in its approach to building safety? While I agree with the point that she is articulating about the broad definition of welfare, does she agree that it is going to be important to ensure that the regulator is looping in with different agencies and organisations, so that it can take a holistic approach to its objectives?

Siobhan Baillie: I absolutely agree with that point.

As I said regarding an earlier amendment, the definition of the requirements and the core functions as set out to the Building Safety Regulator will require it to go out to a range of different agencies. The hon. Member for Weaver Vale made a point about the Health and Safety Executive. I am a member of the Select Committee on Work and Pensions. The Health and Safety Executive is world-leading in many ways, and is going in and out of

businesses looking at, for example, issues surrounding covid. It is very much people-focused, and I believe that giving the regulator the absolute ability to determine safety is important. I do not think that the amendment is necessary; I think it could end up creating more confusion and issues, particularly surrounding what health and wellbeing means to individuals. As such, I urge the hon. Gentleman to withdraw the amendment.

Ruth Cadbury: It is a pleasure to serve under your chairmanship again, Mr Davies. The Minister has said that this Bill will bring in a new era for building safety, but will it? I agree that it is better than nothing—it is definitely an improvement on the legislative framework that we have had until now—but I am concerned about all of the gaps where people are working in, living in and occupying the many buildings that are outwith the scope of the Bill as currently drafted. That is why amendment 10, which stands in my name and that of my hon. Friend the Member for Weaver Vale, needs to be in the Bill. As many witnesses have told us, the safety of a building depends on a range of factors, including its location and what it is used for. If a tower block is located underneath the arrival path of an airport, for instance, that is a safety issue as well as a planning issue. As we will see in later clauses, so many occupants and so many types of buildings are excluded from this Bill. It is called the Building Safety Bill and, in my view, a building safety Bill should be about making all buildings safe.

It is not clear whether the Bill will protect students in student accommodation. We all remember when fire ripped up the sides of The Cube in Bolton, so are student residences protected? Are care home residents covered by the scope of this Bill; will they be protected if a fire rips through their building or up its sides? Of course, care home residents are, almost by definition, among the least mobile in our communities, perhaps superseded only by occupants of hospital beds. They cannot move quickly in the case of a fire, and my understanding is that they are excluded from the scope of the Bill.

2.30 pm

Children in their schools and, as I said, the staff working in and people visiting any of these buildings are also excluded. And what about residents occupying dwellings in existing buildings that are dangerous in some other way? I mentioned the Paragon in my constituency. Inspections following the post-Grenfell cladding removal found that the building was basically about to fall down. It was an approved building system built a little over 15 years ago and, as I said, the flammable cladding had already been removed.

Subsequent clauses limit the scope of the Bill to residential buildings over 18 metres in height. Let me remind the Committee of another residential building. It was only four storeys in height and had no flammable cladding, but fire ripped through it in 11 minutes once it had taken hold. That was Richmond House in Worcester Park, and that was post Grenfell too; I do not think it had even been occupied when Grenfell went up.

Our amendment would amend the Bill’s scope to define safety as meaning the “risk of harm arising from the location, construction or operation of buildings which may injure the health and wellbeing of the individual.”

I have just been talking about fire, but of course, as my hon. Friend the Member for Weaver Vale has said, safety means a range of other things. It can mean overheating, lack of ventilation, the risk of a building falling down, badly fitted fixtures and fittings, and so on. I think the amendment would do the right thing by defining the Bill's scope in a way that reflects its title. I am going not only by my own views, but by what many of the witnesses told us in their evidence.

Christopher Pincher: I certainly agree with my hon. Friend the Member for West Bromwich West that I should not be led down the path of discussing the planning Bill, for two reasons: first, that feast is yet to be enjoyed by the Committee and other Members of the House; and secondly, Mr Davies, I am sure that you would quickly draw me back to the path of procedural righteousness. However, I can say that in terms of the design of buildings, their space requirements, the infrastructure and the built environment that is there to support them, there are means to ensure that the wellbeing of residents is supported and enhanced. We will, I am sure, say more about that specifically when the planning Bill comes before us.

The hon. Member for St Albans raised the question of the Building Safety Regulator or some other body having responsibility for horizon scanning. I can assure her that the Committee will see when we get to clause 5 that the Building Safety Regulator does have a responsibility to horizon scan. I will say more about that in a moment. She also asked whether I would consider another body or agency to do the work of identifying and enhancing wellbeing. I am always happy to receive proposals, but they have to be sensible, coherent and worked through, and of course they also have to pass the test of Her Majesty's Treasury, which is generally called upon to pay for these things. However, if she makes a proposition, I will look at it.

I am grateful to Opposition Members for raising the Building Safety Regulator's statutory objective focused on securing people's safety, and for ensuring that the Committee has had an opportunity to debate the meaning of safety in that context, but I cannot accept the amendment. It is unnecessary.

The existing objectives of the Building Safety Regulator are broad enough to cover the key aspects of wellbeing and safety. Further, the proposed change could have the unintended effect of undermining the focus of the Building Safety Regulator on preventing another tragedy like Grenfell—a goal I am sure the whole Committee shares.

On wellbeing, I draw the Committee's attention to the regulator's objective to improve the standard of buildings. This is a broad objective and it sits alongside a crucial new oversight function which we will consider in greater detail when we reach clause 5, as I said to the hon. Member for St Albans. The oversight role means that the Building Safety Regulator will monitor the safety and standards of buildings and make recommendations to Ministers and to industry on changes to building standards.

Building standards are defined broadly in the Bill and would include building regulations. Section 1 of the Building Act 1984 allows building regulations to address "welfare and convenience" as well as health and safety,

so the Building Safety Regulator can already consider issues such as access, damp—an issue raised by the hon. Member for Weaver Vale—and heating, which affect welfare and go beyond simple physical safety.

I further reassure the Committee that the Building Safety Regulator's objective on safety already covers all types of risks to safety that flow from the building, whether they relate to its location, construction or management. Therefore, the amendment is not necessary to ensure that the regulator's objectives cover building standards relevant to wellbeing, and safety issues resulting from a whole range of matters linked to the building are already properly covered. The amendment could also have unfortunate unintended consequences by seeking to redefine safety to include wellbeing.

Setting up a new Building Safety Regulator within the Health and Safety Executive is critical for delivering the recommendations of Dame Judith Hackitt's independent review and for taking the action necessary to prevent a tragedy like Grenfell Tower from ever happening again. The Government believe that Parliament should give the new Building Safety Regulator a clear objective on safety. The Government consulted on including a statutory objective focused on safety, and it received overwhelming support, including from the Select Committee on Housing, Communities and Local Government and stakeholders. The amendment would add a definition of safety to the regulator's statutory objective and other clauses in part 2 of the Bill that is broader than the word's meaning in everyday language.

My hon. Friend the Member for Stroud googled "wellbeing" and gave us its meaning. She also mentioned its meaning on Instagram. I am not on Instagram, but I am prepared to believe my hon. Friend's confirmation of the broad meaning of the word. The amendment expands the definition of "safety" to a degree to which I do not think we can accept.

Our assessment is that introducing the concept of wellbeing into the safety objective of the Building Safety Regulator's function to facilitate safety in high-risk buildings makes the provisions less clear. The Building Safety Regulator should have a clear priority to secure physical safety and take the actions necessary to prevent another tragedy like Grenfell, and we are concerned that broadening the focus to include wellbeing would risk undermining the clarity of the statutory objective and dilute the regulator's clarity of mission.

It would also risk confusion, because the regulator's objective in clause 3 and its broad function in clause 4 to facilitate safety in high-risk buildings would define safety with wellbeing, while other critical provisions of the Bill, such as those in part 4, would not. That would make the Bill less coherent. It would make the regulator's role less clear if it were to seek to fulfil its safety objective and role under clause 4 while implementing a part 4 regime looking at safety in a different way. If the Building Safety Regulator's role were unclear, that would make its challenge even harder and could risk the development of a new system that is less proportionate and adds unnecessary costs and inconvenience for leaseholders and residents. The Government do not want to confuse or extend the Building Safety Regulator's role at the risk of imposing extra costs and extra works on residents and leaseholders. I hope, therefore, that the hon. Member for Weaver Vale will agree to withdraw amendment 10.

Turning to clause 3, legislation to create arm's length bodies typically provides for a small number of clear objectives for the new body to give clarity on its purpose and mission—hence our concern about amendments 11 and 10. Such legislation often provides guidance on the principles to follow when regulating. The Government believe that it would be valuable for Parliament to set the new Building Safety Regulator clear objectives so that it knows what it is aiming to achieve in undertaking its functions and the principles under which it will deliver its operational work.

The clause proposes two crucial objectives for the new regulator. As I and other hon. Members have said, we must learn the lessons of the Grenfell fire and the independent review on safety that followed it. Our reformed building safety regime needs to ensure that residents are safe, and feel safe, in their homes. The first objective, therefore, is that the Building Safety Regulator must exercise its functions in a way that secures the safety of people in and about buildings in relation to the risks arising from those buildings. That objective covers the safety of people either in a building or in the immediate vicinity of a building who could, for example, be struck by falling masonry. We consulted on including a statutory safety objective, and there was overwhelming support.

The Building Safety Regulator's second objective is about improving building standards. The regulator's role will not be limited to safety; it will, as I indicated, become the Government's key independent adviser on setting building standards. The regulator will improve competence levels and accountability in the building control sector by leading the creation of a unified professional and regulatory structure for building control. The regulator will work with industry to drive up the competence of those working on buildings.

2.45 pm

When delivering those crucial functions, the Building Safety Regulator's role will go well beyond safety. It will also need to consider environmental standards, sustainable development, and power and water, to which my hon. Friend the Member for West Bromwich West alluded. Therefore, it is important that its objectives are not limited only to safety but include improving the wider standards of buildings. That second objective would be fulfilled, for example, through the Building Safety Regulator providing expert advice to Ministers to change a building standard or take steps that lead to more consistent compliance within an existing standard.

