

PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT
GENERAL COMMITTEES

Public Bill Committee

FIRE SAFETY BILL

Second Sitting

Thursday 25 June 2020

(Afternoon)

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CLAUSES 1 TO 3 agreed to.
New clauses considered.
Bill to be reported, without amendment.
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 29 June 2020

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The Committee consisted of the following Members:

Chairs: † SIR GARY STREETER, GRAHAM STRINGER

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| † Bacon, Gareth (<i>Orpington</i>) (Con) | † Malthouse, Kit (<i>Minister for Crime and Policing</i>) |
| † Britcliffe, Sara (<i>Hyndburn</i>) (Con) | † Moore, Damien (<i>Southport</i>) (Con) |
| † Buck, Ms Karen (<i>Westminster North</i>) (Lab) | † Saxby, Selaine (<i>North Devon</i>) (Con) |
| Clark, Feryal (<i>Enfield North</i>) (Lab) | † Simmonds, David (<i>Ruislip, Northwood and Pinner</i>) (Con) |
| † Cooper, Daisy (<i>St Albans</i>) (LD) | † Slaughter, Andy (<i>Hammersmith</i>) (Lab) |
| † Duffield, Rosie (<i>Canterbury</i>) (Lab) | † Tomlinson, Michael (<i>Lord Commissioner of Her Majesty's Treasury</i>) |
| † Eshalomi, Florence (<i>Vauxhall</i>) (Lab/Co-op) | |
| Hunt, Jane (<i>Loughborough</i>) (Con) | Yohanna Sallberg, <i>Committee Clerk</i> |
| † Jones, Sarah (<i>Croydon Central</i>) (Lab) | |
| † Lewer, Andrew (<i>Northampton South</i>) (Con) | |
| † Longhi, Marco (<i>Dudley North</i>) (Con) | † attended the Committee |

Public Bill Committee

Thursday 25 June 2020

(Afternoon)

[SIR GARY STREETER *in the Chair*]

Fire Safety Bill

2 pm

The Chair: We now begin line-by-line consideration of the Bill. Members will understand the need to respect social distancing guidance. I will intervene if necessary to remind everyone, but at the moment it is okay. Members may remove jackets during our proceedings. Tea and coffee are not permitted during our sittings, and Members must ensure that mobile phones are turned off or switched to silent mode.

The selection list for today's sitting, which is available in the room, shows how the amendments selected for debate have been grouped. Please note that decisions on amendments take place not in the order that they are debated, but in the order in which they appear on the amendment paper. *Hansard* reporters would be most grateful if Members could email electronic copies of their speaking notes to hansardnotes@parliament.uk.

Andy Slaughter (Hammersmith) (Lab): On a point of order, Sir Gary. I apologise for rising so early. I do not want to start on a contentious or sour note in what I am sure will be a consensual Committee, but there was some consternation about the way in which the Committee was timetabled. I make no criticism of the necessary rigours enforced on us by social distancing; the staff have done an excellent job in that respect.

The issue of fire safety in tall buildings, particularly in west London, is very important. It is one of the very few issues that keep me awake at night. We are dealing with the whole the Bill, which, as the evidence session this morning showed, ramifies in many ways, in one day. We had the evidence session this morning, and we are dealing with line-by-line consideration of the whole Bill, albeit a short Bill, this afternoon. The evidence was excellent; it would have been good to have time to digest it and perhaps propose amendments on the basis of it. We now have three hours for debate—I will be brief so as not to eat into that time—and we also have a Committee that is smaller than was originally envisaged. That is partly to do with the constraints of the room and social distancing, but it is an unhelpful precedent.

I do not know whether it is a matter for the Chair or for the Government to take away, but I wanted to put on record my concerns. The matter before us needs to be explored in depth; it has huge complexities and different streams, even within the limits of the Bill, which is one of several. I hope that the authorities and the Government will take away the message that scrutiny should not in any way be constrained.

The Chair: I am grateful to the hon. Gentleman. I have taken notice of his point of order. The programming motion has already been agreed, so we cannot change

it, but he has made some powerful points and they are now firmly on the record. We will now start line-by-line scrutiny.

Clause 1

POWER TO CHANGE PREMISES TO WHICH THE FIRE SAFETY ORDER APPLIES

Andy Slaughter: I beg to move amendment 1, in clause 1, page 1, line 6, leave out lines 7 to 14 and insert—

“(1A) Where a building contains two or more sets of domestic premises, the things to which this order applies include—

- (a) the building's structure and external walls and floors, and any common parts;
- (b) all doors between the domestic premises and common parts (so far as not falling within sub-paragraph (a)).

(1B) The reference to external walls and floors includes—

- (a) doors, windows or penetrations in those walls and floors, and”

This amendment would apply the Fire Safety Bill specifically to penetrations that pass from a dwelling, through a fire-rated wall or floor into a common space.

The Chair: With this it will be convenient to discuss amendment 2, in clause 1, page 1, line 8, after “include” insert

“all other parts of that building including—”

This amendment aims to clarify that the Regulatory Reform (Fire Safety) Order 2005 applies to all parts of a building that contains two or more dwellings, other than those dwellings themselves, and is not limited to parts that come within the meaning of structure, external walls or common parts.

Will the hon. Gentleman move one chair to his left? That would be better from a social distancing point of view.

Andy Slaughter: Thank you, Sir Gary, for looking after my and everybody else's health. I rise to speak to amendment 1, tabled in my name. It is grouped with amendment 2, tabled in the name of the shadow Minister, my hon. Friend the Member for Croydon Central. The two matters are linked. My amendment, as is the custom in my case, is more pedantic and finickity than the broader amendment 2. If I may, I will speak to my own amendment.

As I mentioned a few moments ago, we had a very useful evidence session this morning. It was short—only an hour and a half—but there was a lot of information there. What came through from all the witnesses was that this Bill clarifies existing law. It is a matter of constitutional debate whether the function of legislation is to clarify existing law. Governments have a habit of doing that to fill in time or to make an emphatic point, although it is perhaps not a good use of legislation. It is clear, however, that there are problems that need to be resolved in relation to fire safety, which has troubled us hugely since the Grenfell Tower disaster three years ago and should have been troubling us for many years previously in the light of other disasters.

I guess, therefore, that the Bill is intended not so much to change the law, but to say, “This is the law, and this is what should have been happening.” That begs others questions. Are the resources there now to make

this happen? Is the focus of the Bill in the right area? In questions this morning, I made the point—and I do not think the experts dissented—that the phrase, “the building’s structure and external walls and any common parts”, in clause 1, line 8, is rather tendentious. The “building’s structure” could mean anything in relation to the building, but it is then qualified by the reference to “external walls” and “common parts”.