This objective is about improving the quality of construction, delivering better and safer buildings for users and ensuring that the Building Safety Regulator's statutory objectives extend to environmental standards. Clause 3 also sets out principles of regulatory best practice to which the regulator must have regard when delivering its main operational functions. Under the principles, operational activity should be consistent, transparent and accountable. That can be secured by grounding operational activity in published policy and guidance, and publishing performance metrics about how the activity was undertaken. Critically, the principles set out that the Building Safety Regulator will be proportionate and will target activity where it is really needed. In July, the Government published independent expert advice on medium and lower-rise blocks, which

demonstrated the extreme risk aversion from parts of industry and what that has left leaseholders facing: costly and disproportionate bills for remediation.

I am confident that the Health and Safety Executive will be a proportionate regulator. I want it to be a proportionate regulator of high-rise residential and other in-scope buildings, focusing its regulation on what is necessary to save lives. We selected the HSE after independent advice, and due to its more than 40 years' experience of delivering robust but proportionate regulation. I believe it is appropriate that Parliament should give the Building Safety Regulator clarity that it should deliver in a proportionate and targeted way by putting those principles on the face of the Bill.

Mike Amesbury: I have a very brief point about risk aversion. The advice note proves to be contentious. What conversations has the Minister had with the shadow regulator about EWS1? What is the progress?

Christopher Pincher: The conversations we have had about EWS1 relate specifically to the users—the lending sector—that use the Royal Institution of Chartered Surveyors EWS1 form, which of course is not a Government form, to determine whether a building requires external wall system works or remediation. I am pleased to tell the hon. Gentleman that we have had very good conversations with the lending sector and the risk sector, which recognise that the use of EWS1 has got out of proportion, and that it really should not be used in the way it has been used on a very large number of buildings. I do not think that issue is specific to the clause at hand, so I will say that and leave it there.

These building functions are the functions given to the regulator under this Bill, the Building Act 1984 and regulations made under the two pieces of legislation. The building functions cover an additional Health and Safety Executive function, which future regulations define as building functions and certain related functions under the Health and Safety at Work etc. Act 1974. The building functions can also be added to by regulation. For example, regulations under planning regulation making the Health and Safety Executive a statutory consultee at planning gateway 1—that answers one of the Committee members' questions—could be added to the building functions.

This clause ensures that the Building Safety Regulator will focus on resident safety and improving building standards, while acting in a targeted and proportionate way, and I commend it to the Committee.

Mike Amesbury: I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Clause 3 ordered to stand part of the Bill.

Clause 4

DUTY TO FACILITATE BUILDING SAFETY: HIGHER-RISK BUILDINGS

Christopher Pincher: I beg to move Government amendment 6, in clause 4, page 3, line 7, at end insert—

“(aa) owners of residential units in such buildings.”

This amendment provides that owners of residential units are “relevant persons” for the purposes of subsection (1) of the clause (duty to provide assistance etc).

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

Christopher Pincher: I am grateful for this opportunity to discuss amendment 6, which is a minor and technical amendment that will ensure clause 4 works as intended.

Clause 4 places a duty on the Building Safety Regulator to assist and encourage those responsible for the safe construction and management of high-rise residential and other in scope buildings, as well as residents, to secure the safety of people in or around those buildings. The intention of clause 4 is to ensure that the Building Safety Regulator proactively engages with those with duties around the safety of high-rise residential and other buildings in scope, to encourage them to do the right thing.

The purpose of this amendment is to ensure the list of classes of “relevant persons” that the Building Safety Regulator should encourage is complete. The current list of “relevant persons” includes residents. However, the key duties on residents of high-rise residential buildings at clause 95 of the Bill also apply to owners of residential units, even if they are not resident at the time.

Amendment 6 adds owners of residential units to the list of “relevant persons”, bringing this clause into line with the approach to residents’ duties elsewhere in the Bill. The effect of this amendment is that the Building Safety Regulator will be under a duty to assist and encourage owners of residential units in higher-risk buildings to do the right thing, for example through guidance and communications.

I turn now to clause 4. At the heart of our proposals to transform the building safety environment is the implementation of a more stringent regulatory regime for high-rise residential and other in scope buildings. This new regime will be implemented and enforced by the Building Safety Regulator. The details of the new regulatory regime for high-rise residential and other in-scope buildings will be set out when the Committee deliberates over parts 3 and 4 of the Bill, so I will not detain the Committee on those matters now. These create powerful enforcement tools for the Building Safety Regulator to hold duty holders to account.

However, a good regulator does not rely on enforcing breaches in the law after they have occurred. A good regulator proactively supports and encourages those it regulates to comply. This principle is reflected in the regulator’s code, which highlights that:

“Regulators should provide advice and guidance that is focused on assisting those they regulate to understand and meet their responsibilities.”

To ensure that this best practice approach to regulation is taken by the Building Safety Regulator when regulating the safety of high-rise residential and other in scope buildings, clause 4 places a specific statutory duty on the Building Safety Regulator to take this approach.

Clause 4 places a duty on the Building Safety Regulator to assist and encourage those responsible for the safe construction and management of high-rise residential and other in scope buildings, as well as residents, to secure the safety of people in or around those buildings. It will require the regulator to take proactive steps to enhance the safety of people in high-rise residential and other in-scope buildings. The regulator could fulfil this duty by developing and publishing best-practice guidance,

setting up information services to advise duty holders, or running workshops for those responsible for developing and managing such buildings. The regulator could also test materials aimed at residents of such buildings with a residents panel, to help ensure that its communications are well targeted, effective, digestible and understandable. The shadow Building Safety Regulator is already liaising closely with stakeholders and will be releasing a series of guidance documents over the next 18 months to help duty holders understand what is needed of them in order to meet their new duties.

Once the regime is in place, the Building Safety Regulator will encourage, but ultimately will be able to force, duty holders to do the right thing in a proportionate way. Requiring the regulator to take proactive steps to encourage the construction and management of safe high-rise residential and other in-scope buildings is a vital part of creating the culture change we need, to which Committee members have referred. I commend this short clause, and the short amendment to it, to the Committee.

Ruth Cadbury: We do not have an issue with the amendment, because it seems logical to bring leaseholders within the scope of the clause so that it is consistent with other references to leaseholders elsewhere in the Bill, but I will take this opportunity to probe the definition of “resident”. The Minister talks about high-rise—another definition that we will talk about later—residential and other in-scope buildings. Who is a resident? I understand that resident leaseholders, assured shorthold tenants who are leaseholders, and social rent tenants are all obviously residents, but what about residential licensees in other forms of tenancy; guardians; students in student accommodation, particularly if that is their sole home; residents of care homes, for some of whom that is their only home; hotel guests; hospital patients; people renting holiday lets? Those are just the ones I can think of, off the top of my head. Is one a resident if one puts one’s head to sleep overnight in a building, or is there only a limited form of occupancy status in order to fall into scope of the Bill?

Shaun Bailey: I will be brief, because I think this clause and the amendment to it are relatively straightforward. The hon. Member for Brentford and Isleworth makes an interesting point. I will explain my understanding of how that will work—forgive my ignorance if I get this wrong. For some of the scenarios that she highlighted, such as student accommodation and holiday lets, I imagine that a structure will be in place so that someone above that will manage the building that falls in scope of the clause, but we would also hope that within that there would be a responsible landlord, whoever that might be, who has that relationship and can articulate those messages. I do not disagree with her scepticism about those groups engaging in the way that we would expect them to.

3 pm

Ruth Cadbury: I was merely probing.

Shaun Bailey: Absolutely, and the hon. Lady made a really interesting point that allows us to think about how that would operate. We talk quite abstractly about

things, and the clause in particular sounds very nice, but when we consider the detail of its operational function, we realise that a lot of people caught by the provision will have someone above them in the ownership chain. How can we ensure that those obligations are met?

Broadly speaking, I agree with the clause. It is absolutely right to ensure proactive engagement between the regulator and the relevant persons. As my right hon. Friend the Minister touched on in his contribution, the regulator should not be there just to slam down when things go wrong; it should be proactive in ensuring that things are done correctly in the first place. I will listen very intently to his response to the hon. Lady's interesting points. From an operational perspective, it is important to remember that there will be people between those relevant persons, and that the regulator, as it carries out its engagement practices under the clause, will encourage best practice from those people as well.

Daisy Cooper: It is a pleasure to serve under your chairmanship, Mr Davies.

I always welcome the idea of regulators having proactive powers, and it is good to see that the regulator can provide proactive assistance and encouragement, but how can a regulator provide assistance and encouragement to absent freeholders? That point was raised by the National Housing Federation in evidence. An idea that I mooted then was that it might be possible for a regulator to favour pursuing remediation if a freeholder repeatedly fails to respond to requests. Has the Minister reflected on that suggestion, and does he think that the clause, as it stands, would give the regulator enough powers to deal with the situation of absent freeholders in particular?

Christopher Pincher: I am grateful to hon. Members for their contributions. With respect to the question from the hon. Member for Brentford and Isleworth, we have been careful to define in-scope buildings. In-scope buildings are those over 18 metres or seven storeys that contain two or more dwelling places. Other in-scope buildings include, for example, care homes and hospitals that meet the criteria. We have also been careful to draft the clause in such a way that we are confident that student accommodation, for example, as well as the other examples that she gave, are properly covered.

On the suggestion from the hon. Member for St Albans, I am clear that we want the regulator to have the responsibility to encourage, to nudge and to cajole, but ultimately, as I said in my remarks, to enforce good and best practice. I will certainly consider both what she said and the oral evidence from witnesses, but I will certainly not make any commitments until we have thought through how those things can work effectively and what the possible unintended consequences may be. We want the Building Safety Regulator to have a clear and proportionate role that does not have unintended and unforeseen negative consequences for residents. That is quite a broad definition of "residents", as the hon. Member for Brentford and Isleworth outlined.

I thank the Committee for its consideration of the clause. In summary, I remind the Committee that the clause places a duty on the regulator to assist and encourage those responsible for the safe construction and management of high-rise residential and other

in-scope buildings, as well as residents, to secure the safety of people in or around those buildings. That duty is a vital part of creating the cultural change that we need and that we will see. Amendment 6 is a minor and technical amendment that corrects an omission in the list of "relevant persons" so that we have a fuller and more complete list. I hope that, having heard those final remarks, the Committee will agree both to our technical amendment and to the clause.

Government amendment 6 agreed to.

Clause 4, as amended, ordered to stand part of the Bill.

Clause 5

DUTY TO KEEP SAFETY AND STANDARD OF BUILDINGS UNDER REVIEW

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

Christopher Pincher: Dame Judith Hackitt's independent review recommended the establishment of a new system oversight structure, which should include oversight of the performance of the built environment. In our public consultation, the Government sought views on what statutory objectives are needed to guide the regulator's broader regulatory remit, which included promoting building safety and the safety of people in and around buildings.

To meet that objective, we proposed that the Building Safety Regulator should have a function to oversee the building safety system. That would include activities such as monitoring and driving improved performance across the building safety and wider regulatory system; advising on and preparing proposals for changes to building regulations, as needed; overseeing the development of appropriate technical guidance, either preparing guidance directly for approval by the Secretary of State or validating and quality assuring technical guidance for the construction industry; advising industry and Government on research into new or emerging risks; and working with other regulators and enforcement bodies to achieve safety and other outcomes for buildings.

Clause 5 gives effect to that function and places a legal duty on the Building Safety Regulator to keep the safety and standards of buildings under review. As proposed in our consultation, the Building Safety Regulator will work with the construction industry, any interested parties such as the British Standards Institute, technical experts and committees to make recommendations to Government on changes to guidance and regulations. It will also work with industry to identify and share best practice, to drive cultural change and improve standards.

The regulator will review standards and collect data from building control bodies and other information sources such as residents panels, research and any other forms of sector intelligence from other national regulators or enforcement bodies, as my hon. Friend the Member for Stroud suggested. That information will be used to analyse current and emerging risks to building safety and performance.

An important element of the oversight structure is the new building advisory committee, which will be established in the Building Safety Regulator to provide expert advice. The Building Safety Regulator will work

[Christopher Pincher]

with its building advisory committee to review the safety of buildings constructed using specific methods or materials following incidents of structural failure. Following the review, if the Building Safety Regulator considers that an amendment to building regulations is needed, it will make that recommendation to the Secretary of State following a public consultation.

We will discuss the building advisory committee in more detail when we consider clause 9, but overall these activities, taken together, will be an important function of the regulator. They will enable the regulator to review and monitor the safety and standards of buildings, and propose changes when they are needed. This function is an important one and I commend the clause to the Committee.

Mike Amesbury: Clause 5 gives building safety regulators the flexibility to monitor the safety of buildings and the standard of builders, thereby allowing the building advisory committee, which the Minister referred to, and essentially the regulator to respond quickly to emerging systematic failures in the industry, which certainly has not been the case in the past, with external wall systems and cladding systems for example, rather than there just being a drip-drip of evidence. We therefore welcome the clause and it will certainly add transparency to the system.

I have one question for the Minister. Beyond the consultation with residents that he mentioned and a recommendation to the Secretary of State, what engagement will there be with parliamentarians?

Shaun Bailey: I, too, welcome the clause. I think it is representative of the broad intention in the Bill for there to be collaboration, because collaboration will be a really important part of this story as we move forward. I know how it complements the building advisory committee, which we will talk about more broadly later.

It is really positive that there will be this ongoing review. That is absolutely what is needed and it is right that it will be done in a way that brings together all of the stakeholders who are qualified to review the safety of buildings and review these regulations, and ensure—this is a point I touched on in an earlier contribution—that with the pace of change as we move forward, we ensure that the homes we build in the future are indeed safe and indeed places that people can live in without fear.

We heard in the evidence sessions—it was a point made by all the witnesses we spoke to—about the importance of collaboration, conversation and talking. To echo some of the comments by the hon. Member for Weaver Vale, it will be important to ensure that within the building advisory committee there is breadth of expertise. That is the one point that I will press on my right hon. Friend the Minister. As this process continues, we need to ensure that there is a true breadth of expertise, from fire specialists, surveyors, members of local authorities and, to some degree, parliamentarians too, as well as from residents, to ensure that we bring in the full range of the landscape and ensure that the Bill is as comprehensive as it can be, because there is a real opportunity here to do something that I do not think we do very often, which is to review these landscapes regularly and ensure that they meet the needs of the people who know this situation through their lived experience.

This is a really positive clause that will provide real opportunities, so I wholeheartedly support it. However, as with many measures in the Bill, we must ensure that when it comes to the operation of this measure, it works.

Christopher Pincher: I am grateful to the Committee for its consideration and I am grateful to my hon. Friend the Member for West Bromwich West for making it clear that we want the Building Safety Regulator to have a wide ambit, and the opportunity to consult with a variety of players and reflect upon their advice.

I hope that the hon. Member for St Albans sees the opportunity that this measure provides to the regulator to horizon-scan and consult, and reflect upon information received, and thereby give the Secretary of State, or indeed the sector, sensible advice.

The hon. Member for Weaver Vale asked a question—possibly a leading one—about what the engagement and involvement of Parliament will be. That rather reflects an amendment that I think the hon. Member for St Albans tabled today about parliamentary consultation, and it may have some bearing on clause 7, which we will come to eventually.

Let me tell the hon. Member for Weaver Vale that Parliament has a variety of means—as you know more than many of our colleagues, Mr Davies—to ensure that the Executive is held to account, that questions can be asked and that answers will be given. I am sure that Parliament, if it feels that it does not have a way, will find a way of engaging effectively with the Building Safety Regulator.

This is an important clause, which everyone can and should support. It places a legal duty on the regulator to keep the safety and standard of buildings under review. It will enable the regulator to review and monitor the safety and standard of those buildings, and to propose changes to the appropriate authorities when needed. I commend the clause to the Committee.

Question put and agreed to.

Clause 5 accordingly ordered to stand part of the Bill.

Clause 6

FACILITATING IMPROVEMENT IN COMPETENCE OF INDUSTRY AND BUILDING INSPECTORS

3.15 pm

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

Christopher Pincher: Dame Judith Hackitt's independent review identified that competence needed to improve across the built environment sector. It challenged the industry to show leadership and take responsibility for raising competence. The Building Safety Regulator will play a key role in supporting the industry to raise its competence levels. One of the regulator's core functions will be to assist and encourage those in the built environment industry and the building control profession to drive improvements in competence.

For industry, the regulator is expected to do this by working with the industry competence committee to oversee and support the industry's work to raise competence. The regulator will set the strategic direction of the committee, to ensure that its work supports the regulator's

plans and priorities and the needs of the sector. It will also carry out important research and analysis, and provide advice and guidance for duty holders and the public on competence.

The regulator, with advice from the committee, may propose changes to building regulations and/or regulations under part 4 of the Bill to the Secretary of State on industry competence matters. The regulator's role will also be to increase building safety by improving compliance with building regulations and raising standards in the building control profession.

Through the clause, the regulator can demonstrate leadership of the profession, developing a strategy to increase the competence of registered building inspectors. Exactly how that will be done is a matter for the regulator, but it might produce advice or guidance, or identify areas where it can develop training to upskill registered building inspectors. It may also convene working groups or advisory committees, or commission research and analysis to further inform areas for improving competence.

The provisions will help position the Building Safety Regulator at the heart of industry and the building control profession.

Siobhan Baillie: I was struck by the evidence from the industry experts we heard over the past week or so in their desire to improve and to see improvements, and in their recognition of the fact that Governments of all colours had not brought about a Bill such as this, which is very welcome. Yes, things can be improved, but we will be debating changes as we go along. Does the Minister agree that the regulator may be pushing at an open door when seeking to improve the clause?

Christopher Pincher: I, too, heard the evidence provided to the Committee by a range of experts and industry players. In Parliament and beyond, we have heard from the development sector. If there is an open door, I trust that the Building Safety Regulator will make sure that it stays wide open, and should it ever close, I trust that the regulator will play a role in pushing it back open. It is important that the regulator monitors emerging risks or gaps in competence, surveys the landscape, as we have already identified and agreed, and considers carefully whether further action is warranted or appropriate. I agree with my hon. Friend that it is important that the regulator works with the sector and the industry and, where appropriate, takes action to make sure that the competence that we require across the sector is complied with.

The clause creates a key and influential role for the regulator to help drive up collective standards. We believe that it is an important clause as we embed the regulator in the Health and Safety Executive and define its role and responsibilities. I commend the clause to the Committee.

Mike Amesbury: Throughout our evidence sessions, we heard a consistent call to improve the culture referred to by hon. Members today in inspections of the built environment. From the Fire Brigades Union to the Local Government Association and the evidence emerging from the Grenfell inquiry, it is clear that a step change is needed in that culture, so clause 6 is welcome.

Concerns have been highlighted, however, about the choice-based competitive environment for inspectors of buildings below the threshold of 18 metres. The LGA recently spoke to me about that, as did Matt Wrack from the FBU. We could still have a situation, which has led to a number of safety concerns and shoddily built buildings, where a developer appoints someone as a building inspector for what is not, seemingly, an at-risk building according to the current definition, who inappropriately gives sign-off to something that should never have been signed off. I seek the Minister's assurance that that will be reviewed and tackled.

Shaun Bailey: I welcome the aims of the clause, in combination with other clauses. It is right that the regulator is able to review competences. As we heard in the evidence sessions, the one thing we are trying to fight here is the race to the bottom in standards and in how people behave in the industry more broadly.