My amendment addresses the issue of whether there is a clear definition of common parts, but I think we all know why the phrase “external walls” is in the Bill. As has already come out of the Grenfell inquiry—indeed, the recommendation from the inquiry was perhaps not needed—a substantial cause of the Grenfell disaster, as well as a contributory factor in many other major fires, including in high-rise buildings, has been the type of material that adheres to or forms part of the external structure of the building. That could be cladding—certain types of which have been found to be more combustible than others—insulation, or the way in which the materials combine. We are only scratching the surface—excuse the pun—of the types of cladding and systems that are appropriate to be used, or to remain in use, on such buildings.

It is pretty clear, however, that such material is a major focus of the Bill. The money, time and resources the Government have spent so far—many of us believe they have not gone far enough—have gone on looking at aluminium composite material cladding and then perhaps at high pressure laminate and other types of cladding. No doubt, as we consider the Bill, there will be some focus on that. My amendment, and that of my hon. Friend the Member for Croydon Central, go slightly beyond that. As Matt Wrack, the general secretary of the Fire Brigades Union, pointed out this morning, Grenfell has exposed not only that there are issues with cladding, but that there are fire safety issues in the construction, management and operation of tall buildings, in particular, that go far beyond that.

My amendment addresses a specific point by dealing with opportunities for fire to penetrate into a building other than through doors and windows. Doors and windows are a major way in which fire can enter a dwelling. If a window is open or a fire door is not—as my hon. Friend the Member for Croydon Central explained this morning—sufficient, sufficiently well fitted or has other defects that do not maintain a 30 or 60-minute barrier, there is that opportunity. It is perhaps stating the obvious to say that the reason that flammable cladding is such a danger is that it allows fire to spread across the face of the building in a very short space of time, as we saw at Grenfell. That in itself is not what is causing the problem; it is the ingress of that fire into the building itself. That could be through a window that is open or through a door that is insecure, but it could be through any other means of entry. There are other ways for fire to spread that are perhaps more serious than doors and windows. That is why I used the word “penetrations”. They could be ducting, pipework or openings that have been created for good or bad purposes: it could be shoddy workmanship, but equally it could be something necessary to do with the supply of services through the building.

One other point on amending clause 1 was to add the words “external walls and floors”. It is clear why clause 1 mentions doors and windows—generally we have doors and windows; I understand that point—but other

openings or apertures created in a building may well be through floors. The danger is that anything of that kind will allow the spread of fire—but not only fire, as I will come on to explain in a moment—throughout a building very quickly, particularly if there are pipes and ducts. If the opportunity arises for fire to spread, it can go through them very quickly. As I say, it is not just fire, but smoke and other gases. A major factor at Grenfell was the spread of smoke through the building. That can make escape difficult and, particularly if it is created by the burning of toxic materials, can create a toxic atmosphere, which has an effect on the respiratory system of those trying to escape the fire.

To explain my point, I will provide an example from my constituency. It did not end in disaster, I am pleased to say, but it easily could have done. In January this year, a resident of a block of flats with over 20 storeys was returning home late at night when she noticed a strong smell of gas. She checked her flat but could not find anything that was causing the smell. Fortunately, there was a member of staff, a concierge, on site even at that late time. They investigated, and the National Grid was called out, but it could not find anything. Neighbours’ doors were knocked on, and the emergency services were called out. By this time, it was the early hours of the morning and neighbours on several floors were being woken up. Eventually, the source of the gas leak was found four floors below. An elderly resident—over 80, I think—with an elderly gas stove had turned on the gas and left it on. The gas had effectively filled the whole block, from the ground floor reception up to at least the eighth or ninth floors of the block.

This matter ramifies endlessly. Why should an unsafe gas appliance be allowed in a block anyway? Modern gas appliances have failsafe mechanisms—if the gas is left on, they will shut off after a while—but unfortunately the reality is that some people, particularly poorer people perhaps, will have very old gas appliances that do not work in that way, and therefore the gas, after being turned on, will fill the whole flat. In this case, the occupant, who had obviously made a genuine mistake, needed oxygen. Many people had either opened their windows or were confused about what was happening. It was only because of the excellent action by one concerned resident—this was the opinion of the emergency services—that the matter did not end up in disaster. What happened late at night in January was that the gas did not pass through doors or windows but up through the building, potentially causing great stress.

My point is that, with fire, smoke and other noxious fumes passing through a building, it is complacent to say that simply ensuring that fire doors work and that windows are properly sealed and do not have combustible material around them means that a building is entirely safe and the fire will not spread internally. I hope the Government will accept my amendment. It is a relatively technical addition, which improves the Bill rather than changes it materially. I will wait to see what the Minister says in response; he might want to break the habit of a lifetime and say that we can allow an Opposition amendment to get the Bill Committee off to a flying start.

2.15 pm

Amendment 2 is more comprehensive and very sensible. It would clarify that, as well as the occupied residence itself—the hereditament, the domicile, or however we

want to define it—everything in the building should be covered by the Bill. I am not sure that the Bill’s wording adequately does that at the moment, but the belt and braces suggested in amendment 2 would do so.

I am vice-chair of the all-party parliamentary fire safety and rescue group, which is an excellent group, chaired for many years by the hon. Member for Southend West (Sir David Amess). Its honorary secretary, Ronnie King, was a very senior chief fire officer, and the group does a lot of extra work. Yesterday we had a presentation from the Fire Protection Association, which dealt with exactly the points I am making. One thing that struck me about that presentation was that the test platform for fire safety had become the development platform. That means that the planning and testing for tall buildings has been based on a model that is not reproduced in real life, and that developers therefore build without regard to the matters we are talking about in the Bill—without regard to the effect of windows, doors and other apertures. That is a serious contributory factor to the spread of fire.

I am sure we are going to focus on cladding this afternoon, but we should be aware that, yes, it is the accelerant, but there are other causes of spread. I have dealt with gas, but we might also look at electrical appliances, which appear to have caused the fire at Grenfell Tower and a serious one at Shepherd’s Court in my constituency the year before Grenfell. All these matters need to be addressed. In so far as we cannot be certain about whether human error is involved or about the role that the complexity of different types of tenure plays, as we discussed this morning, we have to be as certain as we can that if a fire starts it will be controlled.

The strategy behind fire safety in this country—the stay put policy for tall buildings, which is now itself coming into question—depends on compartmentalisation and on fire being contained within a small area of a block. If there is the opportunity for it to spread, because fire doors do not work, windows have combustible surrounds, or the fire can penetrate elsewhere, we immediately undermine the whole principle. That is the reason for amendment 2.

Sarah Jones (Croydon Central) (Lab): Let me start by saying that the Opposition support the Bill. We are here to be constructive. Although clearly we wish that things had gone faster and that we had been able to do more, we support the Bill and want to make it the best that it can be. On Second Reading there was agreement across the House on what needs to be done to fix some of the problems with the legislation. Amendment 2 relates to one of those problems, which has been raised by many of the organisations that have submitted written evidence.