On the point that the hon. Member for Weaver Vale made, we heard interesting evidence about building inspectors and what they are doing. I found that interesting because my training and background is as a lawyer, and we were always taught that, irrespective of the client that instructed us, we still had an ultimate responsibility for the administration of justice. It was slightly concerning to hear that evidence, because it felt at times that there was not that overarching responsibility. I am hopeful that we can perhaps re-embed that through clause 6.

Irrespective of the debate that we might have about building inspectors and how they operate, and whether the local authority model or the private model works, there is a broader discussion here about where the fiduciary duty will go. Hopefully, clause 6, in establishing that review—that committee—and allowing the BSR to do that can start those discussions again and really look the industry in the eye and say, "What are you doing?" As I say, the evidence we heard was, at times, quite shocking. I am hopeful that clause 6, combined with other clauses, will enable us to have that broad-brush conversation and to review the industry, in order to ensure we have something that works for the safety of residents living in these developments and a gloves-off discussion about how that operates. I welcome this clause, Mr Davies, and it has my full support.

Ms Marie Rimmer (St Helens South and Whiston) (Lab): It is a pleasure to serve under your chairmanship, Mr Davies. The National Fire Chiefs Council talked about the need for building control independence. We know that things have gone wrong in the past and that there is scope for that to happen in the future with the private sector being involved, as highlighted in Dame Judith Hackitt's report. In its written evidence, the NFCC wrote:

"While there is ample evidence that private sector participation in building control can bring efficiencies, if not implemented correctly such a delegation of regulatory mandate can come with significant unintended consequences."

I do not believe it is intended to have those consequences but that is what has been said. It continued:

"A 2018 report by the World Bank found private sector participation in construction regulation in 93 out of 190 economies. The report concluded that, for such an arrangement to work as intended, the public sector should regulate private third-party professionals and firms and reported that in 76% of economies that make use

[Ms Marie Rimmer]

of third-party inspectors, regulations explicitly require the independence of third-party inspectors; they should have no financial interests in the project and should not be related to the investor or builder.

The report concluded that private sector participation should be accompanied by appropriate safeguards that favour the public interest over private profits.”

That is the nub of this. The evidence goes on:

“We believe that the change to remove the ability for clients to choose their own regulator, is necessary to apply to the whole of the built environment.”

And that point was made by the World Bank.

I ask the Minister to consider these points.

Christopher Pincher: I am grateful to the Committee for its consideration. The point of this clause and of the Building Safety Regulator in it is to drive up competence standards across the building control sector, as my hon. Friend the Member for West Bromwich West said. We want to see that happen and we believe it can happen. Taken as a whole, we believe that that is exactly what the Bill will achieve. Dame Judith Hackitt was right to recognise some of the problems that the building control system faces, spread as it is, in particular the lack of a level playing field between the different statutory and non-statutory processes, which can lead to a degree of complexity in the system.

As a result of the Bill and its clauses, not just clause 6, we believe we address that problem. We have worked with the whole building control sector to draw up these proposals, both public and private, which have widespread support. I call on the Committee to support the clause in order to help the position of the Building Safety Regulator, and to put that regulator at the heart of the industry and the building control profession competence, to be a key influencer and driver for better competence, regulation and standards. I commend the clause to the Committee.

Question put and agreed to.

Clause 6 accordingly ordered to stand part of the Bill.

Clause 7

PROPOSALS AND CONSULTATION RELATING TO REGULATIONS

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

Christopher Pincher: I should, by way of preamble, say that this is a rather technical clause. It sets out to specific Departments how regulations will be made in respect of parts 2 and 4. Schedule 5 inserts the equivalent provision into the Building Act 1984. These procedures therefore apply to all regulations relating to building regulation in England and the new regulatory regime in occupation.

3.30 pm

The purpose of the provisions is twofold. First, they ensure that before regulations reach Parliament, the view of the expert independent Building Safety Regulator has always been taken. Secondly, they ensure that there

is always an appropriate level of consultation before regulations are made. The only exceptions to that procedure are for regulations made under clauses 30, 59, 62 and 65—we will get to them eventually—which prescribe building safety risks, define the buildings that are in scope of the new regulatory regime and allow clauses in part 4 to be disapplied for categories of high-rise residential buildings. Those regulations are exempted from the procedures in clause 7 and the Building Act equivalent clause because they have their own distinct procedures. We will get to those in due course.

The Building Safety Regulator has been established to oversee the safety and performance of buildings, and ensure that residents are safe in their homes. To achieve that, it will use its technical expertise and its expert committees and residents’ panel to provide independent advice to the Secretary of State on changes to regulations. It is, therefore, appropriate that this clause gives the Building Safety Regulator, as independent regulator, a formal right to propose regulations to the Secretary of State and sets out the process it must follow when doing so. It is also appropriate that where the Secretary of State brings forward regulations of his own initiative—and he may—he must first consult the expert independent regulator.

The Government also recognise that expertise will not stop at the doors of the Building Safety Regulator. It is critical that there be wider consultation on proposals for new regulations too. That point was made by other members of the Committee during consideration of earlier clauses. Therefore, this clause ensures that, whether it is the Building Safety Regulator or the Secretary of State who initiates the proposal for new regulations, they must first consult appropriate persons. That might be a full public consultation or a more targeted consultation, depending on the subject matter.

That process is consistent with the approach taken with health and safety regulations, where the Health and Safety Executive has, for more than 40 years, taken a proportionate approach to consulting parties before submitting proposals to the Secretary of State for consideration. As is the case now, the Secretary of State will make the final decision on what regulations will be made, after the benefit of expert independent advice.

Clause 7, alongside the equivalent Building Act provision, ensures that regulations will be made only after expert independent advice from the Building Safety Regulator. I commend the clause to the Committee.

Mike Amesbury: We welcome the provisions in this clause—certainly the extensive consultations. I note that the residents’ panel is mentioned. I have a couple of questions. Who will the residents’ panel be made up of? Will it be genuinely representative, with a broad field of representatives?

On the discretionary nature of the consultation, whether it is about the Secretary of State or recommendations from the regulator to the Secretary of State, the clause refers to relevant Departments and Parliament, and it would be good to see something firmed up there. I look forward to the Minister’s comments on those matters.

The Chair: I urge the Minister not to focus too extensively on residents’ panels, as that issue comes up in clause 11.

Daisy Cooper: I want to pick up on clause 7(4)(b), which says that the Secretary of State must consult other persons as he or she “considers appropriate.”

The evidence the Committee received was divided. Those in the industry praised the Government for their extensive consultation, with the draft Bill being improved as a result. We also heard pleas and cries of anguish from residents and the Fire Brigades Union, who said that for many decades they have been shouting into the wilderness, hoping that someone would listen. Might the Minister reflect on that? Although it may be appropriate for the Secretary of State to choose who he or she wishes to consult, there may be others who also need to be consulted and who need to be heard. I hope that is reflected in the clause or elsewhere as the Bill continues its passage.

Christopher Pincher: I will not dwell overmuch on the residents’ panel, because you are quite right, Mr Davies, we address the panel in clause 11. Suffice to say that, be it relevant Government Departments or the members and composition of residents’ and other panels, we do not want to be prescriptive in the Bill.

We have to recognise that as time passes compositions of groups or committees may become redundant and—I will use this word again later on in my remarks—they may even ossify. It is right that the Secretary of State should have the flexibility, like the Building Safety Regulator, to react to and reflect on the scenarios of the future, whatever they may be, which is why we want the clause to retain its flexibility. The key objective of the clause is to ensure that the view of the expert, independent Building Safety Regulator, with all of the inputs that the regulator may collect, is provided and is always taken, before the regulations reach Parliament. Therefore, there is always an appropriate level of consultation before regulations are made by Ministers.

Question put and agreed to.

Clause 7 accordingly ordered to stand part of the Bill.

Clause 8

DUTY TO ESTABLISH SYSTEM FOR GIVING OF BUILDING SAFETY INFORMATION

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

Christopher Pincher: Clause 8 relates to the establishment and operation of a voluntary occurrence reporting system about building safety.

The Government recognise the success of voluntary occurrence reporting systems in improving the safety of industry the world over, including in the UK built environment. We agree with recommendation 1.4 (c) of the independent review, which asks that such a system be in existence under the new building safety regime. The clause contributes to its implementation.

The clause requires the Building Safety Regulator to make arrangements for a person to establish and operate a voluntary occurrence reporting system about building safety. Under the system, structural or fire-safety related information that is seen by the reporter as an actual or potential risk to building or life safety will be reported through an online portal. We expect the person operating

the system to then receive, anonymise, analyse and publish those reports online. In doing so, the system will allow important lessons learned to be shared across industry, prompting stakeholders to proactively identify and resolve issues before they escalate. To give an example, if a contractor were to report safety issues with a fire door, that intelligence could be shared across industry, allowing others to identify and resolve any issue at their own sites. The person working on the incident can report it through the voluntary occurrence reporting system, where it is then analysed and published by the person operating that system.

I stress that the objective of voluntary reporting is the prevention of accidents and incidents, not to attribute blame or liability, or for it to be used as a tool for enforcement. It is about surfacing issues as quickly and transparently as possible. To ensure that that happens, the system will be operated by a person other than the Building Safety Regulator. Voluntary occurrence reporting will ensure that occurrences not serious enough to be captured by the mandatory occurrence reporting system are still reported, recorded and shared. Those two reporting systems, along with whistleblowing, will complement one another to instil a safety-conscious, just culture in industry. By voluntarily reporting an issue, important details and lessons learned are shared with industry. This release of intelligence will increase industry awareness of issues and enable workers to better identify and resolve them should they occur elsewhere, averting dangers that may otherwise have gone unnoticed.

Ruth Cadbury: This sounds like a very sensible proposal. I am only surprised that it does not already exist in the construction industry—but, then, so many of us are ceasing to be surprised given the sheer mess that has been going on. Under the proposals in the Bill, will the reporting be made public such that users, leaseholders and residents of a building are aware of the reports, in case the building owners do not themselves make the residents or leaseholders aware?