I associate myself with everything said by my hon. Friend the Member for Hammersmith, who is an expert in this area. He is absolutely right that we need to ensure right at the outset that we include parts of the building not currently listed in the Bill.

Amendment 2 would do what amendment 1 would do, but in a slightly different way. As the explanatory statement states, the amendment would make the Regulatory Reform (Fire Safety) Order 2005 apply “to all parts of a building that contains two or more dwellings, other than those dwellings themselves,”

Not just the

“parts that come within the meaning of structure, external walls or common parts.”

I had a long conversation with the London Fire Brigade about how we define “common parts”. Introducing that term without a definition alongside the definition of “domestic premises” in article 2 of the fire safety order could lead to confusion about what it means and could add an additional layer of complexity to what is already quite a difficult landscape.

In the past, “common parts” has been used to refer to entrance halls, corridors or stairways in a block of flats, but it does not necessarily cover areas such as lift motor rooms, service risers, roof voids and other potentially high-risk areas, as well as fire safety facilities that are inside individual dwellings but used in common for the protection of the entire premises, such as sprinklers and detection systems.

This is not a new issue. Following the Lakanal House fire, the coroner recommended that there be clear guidance on the definition of “common parts” in buildings containing multiple domestic premises. Dame Judith Hackitt has also recommended that the assignment of responsibilities in blocks of flats be clarified.

The purpose of the Bill, as we discussed this morning and as my hon. Friend the Member for Hammersmith has already mentioned, is to provide clarity on what is covered under the law. Without really clear definitions, there will be new questions of interpretation, and we will not achieve what we are setting out to achieve. There will be the potential for confusion and conflict.

Simply put, the absence of a clear definition creates opportunities for those who might try to game the system. We know that the system has not worked in the past, because people have been able to do things that nobody intended them to do. We want to make it crystal clear that the provisions cover all common parts of the building, and want to make it clear that “common parts” includes all the other spaces, such as lift motor rooms, that are not set out in the Bill.

David Simmonds (Ruislip, Northwood and Pinner) (Con): I very much sympathise with the motivation behind the amendments, but I am unpersuaded by the argument. There is sometimes a risk of seeking to make very precise what in reality is not at all precise.

Following the Grenfell Tower disaster and the Lakanal House fire, the Local Government Association, working with local authorities across the country, commissioned a huge piece of work to try to understand the inherent risks in tall buildings, but also in other types of building in the public estate, and to learn lessons that might be relevant to the private sector.

I want to refer to a particular type of structure known as a Bison block, which is common in west London and found across my constituency, and which my local authority has spent a good amount of time examining. It is particularly relevant to amendment 2, which is seeking a very tight definition. The blocks were large panel system builds. They are quite common across the capital and in other parts of the country.

A great many of these blocks were extensively refurbished, particularly in the 1980s, because they are not especially attractive buildings and in the past there have been concerns about their structural integrity and safety. The refurbishment was undertaken by a process that we might understand as cladding. In this case, a brick skin was erected around the entire outside of the

building. New windows were installed, and the structure now looks considerably more attractive than when it was first constructed.

To manage the risk of fire spreading in the cavity between the floor where a fire occurs and another floor, a steel band needs to be installed between each storey's-worth of brick structure. It ensures that a fire that gets into that cavity cannot spread up or down. On examination following the Grenfell disaster, it was discovered that some of the window installations, for example, had been changed, which had had an impact on the integrity of the fire safety system. The banding had been constructed many years ago. The challenges of inspecting something that is inside a sealed brick structure, the natural dilapidations of time and the consequences of a small amount of heave or subsidence around the site would all have had an impact on it. That is a significant issue for those of us who are concerned about the safety of those high-rise towers.

I am concerned that the amendment, by seeking to be very precise, could open the door to our not including a number of the elements that we would see in a variety of structures around the country. I have heard the Minister speak about this before when questions have been asked of him. I am satisfied that one of the motivations behind the Government's choice of wording was to make the definition sufficiently broad that all the issues were captured. To ensure that the definition relates to all the different, unique types of structure out there, many of which there may be little evidence of on the public record today, it may be wise not to narrow our definitions too much. We could end up with a lawyers' bonanza of arguments about whether, for example, the provision covers the steel band structure for fire safety in a Bison block. For that reason, I am unpersuaded of the merits of the amendment.

The Minister for Crime and Policing (Kit Malthouse): I am very conscious, not least as the former London Assembly member for the area, that it is less than two weeks since we marked the third anniversary of the Grenfell Tower fire, which saw the worst loss of life in a residential fire since the second world war. I am sure that all those who died, the bereaved and the survivors will be in our minds as we do our work this afternoon and into the future.

On the day of the publication of the Grenfell Tower inquiry phase 1 report, my right hon. Friend the Prime Minister accepted in principle all 12 recommendations addressed to the Government directly. Eleven of the recommendations will require implementation in law. The Fire Safety Bill, which will amend the Regulatory Reform (Fire Safety) Order 2005, is an important first step toward enacting those recommendations. As has been mentioned, the Bill is short and technical; it clarifies the scope of the order. We appreciate that this is the first Bill on fire safety since the Grenfell Tower tragedy, and we intend to legislate further.

It is vital that regulatory standards and public confidence be increased across the whole system of building and fire safety. Next month we will publish a consultation on the implementation of the phase 1 recommendations that call for changes in the law, alongside proposals to strengthen other aspects of the fire safety order. I assure the Committee that the Bill is the start, not the finish, of a process through which we intend to improve the fire safety order.

Alongside the consultation, there is the building safety Bill, which will be presented in the House for pre-legislative scrutiny before the summer recess. That Bill will put in place new and enhanced regulatory regimes for building safety and construction products, and will ensure that residents have a stronger voice in the system. It will take forward the recommendations of Dame Judith Hackitt's independent review of building regulations and fire safety.

Our programme of work is not limited to legislation, of course. It includes establishing a remediation programme, supported by £1.6 billion of Government funding, through which we will remove unsafe cladding from high-rise residential buildings. We are undertaking, in conjunction with the fire service, a building risk review programme for all high-rise residential buildings in England by December 2021, supported by £10 million of new funding.

This Fire Safety Bill is also a move towards enhancing safety in all multi-occupied residential buildings by improving the identification, assessment and mitigation of fire risks in those buildings. It will resolve the differing interpretations of the scope of the fire safety order in such buildings and provide clarity for responsible persons and enforcing authorities under the order. It will make it clear that the order applies to the structure, external walls—including cladding—balconies and flat entrance doors in multi-occupied residential buildings.

2.30 pm

As we heard this morning, for many, the Bill will result in operational changes that will present challenges. On Second Reading, we heard differing views from Members on how to commence the Bill, and there are also diverse stakeholder views. The Government are clear that we need to work with the industry and others to take account of the scale of the changes, and the capacity and expertise needed in the system given the volume of fire risk assessments that will need to be updated. That will have to be balanced against the need to take swift action to identify and address serious fire risks in multi-occupied residential buildings. As I said this morning, the Government have established a task and finish group to advise us on commencement.