Christopher Pincher: I am grateful to the hon. Lady. We want information to be as transparent and as available as possible. That is one reason for it going through a filter—for it to be properly analysed and assessed before it might be reported on. Whistleblowing is a tried and tested—almost traditionally British—way of doing things when it comes to surfacing unpalatable matters in business, as well as in the public sector. We want to find as many effective means as possible of identifying issues and raising them quickly so that they can be addressed, creating an airline-industry approach to issues, in which we are looking not to blame or point the finger but simply to identify and almost—I use this word advisedly—celebrate errors and issues, so that when people identify an issue it is second nature for them to raise it so it can be fixed as rapidly as possible.

Ruth Cadbury *rose—*

Christopher Pincher: I will give way once more to the hon. Lady, and then I should probably make a bit of progress.

Ruth Cadbury: I recognise that. Let us say that a building owner recognises and realises, for instance, that the Pincher Weaver fire door is not safe—for the record, this is an imaginary scenario; there is no such thing as the Pincher Weaver fire door. If residents in

[*Ruth Cadbury*]

another building realise or suspect that the fire doors in their block may be the Pincher Weaver ones, but their building owners or managers do not highlight this, will they have ways of finding out that the Pincher Weaver fire door that appears to be in their block is dangerous, and that they need to highlight it? That is why I am asking whether this information will be in the public domain.

3.45 pm

Christopher Pincher: We will work closely with the Building Safety Regulator to ensure that such information is properly identified, assessed and made public. It may be that the Pincher-Weaver fire door—I have never seen one, but I look forward to accruing the royalties if one exists—is assessed such that there is not a problem with it. Clearly we do not want information to be made public as if the voluntary occurrence reporting system is Twitter, but I will make it my business to ensure that it is as properly public as possible within the usual constraints.

Mike Amesbury: This system is a welcome and essential step, and was recommended, as the Minister said, by the independent review. My only question is, how will it be closely monitored? To take one example—it is not from this country—residents in Florida spoke about the concrete system and evidence of cracks and creaking. The proposed system would pick that up, so that is a welcome step forward, but we must closely monitor it going forward.

Shaun Bailey: I will keep my comments brief. Like other hon. Members, I support the clause. The key thing for me is that the Building Safety Regulator will sit within the HSE, which already has structures and competences to deal with these issues, particularly in terms of whistleblowing and sharing information. I completely agree with the sentiment that information must be accessible so people can make informed decisions off the back of it, and that it is used in the right way to mitigate and head off any issues that may present.

The underlying structures developed through the Bill enable the clause to be operationally sound. We have the competence and experience to enable the systems to be put in place. We need to see what those systems will look like. I hope that they will be robust and can be used as envisaged by my right hon. Friend the Minister. The sharing of information and the ability to access it are at the core of these issues, and will be vital to ensuring that the delivery of the clause's aspirations is sound.

Christopher Pincher: I thank the Committee for its consideration of the clause. The Government want to ensure that information that is relevant to concerns is properly captured, properly assessed and properly communicated. We also want to ensure that there is an effective monitoring regime for such a voluntary occurrence reporting system, and we will work closely with the Building Safety Regulator to enable that monitoring system to be put in place. I do not want to prescribe in Committee how the system will work; it will be for the regulator, in consultation with the Department and other experts, to define how that should be done most effectively.

As I am sure the Committee understands, in driving a culture change towards more transparency, we must be careful about how this information is used. We would not want an unintended consequence to develop whereby people at the coalface are disinclined to report something because the reporting becomes so very public that they may think it will become a big issue for them. We must therefore keep the reporting in proportion. We also have to make sure it is appropriately shared so that those who need to know do know and can take action or can check their own systems to make sure that they are also somehow not inoperative. I have used too many double negatives, so I shall stop there and commend the clause to the Committee.

Question put and agreed to.

Clause 8 accordingly ordered to stand part of the Bill.

Clause 9

BUILDING ADVISORY COMMITTEE

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

The Chair: With this it will be convenient to consider clauses 10 to 12 stand part.

Christopher Pincher: I will speak first to clause 9. The independent review recommended that the Government should create a new structure to validate and assure guidance, oversee the performance of the built environment sector and provide expert advice. The Bill makes provision for the creation of a new building advisory committee to implement that recommendation.

The clause requires the Building Safety Regulator to use its powers under new subsection 11A(3) of the Health and Safety at Work etc. Act 1974 to set up and maintain the new building advisory committee. The committee will provide independent expert advice on matters across the built environment and support the regulator in its role to keep the safety and standard of buildings under review, as we discussed on clause 5. It will also validate and assure technical guidance, such as approved documents, to ensure the guidance is fit for purpose. It will not advise on industry competence, which is the responsibility of the committee on industry competence, as the name implies. We will come to that committee and its functions in clause 10.

The Building Safety Regulator will appoint technical experts with a wide range of knowledge, skills and experience from across the built environment to provide it with advice. It may be helpful if I provide a short example of how the provision of advice may work. In carrying out its functions, the Building Safety Regulator may identify an emerging issue relating to buildings in part B of the guidance to the building regulations. That issue may need consideration and potentially some form of action. In assessing the issue, the Building Safety Regulator would ask the building advisory committee for advice on the matter. The building advisory committee would then consider the issue and provide the Building Safety Regulator with advice. The regulator can then assess that and use it to help make a recommendation for change, which could, for example, include amendments to guidance on part B of the building regulations.

The committee will also advise on other work that the Building Safety Regulator may from time to time ask it to carry out in support of the regulator's functions. Clause 9(3) abolishes the Building Regulations Advisory Committee for England, which was established under section 14 of the Building Act 1984. The Government's intent is that the building advisory committee will build on the work done previously by the Building Regulations Advisory Committee by having a wider remit with the strategic oversight to advise the Building Safety Regulator on matters across the entire built environment.

The building advisory committee will be resourced by a range of independent and impartial members with a wide purview of the construction process, with technical knowledge and with demonstrable independence. The clause will play an important part in ensuring that the Building Safety Regulator has access to the support and expert advice required to enable it to deliver its crucial work.

I now turn to clause 10. The Government are committed to supporting the built environment industry to improve its competence, as the Committee has begun to hear. Dame Judith's independent review challenged industry to show leadership and take responsibility for raising competence. It identified the need for a shift both in culture and in mindset. It found that the landscape for ensuring competence was fragmented and inconsistent—different disciplines have various routes for assessing competence, and they are not always clear or consistent. For culture change to be meaningful and lasting, the change needs to be led by industry, as only then will change be embedded in the industry's culture.

Industry has been leading work to develop proposals for a competence oversight system. Those include an industry-led committee within the Building Safety Regulator to oversee improvements in competence and to ensure consistency across the industry. To implement that, clause 10(1) requires the Building Safety Regulator to establish the industry competence committee, to which I alluded earlier, and to provide support as necessary. Subsection (2) sets out the mandatory functions of the industry competence committee. Those include monitoring industry competence and facilitating its improvement, advising the Building Safety Regulator and others, providing guidance, and carrying out analysis and research on industry competence. Examples of how that will work in practice could include the committee convening stakeholders to enhance competence, providing a forum for industry to work collaboratively to monitor, refresh and review competence frameworks, and to drive competence more widely; or carrying out research and analysis to assess the effectiveness of the competence schemes operated in various sectors, and to see whether there are gaps that need to be addressed.

Under clause 10, the Building Safety Regulator may also set up sub-committees to consider specific issues or areas of interest, as it sees necessary. The clause will be instrumental in helping to drive up standards across the entire industry.

I now turn to clause 11. The independent review highlighted the importance of residents having a powerful voice, and the need to rebuild residents' trust. To that end, the Bill includes major provisions in part 4 to give residents of high-rise residential buildings a much stronger voice in the safety of the buildings in which they live. The Government, however, believe that the voice of

residents also needs to be heard by the Building Safety Regulator as it develops policies and systems that affect the lives and safety of residents of high-rise residential buildings.

Clause 11 is a vital step to ensuring that residents are able to have their voices heard and to influence policy at the national level. It mandates that the Building Safety Regulator must establish a residents' panel. It is crucial that the residents' panel brings the lived experience of residents into the heart of the regulator. That message came through quite clearly in the witness session evidence we heard in the last two sittings.

The Bill therefore requires that the residents' panel must contain actual residents of high-rise residential buildings. The panel may also include organisations that support and represent residents, and owners of flats in high-rise residential buildings who may not live there at the time. The Building Safety Regulator will be able to seek the advice and support of the residents' panel on a wide range of issues.

4 pm

The Bill also requires that the residents' panel must be consulted on matters that are likely to be of particular importance to residents of high-rise residential buildings. Specifically, the residents' panel must be consulted on the Building Safety Regulator's strategic plan and its system for handling residents' complaints, and on crucial guidance relating to residents' engagement, rights and obligations.

Shaun Bailey: I am sure we all agree that the inclusion of residents' panels is absolutely vital. Does the Minister agree that the panels should be composed of the broadest possible range of residents? That would ensure that we do not have very small groups of residents who are not necessarily representative of the broader spectrum of those affected.

Christopher Pincher: My hon. Friend is absolutely right and I entirely agree. We want to be as broad and as inclusive as possible. We also want to ensure that residents and the groups to which they belong—expert groups and support groups—all have the opportunity to be represented on such a panel so that it is really broad and inclusive, and can provide sensible and coherent advice to the Building Safety Regulator.

The Health and Safety Executive recognises the importance of resident engagement—as we heard in Sarah Albon's evidence a week ago today—and the challenge involved in ensuring a diverse membership that secures resident confidence, which is the point my hon. Friend just made. The Health and Safety Executive has already brought together a group, including residents, to plan for and advise on the setting up of the residents' panel. Building on that, the Health and Safety Executive intends to bring together a residents' panel on an interim basis ahead of legislation, so that it can benefit from residents' advice on its shadow Building Safety Regulator work.

The Government believe it crucial that residents have a voice in the work of the Building Safety Regulator, and that the Building Safety Regulator is able to call on the insight and expertise of residents and their associated groups. The residents' panel is an important step to

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ensuring that strong resident voice. In our consideration of clause 20, we will turn to further provision for wider resident engagement by the Building Safety Regulator. Having a residents' panel in place will make certain that residents are able to contribute to key policy changes made by the Building Safety Regulator that relate to them and their homes. That will also empower the regulator to call on the expertise of the panel for insight and support wherever it deems that necessary.

I may have been a little premature in claiming that clause 11 was my final gambit in this particular outing, because I have to speak to clause 12. The Government believe that it is vital that the work of the Building Safety Regulator is supported by strong input from technical experts and residents, and that the regulator works closely with industry to support improved competence. We have just discussed clauses creating three committees that are intended to support those objectives: the building advisory committee, the committee on industry competence, and the residents' panel.

Given the importance of engagement in those areas, it is right that the Bill does not rely simply on the Building Safety Regulator's general power to set up committees. Instead, we have placed those committees in the Bill, giving an opportunity for them to be debated. However, placing the detail of a regulator's committee structure in the Bill, as opposed to the committees themselves, carries considerable risks. We want the Bill to embed and last. Over a period of time, the committees could become ossified, to use the word I used previously. Their membership might become out of date. Their purposes might no longer be focused on the key building regulatory issues of the day.

In other words, we might end up with the right committees for the early 2020s, but the wrong committees to support the Building Safety Regulator to deliver expertly, sensitively and effectively in the early 2030s. By that point, the scope of the high-rise regime might be different, as might the types of people affected by the high-risk regime. Industry might have tackled the competence issues identified in the independent review, and be ready to fully take the lead on competence, with more responsibility.

The strong advice from the Health and Safety Executive, as an experienced and expert independent regulator, is that the Bill should include some flexibility to adapt the Building Safety Regulator's committee structure over time. The names remain in the Bill, but the structure allows the regulator some flexibility. Clause 12 allows the Secretary of State to bring forward regulations to amend or repeal the provisions setting up the three statutory committees by regulations.

It is not unusual for Ministers to be involved in setting the strategic direction for a regulatory body. The Health and Safety Executive already works to a plan agreed by Ministers under the Health and Safety at Work etc Act 1974. The 1974 Act, like the Building Safety Bill, gives the Health and Safety Executive a formal ability to propose changes to Ministers that would require regulations. HSE has more than 40 years' experience delivering as an independent regulator, while advising Ministers on matters that could require changes made through regulations.

The power in clause 12 is a particularly important regulation-making power. It is crucial that the power is always used to adapt and improve the building safety framework. Therefore, the Bill provides substantial safeguards for its use.

Under Clause 7, no regulations can be brought forward unless they are proposed by the independent regulator or the independent regulator's expert advice has been taken. There must also be appropriate consultation on proposed changes. Any regulations brought forward by the Secretary of State must then be approved by both Houses using the affirmative procedure, which will ensure that Parliament maintains oversight over the committee structure.

These substantial safeguards ensure that clause 12 will be used only as intended, to provide flexibility so that the Building Safety Regulator can learn from experience, ensure that the way in which it engages stakeholders reflects regulatory best practice, and improve, and for other purposes. The approach reflects more than 40 years of Health and Safety Executive experience. Since 1974, HSE has witnessed major changes in the profile of British industry. When it was formed, we had a significant steel industry and coal industry. Things have of course changed since then, as has the governance of industry, and we must recognise that the challenges that face high-rise residential dwellers at this time may also change, and the Building Safety Regulator must have the flexibility to accommodate those.

The committees on which the Health and Safety Executive can now call represent a rich mix of advisory and stakeholder-led bodies, each geared to the needs of the respective industries. Clause 12 creates an important flexibility to ensure that the Building Safety Regulator can refresh and improve the way in which it engages stakeholders, always reflecting best regulatory practice. Any material changes must receive the active support of both Houses of Parliament.

I believe that all these clauses, taken together, represent a very significant step forward in expert engagement with the Building Safety Regulator, and give proper facilities and flexibility for it within the usual and proper safeguards of Parliament. I commend them to the Committee.

Mike Amesbury: Again, we broadly accept and welcome clauses 9, 10, 11 and 12. On clause 9, my main question to the Minister is about the panel of the building advisory committee. Who makes up that committee? What checks and balances will ensure that those in the industry responsible for this mess—the toxic landscape of the building safety scandal—do not have a chair at the top table, so to speak? I seek clarity on that point. On the interrelation between the residents' voice, which we will come to when we debate later clauses, and the building advisory panel, it may be that some residents are experts in the building and construction industry.

On clause 10, which relates to industry competence, I was struck by the evidence of a broad array of stakeholders, who spoke about the cultural shift to professionalise the industry. I was particularly struck by the comments from Justin Bates, who was right to argue that it is difficult to legislate for a cultural shift; it will take time—a generation. The leadership, the drive, the regulation

and, importantly, the accountability will prove to be a nudge factor, so I again welcome those aspects of the Bill.

Clause 11 speaks of the residents' voice, which is a good thing. Grenfell United has been an incredibly strong advocate of the legacy of that tragedy. That is essential. If we look at the ITV and ITN work of Dan Hewitt, we see that there are big issues relating to the residents' voice in the social sector and the private sector, so that is a welcome development. I ask the Minister, if it is possible today—it may not be—to expand on who will make up that residents' panel. Will it truly be grassroots to the top table of all sectors? I take the point of the hon. Member for West Bromwich West that there could be some who are experts in the field. There are also training issues that would help to bring that voice to life.

The one concern that I have about clause 12—I think the Minister has answered this—is that a large amount of power is being given to the Secretary of State in relation to the nature of these committees, regardless of political persuasion in the future. Sometimes there could be a conflict of interest—there could be conflicting personalities. The Minister seemed to suggest that checks and balances would be hardwired into the system, in terms of accountability, in both Houses of Parliament.

Christopher Pincher: I am grateful to the hon. Gentleman for his, I think, warm welcome of these clauses and proposals. He asked me a number of questions. With respect to clause 9, he asked who would form the building advisory committee. That committee will be appointed by the Building Safety Regulator itself. It will be formed of independent and impartial players, so it will not be a group of hand-picked ministerial appointments.

4.15 pm

I am very grateful to the hon. Gentleman for his support for clause 10. He asked who will form the residents' panel. As I said earlier, we want to ensure that that panel is as wide a representation of dwellers in high-rise properties as it can be, and we will work closely with the Building Safety Regulator and HSE to make sure that a wide variety of panel members is included. I am sure the hon. Gentleman will accept that I am not going to specify now exactly how they are to be found, because we have to work that through, but we already have a regulator in shadow form working with residents. We will make sure that that work flows through into the real world of the Building Safety Regulator and its advisory committees.

Ministers usually try to answer questions as accurately as they possibly can when Opposition Members get to their feet and quiz them on the minutiae of matters before a Committee.

Ruth Cadbury: That is what we are here for!

Christopher Pincher: Indeed: the Opposition are there to quiz, question and probe. The responsibilities that the Secretary of State has with regard to the composition of the committees, the Building Safety Regulator, and HSE in general differ in no way from the existing responsibilities that Ministers have, so we are not trying to create a new beast. What we do want to do, of course, is to make sure that Parliament has appropriate oversight.

That is why, as I said in my remarks, any changes to the structure of committees will be made through the affirmative procedure, so both Houses will be able to have their say on any material changes to the committees we have identified and put on the face of the Bill.

In conclusion, I thank the Committee for its consideration of these clauses. I think they are very important clauses for the Building Safety Regulator to have at its disposal, so I am grateful, and I commend them to the Committee.

Question put and agreed to.

Clause 9 accordingly ordered to stand part of the Bill.

Clauses 10 to 12 ordered to stand part of the Bill.

Clause 13

LOCAL AUTHORITIES AND FIRE AND RESCUE
AUTHORITIES: ASSISTANCE ETC TO REGULATOR

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

The Chair: With this it will be convenient to consider clauses 14 to 16 stand part.

Christopher Pincher: First, let me speak to clause 13, the first clause in this grouping. Dame Judith's independent review recommended that the Health and Safety Executive, local authority building control, and fire and rescue authorities work together to deliver the new regulatory regime for high-rise residential buildings. This clause will support that independent review vision, enabling the Building Safety Regulator to secure support from local authorities and fire and rescue authorities when regulating high-rise residential and other in-scope buildings.

As shadow Building Safety Regulator, the Health and Safety Executive is developing an operational model in which key regulatory decisions on high-rise residential and other in-scope buildings are taken through a multidisciplinary team approach. Those teams will bring together the right specialists to take critical regulatory decisions on high-rise residential and other in-scope buildings, and will typically include staff from local authorities and fire and rescue services. That approach reflects the fact that fire and rescue services have expert fire protection teams, experienced in regulating fire safety issues through the Regulatory Reform (Fire Safety) Order 2005. Local authority building control teams contain crucial expertise in inspecting and enforcing against building regulations requirements under the Building Act 1984.

Taking that multidisciplinary team approach has three advantages. First, drawing on the expertise in local regulators will be more efficient and effective than a national regulator employing and training all inspectors nationally. Secondly, this approach will avoid the best inspectors in local authorities and in fire and rescue authorities moving to the national inspectorate. Retaining expertise at the local level is critical to ensuring that the full range of buildings are properly regulated locally. Thirdly, the teams will support co-operation and co-ordination. That is crucial when the Building Safety Regulator, local authorities and fire and rescue authorities are all likely to have legal responsibilities in relation to a high-rise residential building. Under its general powers in the Health and Safety at Work etc. Act 1974, the

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Building Safety Regulator will also be able to secure expertise from the private sector, where appropriate, to support the work of the multi-disciplinary team.