The Government will fund the British Standards Institution to produce guidance for the assessment of external wall systems. That guidance will encourage competent and suitably qualified individuals to assess the fire risk of external wall systems and help support the implementation of the Bill.

I turn to the amendments. Amendment 1 would ensure that the fire safety order applied to penetrations from a dwelling—interpreted as domestic premises—through a fire-rated wall or floor into a common space. Our position is that the order applies to the whole building except what is excluded by article 6 of the order. That includes domestic premises. By seeking specifically to cover penetrations passing from domestic premises into non-domestic areas or common parts, the amendment could be interpreted as extending the order into domestic premises, which in turn could create a significant extension of the scope of the fire safety order—namely, into people's private homes. The order has always excluded domestic premises except in very limited circumstances that are not relevant to the amendment, and we stand by the order's original intention and effect.

I understand and sympathise with the concerns of the hon. Member for Hammersmith, whom I have known for many years. As he rightly said, effective compartmentation prevents a fire and its smoke from spreading from a flat and, importantly, protects the normal escape routes, allowing residents to evacuate to safety. Of course, walls and floors outside the domestic premises are covered by the order. As I have said, our position is that everything not specifically excluded is within scope. Any penetration into the common parts can be observed, assessed and taken into account as part of the responsible person's fire risk assessment, and where necessary, general fire precautions can be put in place that protect the common parts, and particularly the route of escape.

I remind the Committee that if a local authority considers there to be a serious hazard in a residential building, including in an individual dwelling, it must take enforcement action under the Housing Act 2004. Such hazards are assessed using the housing health and safety rating system, the HHSRS. Structural collapse, failing elements and fire safety hazards are assessed using that tool¹. Under the proposed building safety regime, the safety case will cover the totality of the building safety information, including all supporting evidence identifying how fire and structural risks are being managed for all buildings within its scope.

I assure the Committee that the Government intend to issue guidance to support those who will be operating under the Bill's provisions. The guidance will be drawn up with the assistance of practitioners, and will provide a level of specification to operationalise the changes to the order and ensure that they are interpreted and applied consistently.

Amendment 2 seeks to clarify that the order applies to

“all parts of a building that contains two or more dwellings, other than those dwellings themselves”.

As I have said, the order specifically excludes domestic premises. The Bill does not change the definition of domestic premises, and we seek to state expressly that external walls and flat entrance doors, which it could be argued are parts of domestic premises and are therefore excluded, are indeed in scope. The Government have not included a proposition to the effect that the fire safety order applies to all other parts of the building, as we believe that to be unnecessary, and it could cast doubt on article 6(2). The Government therefore resist the amendment. I hope that I have given enough reassurance for both amendments to not be pressed.

Andy Slaughter: I will reply to two points. The first was made by the hon. Member for Ruislip, Northwood and Pinner, who has huge experience in this sphere, not least from his role in local government over the years. I disagree with his point because the example that he gave of modifications to the exterior of a building should be included in the Bill under that part of clause 1 that talks about external walls. I think that that is specifically envisaged to include not just external cladding but the whole external structure; it would therefore include voids and attempts that have been made through banding to restrict those voids.

Equally, I do not agree with what the Minister said. We all understand the point about private homes. It cannot be dismissed. We mentioned this morning the

issue of leaseholders who provide their own front doors and how far that is considered, but there are other issues. There are issues to do with sprinkler systems and their installation in the homes of either leaseholders or tenants—assured or secure. This is not a black-and-white issue in terms of what goes into individual homes.

The amendment is a necessary or at least helpful addition to the Bill. Over a period of 30 or 40 years, a huge number of modifications will be made to buildings, even if, when a building was originally constructed, it was done in a secure way that would prevent the spread of fire and smoke. We know that this issue has been neglected, but it is so important that it should be reflected. However, given that the Minister has put it on the record that he believes that these matters will be dealt with, through the Bill and other measures that the Government are taking, I do not propose to press the amendment to a vote.

Sarah Jones: I thank the Minister for his response. He was basically saying that amendment 2 is unnecessary, which I would challenge, because the fire service has asked for the definition and thinks that it would be an important part of the Bill. I agree with the fire service, but I take the same approach as my hon. Friend the Member for Hammersmith and hope that these matters will be looked at as we go forward.

Kit Malthouse: Fundamentally, as my hon. Friend the Member for Ruislip, Northwood and Pinner says, we are concerned that the definitions in the amendments might have a narrowing effect. Detailed guidance offering definitions will come out as a consequence of the Bill, and obviously we will work with partners to ensure that we get that guidance right.

It is worth pointing out that this approach is consistent with that in the Housing Act 2004, which uses similarly broad definitions to ensure that the many and various varieties of housing in this country, some built over many hundreds of years, all fall within a generalised definition in guidance that is put in place later on.

Andy Slaughter: I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

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

Sarah Jones: As the Minister said, we recently passed the three-year anniversary of the Grenfell Tower fire. I just want to mention the letter that we will all have received from Grenfell United last night. It was not able to give evidence before us today, but it welcomes the Bill and is pushing for it to have the funding that it needs and for it to apply to all buildings. It reminded us of the fire in Canning Tower, in east London, only last week, when 100 people were evacuated. It used to be covered with Grenfell-style cladding, but that was removed last year, just in the nick of time. As the letter says, there were not any serious consequences.

The importance of the Bill is not to be underestimated. Small though it is, it is incredibly important. We support the Bill and we support clause 1. It provides clarification, although it is a shame that we could not take it a bit further with our amendments. There are many issues

1. [Official Report, 8 July 2020, Vol. 678, c. 4MC.]

that we would want to bring into the Bill, but because it is too small in scale, we cannot. They include electrical safety—people are keen for us to talk about that, and my hon. Friend the Member for Hammersmith mentioned it. We tried to have some of those issues included in the Bill, but they are not within its scope. There is a huge raft of issues beyond that of cladding—important as it is—that we must address, through the building safety Bill and subsequent measures.

Kit Malthouse: The hon. Lady is right to raise with me whether there is a need to address the issue of cabling and ducting in buildings. That was raised with me when I was Housing Minister, and I hope that I have explained that there will be opportunities to look at that quite soon, in more comprehensive measures to follow. For the moment, the Bill is a small, tight, technical one, which creates the foundational stone on which we will build an entirely new regulatory and fire safety regime, which must be coherent. We must therefore proceed step by step. I fully appreciate the comments that Members have made, and they will be fed into the next stage of our work, and the consultation, which will be issued next month.

Question put and agreed to.

Clause 1 accordingly ordered to stand part of the Bill.

Clause 2

POWER TO CHANGE PREMISES TO WHICH THE FIRE SAFETY ORDER APPLIES

Sarah Jones: I beg to move amendment 3, in clause 2, page 1, line 21, at end insert—

‘(aa) for the purpose of changing or clarifying any of articles 2 to 22 or 38 of the Order’.