The clause sets out the process by which the Building Safety Regulator can secure support from local authorities and fire and rescue authorities, and gives local authorities and fire and rescue authorities the legal powers to provide support. The Government want support to be typically provided through co-operation and agreement. That approach respects the fact that local authorities and fire and rescue authorities are subject to local democratic accountability. The new regulator is also committed to a co-operative approach.

Ruth Cadbury: It is welcome that elements of local authority building control are being taken out of the competitive relationship in which they find themselves. I think that the head of building control who came to the Committee said that this is the only regulatory regime where there is competition between regulators—between the public and the private sector. Has the Minister done an impact assessment that shows that the fire authorities and local authority building control currently have the capacity to do the work that the Bill requires for buildings over 18 metres?

Christopher Pincher: The hon. Lady will know that we have spent a considerable amount of public money as a result of our efforts to recruit more experts and more fire and risk assessors over the past 18 months. We have recruited, and are training, a considerable number of experts to ensure that the resources are sufficient for buildings over a certain height to be properly assessed and, therefore, to be effectively remediated. I am confident that we have done, and will continue to do, the work to support the sector.

The hon. Lady was also right to say that it is sensible that we develop a co-operative rather than a competitive approach. That is what we are trying to do, because it is crucial that when the Building Safety Regulator and local authorities work together they do so sensibly and coherently. As I said, the Government want that support to be typically provided through co-operation and agreement, and the new regulator is committed to a co-operative approach.

The Chief Inspector of Buildings chairs the joint regulators group, which brings together the Local Government Association, the National Fire Chiefs Council and local authority building control. Schedule 3 provides for legal duties for co-operation between the Building Safety Regulator and local authorities and fire and rescue services respectively.

In most cases, the Building Safety Regulator will request support under this clause, and local authorities and fire and rescue authorities will respond positively to such a request. Where an authority has a genuine reason not to provide support on a specific occasion, such as when it needs to focus on a serious public safety risk elsewhere, the Building Safety Regulator would seek to accommodate that.

However, it is essential that this new regulatory regime works to secure the safety of residents of high-rise residential buildings, so there must be a backstop enabling the Building Safety Regulator to get the support it

needs if all attempts at persuasion are insufficient. Therefore, the clause includes a power to direct local authorities and fire and rescue authorities to provide support. The power to direct is intended to be used only as a last resort—I must stress that to the Committee—so there are significant safeguards to ensure that it is not used lightly.

The power to direct can be used only following a written request from the Building Safety Regulator. The authority must have the opportunity to give reasons why it should not be required to provide assistance, and the Building Safety Regulator must consider any reasons given by the authority not to provide support. Crucially, the Secretary of State has to give consent to any direction.

Finally, I want to reassure the Committee that we will turn to funding arrangements when we consider clause 15. The Government intend that local authorities and fire and rescue authorities will be properly funded for their work in supporting the Building Safety Regulator. Clause 13 is crucial to ensuring that the regulator can call on the expertise it needs to regulate high-rise residential and other in-scope buildings.

On clause 14, the Government intend that the Bill should enable the Building Safety Regulator to work closely with other regulatory experts, bringing together the right specialists to regulate high-rise residential and other in-scope buildings. We have just considered clause 13, and we may consider it a little more in a moment, with other members of the Committee contributing. As I have said, it enables the Building Safety Regulator to secure support from local authorities and fire and rescue services.

The Crown application of the new regime, as set out in clause 141, is, in summary, a more stringent regulatory regime in occupation for high-rise residential buildings and will apply to buildings owned or managed by the Crown, with appropriate modifications. Where the Building Safety Regulator is regulating high-rise residential buildings owned or managed by the Crown, it is appropriate that the Building Safety Regulator can call on the support of inspectors authorised to enforce the fire safety order specifically for these Crown premises. Therefore, clause 15 allows the Building Safety Regulator to request support from inspectors in the Crown premises fire safety inspectorate and to give those inspectors the appropriate legal powers to provide support. So, they are covered, too.

We expect those requested to support the work of the Building Safety Regulator to form part of a multidisciplinary team looking at crucial regulatory decisions, such as assessing the safety case for a high-rise residential building. The clause is intended to ensure that the Building Safety Regulator can bring together the right experts when regulating Crown premises, as opposed to other premises, and is an important addition to the Bill with regard to the work of the Building Safety Regulator and its regime of oversight of buildings owned or managed by the Crown, of which there are a lot.

4.30 pm

Finally, I turn to clause 15. The Committee has just considered two clauses enabling the Building Safety Regulator to secure support from local authorities, fire and rescue authorities and the Crown premises fire

safety inspectorate. Clause 15 includes several additional provisions to ensure that support provided to the Building Safety Regulator works smoothly and effectively. It is essential that the people supporting the Building Safety Regulator to make decisions about high-rise residential and other in-scope buildings are competent to advise and to inspect those buildings. Therefore, clause 15 places a duty on fire and rescue authorities and local authorities to use competent staff when supporting the regulator.

It is also important that local authorities and fire and rescue authorities are appropriately funded for the support they provide to the regulator, as I mentioned a short while ago. Clause 15 enables funding to be provided through grants from the Secretary of State. That may be the most appropriate way to fund building new capacity or specific systems.

Clause 15 also enables the Secretary of State to make regulations requiring the Building Safety Regulator to reimburse local authorities and fire and rescue authorities for the costs of supporting the regulator. The HSE, as shadow Building Safety Regulator, is already working with representatives of local authorities and fire and rescue authorities to develop a reimbursement system. Wherever possible, the Building Safety Regulator will charge fees to regulated parties for regulatory activities, including the costs of support from local authorities and fire and rescue authorities. The Building Safety Regulator will then be able to use this income, as well as some Government funding, to reimburse local authorities and fire and rescue authorities.

Finally, the clause contains a regulation-making power, enabling the Secretary of State to make further provisions around the provision of support—for instance, setting out the process in more detail or providing for specific competence standards. The Government's preference and expectation is that these practical matters will be worked out by the Building Safety Regulator and the authorities that support it. The health and safety regulator is already doing a great deal of co-operative work through the joint regulators group to develop the new system. However, if it does prove necessary to provide greater legal clarity to ensure that the process for providing support works effectively, it is appropriate that the Secretary of State can make regulations for that.

Clause 15, in combination with clauses 13 and 14, enables effective regulation of high-rise residential and other in-scope buildings, and is an important aspect in making sure that the Building Safety Regulator is adequately and competently supported by local authorities, fire and rescue services and Crown premises fire safety inspectorate inspectors and that it is properly resourced.

I have again been a little premature in claiming that my remarks on clause 15 were the final set I intended to make in this group. I now feel an overwhelming desire to tell you about clause 16, Mr Davies. The Committee, too, will be overwhelmed to hear that, further to our consideration of clauses 13, 14 and 15, clause 16 enables the Building Safety Regulator to prepare guidance on how local authorities, fire and rescue authorities and Crown premises fire safety inspectorate inspectors should support the regulator when regulating high-rise residential and other in-scope buildings.

Providing clear operational guidance will have three main advantages. First, it will support smooth and effective multi-agency working by setting clear expectations. Secondly, it will help local authorities, fire and rescue

services, and the Crown premises fire safety inspectorate plan, including providing appropriate training to staff who may be called on to support the Building Safety Regulator. Thirdly, guidance will help to minimise the use of the power set out in clause 13 to direct local authorities and fire and rescue authorities. Direction of democratically accountable local bodies should be a last resort, after all other avenues for securing support have been exhausted.

Providing clear guidance should assist those supporting the Building Safety Regulator to understand what is likely to be required, minimising the chance of surprises and disagreements. Furthermore, the requirement on those authorities and inspectors to “have regard” to the guidance will encourage them to take the need to support the Building Safety Regulator seriously. That again minimises the chances of disagreements and reliance on direction.

Supporting the Building Safety Regulator does have implications for local authorities' and fire and rescue services' planning and resourcing requirements. It is appropriate that guidance that could affect local resourcing and planning can be issued only with the Secretary of State's consent. Clause 16 makes simple provision for that safeguard.

To give an example of how clause 16 might work in practice, guidance could set out what types of competence, such as skills, knowledge, experience and behaviours, should be demonstrated by the local authority building control specialists when supporting the Building Safety Regulator's work on any complex and higher-risk construction project, and in order to comply with the requirements on competence in clause 15. Clause 16 provides for important guidance that will support effective joint working between the Building Safety Regulator, fire and rescue authorities, local authorities and the Crown premises fire safety inspectorate.

I hope the Committee will agree that the four clauses in combination provide an important contribution to the way in which resourcing and expertise will be provided to the Building Safety Regulator, and I commend them to the Committee.

Mike Amesbury: I thank the Minister for his thorough explanation of each of clauses 13, 14, 15 and 16. Importantly, witnesses welcomed the clauses—I refer to the Local Government Association, the Chief Fire Officers Association and the Fire Brigades Union.

Some concern was expressed about the potential for a two-tier system. It is right that the landscape for those classed as “at risk”—with the definition being for those in buildings 18 metres and above—is co-operative. The concern expressed in Committee, however, is that a competitive environment still exists for those in buildings below 18 metres—the choice-based system. I would like to hear the Minister's comments on that.

The Bill also refers to the Secretary of State giving appropriate funds to local authorities or fire and rescue services—I think that is in clause 16, but I am sure the Minister will correct me if I am wrong. What assurances can he give to put that on a firm footing? As he said, it is vital to making the provisions work that local authorities, and indeed partners such as fire and rescue services, are adequately resourced to carry them out.

Christopher Pincher: I am grateful to the hon. Member for Weaver Vale for his support for these clauses and for pointing out the support that has been expressed for them by witnesses and other stakeholders. I think, again, that we can agree that these are important mechanisms of ensuring that the Building Safety Regulator is effectively resourced to do its work.