This amendment aims to ensure that the key articles of the Regulatory Reform (Fire Safety) Order 2005 can be amended to account for the Grenfell Tower Public Inquiry Phase 1 and subsequently the Phase 2 recommendations and changes that may be brought about by the forthcoming Building Safety Bill.

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

Amendment 4, in clause 2, page 1, line 22, at end insert ‘or (aa)’.

See amendment 3.

Amendment 5, in clause 2, page 1, line 22, at end insert

‘(1A) The relevant authority may make regulations under subsection (1) for the purpose of aligning the Order with regulations which concern fire safety and which are made under any other power.’

This amendment seeks to ensure there is proper alignment between the Fire Safety Order and other regulations that relate to fire safety, including the upcoming Building Safety Bill.

Sarah Jones: Amendments 3 and 4 would ensure that the key articles of the Regulatory Reform (Fire Safety) Order 2005 could be amended to account for the Grenfell Tower public inquiry phase 1 recommendations—and the phase 2 recommendations, although of course phase 2 has not happened yet—as well as any changes that may be brought about by the forthcoming building safety

Bill. The issue was brought to our attention by the London Fire Brigade, and it makes a reasonable point.

Clause 2 provides for further changes to be made to the scope of the 2005 order, and clarification of its application. Our amendments would ensure that there was sufficient legal power, which could be relied on to respond to emerging evidence or events. It is important that we should not find that there are constraints in the future. The London Fire Brigade gave some examples of things that could be included. One was a legal mechanism for improvements to or replacement of the front doors of flats. Others were the installation of additional fire detection and warning systems, the retrospective fitting of fire safety measures in a building, and the adjustment or clarification of what an enforcing authority might need to be notified about.

As I have said and will keep saying, we welcome the Bill. We do not think it goes far enough, but want to make sure it does everything it sets out to do. We want to make sure that it is possible to make changes or additions to this cornerstone or foundation, as the Minister called it, including as a result of what comes from phase 2 of the Grenfell inquiry.

Amendment 5 would ensure that there was proper alignment between the 2005 order and other regulations on fire safety. The forthcoming building safety Bill, which we have talked about, will place requirements on accountable persons to ensure that buildings in occupation are safe.

This will include fire safety and will place enforcement responsibility with the new building safety regulator.

2.45 pm

The fire safety order refers to a responsible person, but it is not clear whether this aligns precisely with the accountable person or the building safety manager referred to in the “Building a safer future” consultation. We have heard from local government that a lack of clarity about the boundary between the fire safety order and the Housing Act 2004 has been a complicating factor in resolving issues with dangerous cladding on buildings, so it would be useful to hear from the Minister; hopefully he can provide assurance that the concept of the responsible person aligns precisely with the accountable person or the building safety manager referred to in the consultation. If someone is deemed to be the responsible person for the purposes of the fire safety order, will they be considered the accountable person or building safety manager under the building safety Bill?

These are issues of quite complex semantics, but they are important, and we need to make sure that there is clarity about who is responsible for carrying out essential fire safety checks in all circumstances. Any confusion or ambivalence would lead to delays or attempts to shift responsibility, which could put lives at risk. The entire purpose of the Bill is to clarify fire safety rules in order to reduce any risk to life, so I urge the Minister to consider the merits of the amendment.

Concerns were raised about this issue on Second Reading. There is a risk of creating silo pieces of legislation that do not talk to each other; it would be good to understand from the Minister what could be done about that, what the Government are doing, and

how we can make sure that we do not create silos. Again, Members from all parties raised this issue on Second Reading.

Andy Slaughter: Briefly, it is very important that there is the closest possible alignment between the Bill and what emerges from the Grenfell inquiry. We have had phase 1 of the inquiry, which dealt with what happened on the night. Phase 2 is coming, albeit not for some time. It relates to the wider issues of concern around building safety, and of course there is further legislation coming about building safety.

We heard evidence this morning from the Royal Institute of British Architects and the Fire Brigades Union. Despite their very different perspectives and experiences, they were essentially saying the same thing: that Grenfell has exposed not just the really criminal action of putting highly combustible material on the outside of tower blocks, but the huge weaknesses and inadequacies in the system, causing us to look again at the whole way in which building safety works.

Just one example of that is the stay put policy. Most experts will say, “Well, the stay put policy is still in effect.” That may be literally true, in the sense that for most blocks that do not have combustible cladding and where compartmentalisation works, it may be the opinion of experts—whether they are from the fire service, are building experts, or others—that it is safer to stay in a flat than to leave it while the fire is contained within a single flat in a high-rise block, but try telling that to the occupants of that block post Grenfell.

The Leader of the House made comments about the evacuation of Grenfell Tower that were not just unhelpful but disrespectful; he asked whether people were right to stay in Grenfell Tower in that way. A senior Member of this House has raised doubts about whether it is sensible to stay. If a fire is known to be occurring, people will try to exit the tower block.

Any review of the stay put policy will look at the way that evacuation procedures, alarm systems and sprinkler systems worked. Recommendations coming out of the Grenfell inquiry should be reflected in the Bill. That is my only point.

Kit Malthouse: The amendments seek broad delegated powers to amend key articles of the fire safety order: articles 2 to 22, in parts 1 and 2 of the order, which relate to the interpretation of the order and to fire safety duties; and article 38, a miscellaneous article relating to a further duty on the responsible person to concern themselves with the maintenance of measures for the protection of firefighters. The amendments also seek to enable changes to be made to the fire safety order by secondary legislation, rather than primary legislation, that are consequential to changes made by other regulations. The amendments build on the delegated power in clause 2 of the Bill, under which it is proposed that the order can be amended for the purpose of changing or clarifying the premises to which it applies, and can allow for consequential provision to be made. I have already set out the purpose and limitations of that power.

The fire safety order already has a delegated power under article 24, which enables the Secretary of State to make regulations on the precautions that are to be taken or observed in relation to the risk to relevant

persons. That can be used to provide additional fire precaution requirements over and above those already required under the order.

Although powers that enable legislation to be expedited when needed, and with the appropriate scrutiny, have clear benefits, the Government’s view is that it would not be appropriate to ask Parliament to delegate legislative power in the manner proposed. I have made the point already that this is a short and technical Bill. We intend to legislate further. The Government will shortly publish the second of our fire and building safety Bills, the building safety Bill. Alongside this, there will be pre-legislative scrutiny: we will publish a fire safety consultation, which will set out our proposals for strengthening the fire safety order and improving compliance on all regulated premises, leading to greater competence and accountability.

We will also implement the recommendations of the Grenfell Tower inquiry’s phase 1 report, which calls for new requirements to be established in law to ensure the protection of residents in multi-occupied residential high-rise buildings, with some proposals applying to multi-occupied residential buildings of any height.

As the Committee has heard, the Government are taking further steps to ensure that the fire safety order continues to be fit for purpose, as part of our consideration of reform of the wider building safety landscape. The consultation will propose changes to strengthen the order in a number of areas to improve fire safety standards. It will also seek further evidence and implement further legislation if required.

Sir Martin Moore-Bick’s report examining the events of the night of 14 June—the night of the Grenfell Tower fire—was exhaustive. Of the 46 recommendations made in the inquiry’s first report, 12 were addressed to the Government directly, with 11 requiring legislative changes. They relate primarily to a number of prescriptive safety measures and checks, to be undertaken by building owners and managers. The Prime Minister accepted the principle of these recommendations on publication of the report in October last year.

Subject to the outcome of the consultation, our intention is to deliver, where possible, the Grenfell inquiry recommendations through secondary legislation under the fire safety order. Where an amendment to the order is required through primary legislation, we intend to do that in the building safety Bill. That Bill will also cover the consequential amendments that will be required to the fire safety order to ensure that the Bill, when enacted, and the order align and interact with each other. We will ensure that the legal frameworks and supporting guidance provide clarity for those operating in this area, and bring about the outcomes sought across the fire and building safety landscape.

The hon. Member for Croydon Central mentioned having a single point of responsibility, and that is very much on our minds. Intensive work is going on between the Home Office and the Ministry of Housing, Communities and Local Government, and with the wider sector, to ensure that there is no confusion as to who is the responsible individual.

One of the key principles that came out of Dame Carol’s review—I mean Dame Judith’s review; Dame Carol’s review is about drugs, which is also within my portfolio—was the need for the point of responsibility to be transparent and known to everybody. It is a key

part of the proposals, and I have no doubt that it will form part of the consultation and, therefore, the legislation that will follow.

Sir Gary, I hope that explanation is enough to allow the Committee to be content for the amendment to be withdrawn.

The Chair: We will see.

Sarah Jones: We say the same things on both sides of the Committee, but we on the Opposition side want speedy action, and we have been frustrated by the delays. It would be reassuring if we could have some kind of timetable before the summer recess for when the building safety Bill will be introduced. There is a whole raft of other activities, and we do not know when they will be coming forward—and covid is no reason for these things not to come forward.

This morning, Matt Wrack asked where responsibility for some of these issues rests in Government, and I wonder whether the split between MHCLG and the Home Office compounds some of the problems with how these things fit together and work. The more information we have about the timetable, the better. It would be good if the Minister could take these matters away; I know officials are looking at how they will sit together. On that basis, I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

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

Sarah Jones: I will be brief. I want to make a point about finances and resources, and it seems fitting to mention that as we debate clause 2. We heard a lot of evidence this morning about the need for proper resourcing. We heard from L&Q about the extraordinary amount of money that it and its colleagues will have to spend in the housing association sector on removing cladding. Although the Government's £1 billion fire safety fund is welcome, that will not be anywhere near enough.

As for enforcement of the legislation, the fire service has had significant cuts, as was outlined excellently in the Fire Brigades Union's written evidence to the Committee, particularly around inspection, where we need to beef up the resources. We will need a lot more fire risk assessors. We will have to try to fund all that. There is a point to be made about what the Home Office has done about the cost, because the resources are not anywhere near enough. That is all I want to say, but it is a really important point that the Government will have to grapple with.

Kit Malthouse: I recognise Members' impatience for us to get the measure through as quickly as possible and to put the new regime in place, not least because it will take time to bed in. There will be not only structural change, but cultural change in various parts of the building safety world. The Bill is a start. There will be a consultation shortly. The Bill will be scrutinised before the summer recess. There will be a flurry of activity. On the point made by the hon. Member for Croydon Central about coherence between Departments, as Housing Minister I recognise that issue, and she will be pleased to know that the old sparring partner of the hon. Member for

Hammersmith—I am not sure he will be pleased—and former leader of the London Borough of Hammersmith and Fulham is now the joint Minister between the Home Office and the Ministry of Housing, Communities and Local Government. He has responsibility for fire, albeit in the Lords, which is why I am here today.

Question put and agreed to.

Clause 2 accordingly ordered to stand part of the Bill.

Clause 3

EXTENT, COMMENCEMENT AND SHORT TITLE

Sarah Jones: I beg to move amendment 6, in clause 3, page 2, line 25, after “may” insert “not”.

This amendment seeks to ensure that the Bill be brought into force at the same time for all buildings it will apply to, rather than adopting a staged approach that may make arbitrary distinctions between similar premises.

This amendment is slightly controversial, in that there are different ways to interpret it. It seeks to ensure that the Bill is brought into force at the same time for all the buildings that it will apply to, rather than us adopting a staged approach that may make arbitrary distinctions between similar premises. Some might have concerns about the amendment; the National Housing Federation—the only organisation that responded to all the amendments in writing, which is very impressive—is worried that if we bring everything into the scope of the Bill straight away, there will be a capacity issue. I understand that, but I will explain the thinking behind the amendment.

I have heard from several organisations that the Home Office was looking at perhaps bringing into scope buildings over 18 metres first, and then other types of buildings. The view put to me was that that is slightly arbitrary and not the best way to approach the issue. We heard this morning about the risk-based approach, which had its infancy and was undertaken excellently in my borough of Croydon, rather than people there saying, “We will do this set of buildings first and then this set of buildings.” People who knew what they were doing were trusted to look first at the areas that were most problematic.

3 pm

I suspect that the Minister will say, “We have set up a task and finish group that will look at how all of this works,” but I think it important to make the point in Committee that we do not want an arbitrary approach or something that will take years. We potentially face the need to carry out risk assessments for hundreds of thousands of buildings, which will take time. The best approach is to look at it through the eyes of the experts who will decide how to manage that challenge, which is why we tabled the amendment.

Kit Malthouse: We acknowledge that clarification of the scope of the Regulatory Reform (Fire Safety) Order 2005 will represent operational change for many, particularly responsible persons, who, as the hon. Lady said, will need to update their fire risk assessments to include external walls and flat entrance doors. The Bill will also have an impact on the fire sector, fire risk assessors and other competent professionals, such as fire engineers, who are needed to assist the responsible person in complying with the order.

[Kit Malthouse]

We acknowledge that there are capacity and capability issues, particularly in relation to assessing the risk for external walls. This is not just the Government speaking, but a number of organisations from the fire sector, local authorities and housing associations. The Government are committed to ensuring that we commence the Bill in a way that is workable across the system, while ensuring that swift action is taken to address the most significant fire safety risks.

That is why, as I mentioned this morning, we have established a task and finish group—co-chaired by the Fire Sector Federation and the National Fire Chiefs Council—that will be responsible for providing a recommendation on how the Bill should be commenced. The group will advise on the optimal way to meet the Bill's objective of improving the identification assessment of fire risks in multi-occupied blocks and addressing them as soon as possible to ensure resident safety while also effectively managing any operational impact.