The hon. Gentleman asks about the consideration of buildings below 18 metres. He will know that the scope of the Bill is focused primarily on buildings that are taller than 18 metres or seven storeys and have more than two dwelling places. We have taken that decision based on advice and guidance, and because we want to focus our efforts and the efforts of the Building Safety Regulator on those buildings that are most at risk. That is not to say that in years to come the role and scope of the Building Safety Regulator cannot and will not change—I have outlined that in my previous remarks—but we are focused here on the safety from fire or structural risk of buildings primarily over that height and with those characteristics.

The hon. Gentleman also asks about resourcing. Resourcing is always a matter for the spending review and discussions between Departments and the Treasury. We want to make it clear that we believe one of the financing mechanisms for this important work is through Government grant—that is why I have said so to the Committee, and I will continue to say so through the course of the debate on the Bill—but we also want to make sure that the regulator is able to charge sensible fees to ensure that fire and rescue services and local government are able to obtain sensible remuneration for the efforts that they employ, working with the Building Safety Regulator.

We believe that these four clauses are important contributors to the role of a strong, efficient and effective Building Safety Regulator, calling on the services that it needs to do the work that we are setting out for it in the Bill. I commend the clauses to the committee.

Question put and agreed to.

Clause 13 accordingly ordered to stand part of the Bill.

Clauses 14 to 16 ordered to stand part of the Bill.

Clause 17

STRATEGIC PLAN

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

The Chair: With this it will be convenient to consider clauses 18 to 20 stand part.

Christopher Pincher: It is my intention to speak to all four clauses in this grouping. I will speak first to clause 17. The new Building Safety Regulator will deliver critical functions concerning the safety of people in and around buildings. With the regulator set to play such a central role in making buildings safer, the Government understand that residents, the public and Parliament—Members of this House and the other place—will expect a high degree of transparency in how the regulator delivers its functions, what its priorities are and how to judge whether it is performing well. To that end, we believe it is appropriate that, to ensure transparency

and public confidence, the clause requires the Building Safety Regulator to put in place a published strategic plan setting out how it will deliver its critical building functions.

4.45 pm

The requirement for arm's length bodies to publish a strategic plan is well established and, as the Committee will know, represents good practice. Indeed, there is a requirement on the Health and Safety Executive under the Health and Safety at Work etc. Act 1974 to submit the particulars of what it proposes to do to perform its functions. The clause requires a plan specifically relating to the Building Safety Regulator's functions to reflect the importance and distinctiveness of these new functions, which deserve consideration separately from the Health and Safety Executive's other functions.

The only specific requirement for the content of the strategic plan is that it must set out how the Building Safety Regulator proposes to carry out its building functions in the relevant period. It will be for the regulator and Secretary of State to determine the plan's details. The plan will likely include information such as the regulator's priorities for the period, its key performance and success criteria, and the key risks to delivery. Including specific provisions in the Bill for a Building Safety Regulator's strategic plan also enables specific consultation requirements to be included.

The Government are committed to ensuring that residents are at the heart of the new regulatory regime. Subsection (3) therefore requires that the Building Safety Regulator must consult on the plan with its residents' panel as well other stakeholders that it considers appropriate. Once the regulator has consulted the residents' panel and those other stakeholders it identifies as appropriate, the plan must be submitted to the Secretary of State for approval. The Secretary of State's approval is an important step as it enables him or her to ensure that the plan is sufficiently ambitious and factors in cross-Government priorities such as the effect on building standards of achieving net zero. Once approved, the regulator must publish the plan and adhere to it. I will set out the process for revising the strategic plan when we discuss clause 18.

In ensuring that there is a strategic plan setting out transparently how the regulator will deliver its functions, the clause will not just help set direction for the Building Safety Regulator but give interested parties such as residents transparency in their understanding of its strategy. That residents help shape the plan, and that the Secretary of State has the power to ensure that the plan is sufficiently ambitious, are important elements in cementing both the transparency and the collaborative nature of the plan's development and its overall objectives.

Clause 18 provides flexibility for the strategic plan to be adapted if circumstances change. The plan can be revised on the Building Safety Regulator's own initiative or at the request of the Secretary of State. The revised plan will be subject to the same requirements as the original plan around consultation with the residents' panel, approval by the Secretary of State and publication. The revised plan will cover the remainder of the period to which the current plan relates unless a specific different period is agreed by the Secretary of State and the regulator. The clause therefore creates important flexibility, allowing for the Building Safety Regulator's plans to be

adapted when there are major changes in circumstances. We want the regulator to be as flexible as it needs to be.

Clause 19 requires annual reporting by the Building Safety Regulator about information provided to it through mandatory occurrence reporting. The Government, in accordance with the recommendations of the independent review, will be implementing the requirement for systems of mandatory occurrence reporting in the new building safety regime.

Under mandatory occurrence reporting, duty holders will be required to report certain safety occurrences within higher-risk buildings to the Building Safety Regulator. Mandatory occurrence reporting will ensure that the Building Safety Regulator receives the crucial intelligence needed to take effective enforcement actions. In order for the system to be as useful as possible, an information feedback loop is required between the Building Safety Regulator and industry. The clause therefore requires the Building Safety Regulator, on an annual basis, to prepare and publish a report about the information it receives through mandatory occurrence reporting.

Crucially, the clause will ensure that the outputs of mandatory reports, and the statistical analysis of this data, should be publicly available. We therefore expect that such an annual report will provide industry with valuable information on lessons learned and emerging safety trends across the built environment. For example, lessons learned from a series of reported safety occurrences relating to fires may allow others in industry to amend their fire safety protocols and raise safety standards accordingly. Alternatively, a reported rise in a type of safety occurrence, such as a widespread fire door discovered to be defective—possibly the Pincher-Weaver fire door—may prompt industry to identify otherwise unknown risks.

We also expect that these annual reports will further underline to industry the value and importance of reporting safety incidents, helping engender a more positive and proactive culture towards safety reporting. The Building Safety Regulator's annual report on mandatory occurrence reporting will thus aid in strengthening the building safety regime and bringing about a positive safety culture change, in alliance with volunteer accounts reporting and with whistleblowing, to create that much more transparent, safety-first, problem-identification and reporting culture.

The independent review also made it clear that residents of high-rise residential buildings should have a strong voice in the new regime. The Government are committed to delivering this principle. That means giving residents a strong voice in the running of their individual building, a matter to which we will come in greater depth in part 4 of the Bill. We believe that the voice of residents also needs to be heard by the Building Safety Regulator as it develops policies and systems that impact the lives and safety of residents of high-rise residential buildings.

To secure the confidence of the public and residents, the new Building Safety Regulator needs to do more than have a single advisory committee of residents. The Building Safety Regulator needs to deliver an ambitious programme of resident engagement, engaging a wide range of residents, supported and advised by its residents' panel. The Building Safety Regulator needs to communicate publicly how it is taking on board residents' views, to demonstrate transparency and build confidence in its work.

I am grateful to the Health and Safety Executive for the work it is already undertaking to scope out the Building Safety Regulator's residents' panel and residents' engagement strategy, working with residents and groups that support them. It is important that the legislation encourages the Building Safety Regulator to continue to take an ambitious and transparent approach to resident engagement for the long term.

Clause 20 will require the Building Safety Regulator to publish an annual statement on how it engages residents. The statement will cover engagement with the residents' panel, residents of high-rise residential buildings, owners of the leasehold on flats in high-rise residential buildings and organisations that represent, support or promote the interests of residents or owners—a plethora of individuals and groups. Having to report publicly on its resident engagement will encourage the Building Safety Regulator to keep an ongoing focus on widespread engagement.

A clear public statement about resident engagement is also a key opportunity for the Building Safety Regulator to demonstrate that residents are at the heart of the new regulatory system. In practice, that might work if, for example, the Building Safety Regulator were to consult the residents' panel and, on its advice, set up focus groups with a range of stakeholders from across England to ensure that its advice to residents of high-rise, higher-risk buildings is helpful to those residents with different needs and vulnerabilities. It can go into some granular, focus-group detail.

The Building Safety Regulator may then include that engagement in the statement to illustrate what steps it has taken on a particular issue, again being transparent and fulsome in its feedback. The effect of such a process would be to help build public confidence that the new regulatory regime has prioritised the safety of residents. It will also support effective scrutiny of the Building Safety Regulator's work by a large variety of bodies, not least Parliament.

Taken together, the clauses make an important contribution to the work and the definition of the Building Safety Regulator and the support it receives from a variety of sources to ensure that it reports transparently on its work and feeds back on that work to residents, among others. I commend the clauses to the Committee.

Mike Amesbury: We support clause 17 on establishing the strategic plans, clause 18 on potential revisions and review, clause 19 on the annual report, and clause 20. My only question is about the journey of the plan. How do we ensure that, beyond the once-a-year publication, there is a check—almost a health MOT—particularly for residents and the residents' voice that the Minister referred to?

Christopher Pincher: The hon. Gentleman asks a good question. We will work closely with the regulator to make sure that it has in its strategic plan a sensible plan to engage with a wide variety of residents. The fact that it has to report publicly on that plan ought to focus its mind on making sure that the engagement, the checkpoints along the way and the journey of the plan, as he puts it, is undertaken. Parliament will be able to effectively scrutinise the process.

[Christopher Pincher]

I am sure that if there are problems with the strategic plan—if the Building Safety Regulator appears not to be properly engaged, or if constituents of individual Members of Parliament believe that their voices are not being heard—we will have an opportunity to debate it in this House. I am confident that the approach we have taken is sensible and proportionate in developing a strategic plan for the Building Safety Regulator that engages a whole variety of stakeholders and residents, ensuring that their voices can be heard and that the plan commands their support, as well as ours.

Question put and agreed to.

Clause 17 accordingly ordered to stand part of the Bill.

Clauses 18 to 20 ordered to stand part of the Bill.

Ordered, That further consideration be now adjourned.—(Scott Mann.)

5 pm

Adjourned till Tuesday 21 September at twenty-five minutes past Nine o'clock.

Written evidence reported to the House

BSB27 Justin Bates, Barrister at Landmark Chambers
and Editor of the Encyclopaedia of Housing Law
(supplementary submission)