The task and finish group is made up of representatives from the early adopters group on building safety at the Ministry of Housing, Communities and Local Government; private sector developers; the fire sector; the NFCC; and a number of fire and rescue services. The group is expected to report no later than the end of September. It is tasked with providing a recommendation based on an assessment of the evidence and on their knowledge and expertise, which the hon. Member for Croydon Central said was preferable.

We expect that recommendation to address how the highest-risk buildings should be prioritised for assessment of the composition of, and risk associated with, their cladding systems. Ministers will consider the advice and make a final decision. The amendment would remove the ability to make regulations that enable the Bill's provisions to be commenced on different days for different purposes. That is, it removes the possibility of using regulations to ensure a staged commencement. I make no comment on whether and how the commencement might be staged, but the Government will not prejudice the advice of the task and finish group, or support any restrictions on the ability of the Secretary of State and Welsh Ministers to make informed decisions about when and how regulations are made to commence the provisions in the Bill.

I am particularly conscious that this morning the hon. Lady raised the issue of individuals who might, because of a sudden commencement, find themselves in some kind of limbo, and be unable to undertake property transactions for many years, given the scale of what is required. Notwithstanding that risk is the primary concern, some of those issues will have to be taken into consideration. I hope that gives the Committee a suitable explanation as to why the amendment should be withdrawn.

Sarah Jones: I will withdraw the amendment on the basis that there will be a task and finish group, but I stress that we have had a lot of groups, conversations and consultations. In my previous role in housing, we had 60 consultations on leasehold reform, yet we still do not have leasehold reform. We need to push this forward. Having some sense of when the Bill will commence and how it will be implemented would be helpful. It would also be helpful to know the implementation date,

because that is not set out in the Bill. There is a lot of uncertainty, and we are putting a lot of faith in the experts and in the Minister to get this done as quickly as possible, but I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

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

Sarah Jones: Very briefly—although, we are now doing well for time—I want to reiterate the point about the Bill not having a date for when the new requirements will come into force, aside from what is implemented and when. The Bill allows the Secretary of State to choose a date that is considered appropriate, and that makes us uncomfortable. Again, we need to do this as quickly as possible, because these are literally matters of life and death. That is the biggest issue with the clause; other than that, I am happy.

Kit Malthouse: Thank you, Mr Streeter—Sir Gary. [HON. MEMBERS: “Hear, hear.”] I apologise. Again, I acknowledge the impatience. It is worth remembering that the Bill is a technical clarification of a fire safety order that should be functioning well in the vast majority of circumstances. Although there are respectable views about disagreements on definition within the order, which is why we are seeking to clarify it, in the end there is still someone out there who has responsibility for safety in all these buildings. Although I recognise the impatience of the hon. Lady and other hon. Members to get it under way—we share their impatience—I would give that background.

The task and finish group should be reporting by the end of September. There will be more consultation legislation on the way. I realise that the hon. Lady is suffering a little from consultation fatigue. Nevertheless, these are complex issues dealing with effectively unravelling and reknitting a huge system of building safety regulation that has grown up over many decades and needs wholesale reform. It is therefore no surprise that if we want to get this right for the future and avoid any possibility of a future Grenfell, we need to ensure that we do the detailed work, which is what we are trying to do—hence this foundation stone today.

Question put and agreed to.

Clause 3 accordingly ordered to stand part of the Bill.

New Clause 1

PUBLIC REGISTER OF FIRE RISK ASSESSMENTS

“(1) The Secretary of State must, by regulations, make provision for a register of fire risk assessments made under article 9 (risk assessment) of the Regulatory Reform (Fire Safety) Order 2005 (SI 2005/1541).

(2) Those regulations must provide that the register is—

- (a) publicly available; and
- (b) kept up-to-date.

(3) Regulations under this section are—

- (a) to be made by statutory instrument; and
- (b) subject to annulment in pursuance of a resolution of either House of Parliament.”—(*Daisy Cooper.*)

This new clause would enable would-be renters and owners to check the fire safety status of their potential home, like the EPC register.

Brought up, and read the First time.

Daisy Cooper (St Albans) (LD): I beg to move, That the clause be read a Second time.

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

New clause 2—*Public register of fire risk assessors*—

“(1) The Secretary of State must, by regulations, make provision for a register of individuals who are qualified to make fire risk assessments under article 9 (risk assessment) of the Regulatory Reform (Fire Safety) Order 2005 (SI 2005/1541).

(2) Those regulations must provide that only persons on the register may make such assessments.

(3) Those regulations must provide that the register is—

- (a) publicly available; and
- (b) kept up-to-date.

(4) Regulations under this section are—

- (a) to be made by statutory instrument; and
- (b) subject to annulment in pursuance of a resolution of either House of Parliament.”

This new clause would enable home owners to verify fire assessors qualified to conduct compulsory checks such as completing the EWS1 form, and would enable government and industry to assess the numbers of assessors to be trained.

New clause 7—*Accreditation of fire risk assessors*—

“The relevant authority must by regulations amend the Regulatory Reform (Fire Safety) Order 2005 (SI 2005/1541) to require fire risk assessors for any building which contains two or more sets of domestic premises to be accredited.”

This new clause would require fire risk assessors to be accredited.

Daisy Cooper: New clauses 1 and 2, which stand in my name, are fairly self-explanatory. They both call for a public register: one for assessments, and the other for assessors. The Hackitt review said that risk assessments should not only be held by building owners, but be kept centrally with a public body such as a Government-appointed regulator. Chapter 4 of the Hackitt review refers to

“the need to rebuild public trust by creating a system where residents feel informed and included in discussions on safety, rather than a system where they are ‘done to’ by others... The interim report recommended that fire risk assessments should be carried out annually and shared in an accessible way with residents.”

For something as vital as fire safety, that information should be readily accessible to current and prospective residents of the building, both for public trust and for the sake of enforcement. Of course, the most accessible way to present such assessments is on a public register. If the Government are not minded to support new clause 1, I would welcome assurances that they intend to introduce such a public register at some point.

New clause 2 would create a public register for fire risk assessors. Of the two clauses that I have tabled, this is by far the more urgent. We heard shocking evidence this morning from the FBU that there are still people calling themselves fire assessors who are going out and conducting fire assessments without being qualified to do so. The witness gave the example of a member of the union who died in a building that had reportedly been assessed by one of these non-qualified fire assessors. We cannot wait for the public register of fire risk assessors; we need it now. The practice by those who are not qualified must stop.

In 2018 the London Fire Brigade raised the issue of assessor numbers. The Fire Safety Federation talked about fears that there were overwhelming demands for ESW1 surveys. It is clear that most mortgage companies

now require the ESW1 certificate before lending. Feedback from my constituents, from management agencies and from local government indicates that there is a severe shortage of professionals across the country who are insured to sign off the new survey. A new public register would not only help to build trust, but show Government and industry how many fire assessors we need to train. From the questions we asked this morning, it was clear that the current number of assessors is between 400 and 50,000. Those were the numbers we were given, which is why it is so important that we have a public register and that we have it now.

My constituents have told me about delays of between 12 and 18 months in getting ESW1 surveys, putting their lives on hold and leaving them in constant fear of living in a dangerous home. That is made all the worse for my female constituents who are pregnant and living in such homes, as well as those who fear a loss of income as we head into a pandemic recession.

My final point is that there is a precedent for both these public registers. We have a register for homes, in the form of the energy performance certificate, which operates in the same way. EPC certificates are publicly available on a Ministry of Housing, Communities and Local Government website. There is a register for domestic energy assessors and for energy performance certificates, so there is a precedent for such registers to exist. It is a simple proposal that could be adopted in exactly the same way, but for fire safety, which, from a safety perspective, is far more vital.

Sarah Jones: Thank you, Sir Gary—I did wonder whether that was the correct way to address you when you are in the Chair. I also forgot to say, “It is a pleasure to serve under your chairmanship.”

The Chair: It never is. [*Laughter.*]

Sarah Jones: It is good to get these things right.

I welcome the two new clauses proposed by the hon. Member for St Albans, who speaks for the Liberal Democrats. We are coming from the same place and we all accept that having fire risk assessors who are not necessarily qualified in any way is completely unacceptable. We need to get to grips with that for many reasons, including those that she mentioned.

The register of fire risk assessments is slightly challenging because it would take a long time to get the assessments, to get it up and running and to get it done. That may be something for the future, but not now. Having a public register of fire risk assessors is a way of dealing with the problem. It is similar to our new clause 7, which is about having an accreditation system for fire risk assessors. That is probably one of the most important elements of our concern, and it was raised by Members on both sides of the House on Second Reading. I raised that concern in a conversation with the Minister and Lord Greenhalgh when I was first appointed, and I know that the Government are looking at it.

It is remarkable that there is currently no legal duty to have any kind of qualification before becoming a fire risk assessor. It could be argued that some parts of the role are relatively straightforward, such as checking whether there are obstructions in the way of fire exits. The Bill introduces the need for an understanding of

[Sarah Jones]

the nature of cladding; what it is made of and how it works. There is absolutely no way someone could assess that without being qualified.

Concerns have been raised for many years about private sector involvement, lack of qualification and a “race to the bottom” mentality. The fact that anyone can set up as a fire risk assessor to assess schools or care homes cannot be defended.

3.15 pm

Kit Malthouse: It is shocking.

Sarah Jones: I agree; it is shocking.

We have all seen examples, and one was given to us this morning. In 2017 an independent fire risk assessor was given a four-month jail sentence when a court described his assessment of a Cheshire care home as “woefully inadequate”. In the same year, a private hire safety consultant was found to have given valueless risk assessments to several businesses in south Wales, putting people at serious risk of death because of poor escape routes, a lack of fire alarms and insufficient precautions to reduce fire and the spread of fire. In 2012 a fire risk assessor in Nottingham was fined £15,000 after it was found that fire precautions in two hotels he assessed were inadequate, potentially putting hundreds of lives at risk. I suspect there is much inadequacy that we do not know about because it has not come to light.

Therefore, what do we do about this? We propose a fire risk assessor accreditation system. There are ways of easily mapping skill levels and the competence of individuals that are used across many sectors. We could look at those and work with the experts to find the right balance. For many years, the further education sector has used regulated qualifications to train the workforce. Vocational qualifications, which have been around for many years, have been the main way of demonstrating that an individual has met a certain standard. I spoke at length to the chief executive of the British Woodworking Federation, who sits on the Build UK WG2 competence of installers working group in Government, which is looking at some of these issues and mapping the competence of an installer following the Hackitt review. It is looking at third-party certification routes, continuous professional development and different things that would be possible. There are relatively straightforward options through the Health and Safety Executive, Ofqual—there are all sorts of ways to do this.

In anticipation that the Minister might not accept the new clause, I ask him to take this matter seriously and accept that there is a problem that we must do something about. I also ask him to see it in the round with what on earth happens if it takes a long period of time to try to build up workforce expertise, with people potentially living in buildings without the piece of paper that tells them they can get insurance and mortgages, as the hon. Member for St Albans said. This job must be done—whether it is done now is for the Minister to decide—and it must be done sooner rather than later, to avoid deaths in the future.

Andy Slaughter: I agree with these sensible new clauses, because they would remedy the defects identified by the FBU and others in how the system currently works, by

professionalising it and taking it seriously. Having said that, they would create another requirement to be actioned by the Government. Whether the Government accept the new clauses or not, I am sure that they wish to see fire risk assessments and mediation carried out properly and efficiently.

We heard evidence this morning from the Fire Safety Federation and the head of fire safety at the L&Q Group about how the system is working—or not working—in practice. Whether the Minister accepts the requirements, we seriously need to address the current investigation process. I say this with no disrespect to the witnesses, but I was not filled with confidence by them saying that the processes of assessment must be looked at, with it done either through the enforcers, the owners and the Government coming together, or through everyone doing their own bit, because it is simply not working at the moment.

I gave the example, which I will briefly amplify, of a block of some 400-plus flats owned by Notting Hill Genesis, a big housing association in London, with which some issues to be resolved have been found. Those issues are not the most serious issues; there is some timber construction and some cladding on the building. Most of the building is constructed of brick. The effect was that the building perhaps did not have as high a priority as more dangerous structures. The effect of that has been to set out for all residents, including those leaseholders who have sold or are trying to sell their properties, a process that goes through six separate stages: initial survey, survey review, developer engagement, project planning, specification and tender, and remedial works. That process could take as little as 16 months or up to 42 months, and only at the end of it would an EWS1 form be issued. I thought that was bad enough, but we heard from the head of fire safety at L&Q that they expect it to be 10 years before all the buildings in London are dealt with.

That situation cannot be allowed to continue, so I ask the Minister to ensure, when he looks at the issues raised by the new clauses, that we have competent and professional assessment of risk, and proper processes to carry out those assessments. We must also look at the speed at which that work is done, because the Government have found it necessary during the covid crisis, and previously during the housing crisis, which we see particularly in London but which exists generally across the country, to intervene with measures that help people either to get on the housing ladder, to upscale or to move; there need to be different types of packages in that regard.

That is needed here and now. This matter cannot be left to the relationship between leaseholders or tenants and their landlords or owners at the end of the building process; it must be for the Government to address. Otherwise, in what is already an extremely depressed and fractured housing market, this situation will cause further delay and misery. It is not just a case of people being forced to stay in properties that they do not want to stay in—they want to move, perhaps because their family is growing, or because they want to take up a job in another part of the country. This situation is causing real financial and social distress. That may be an unintended consequence of what is designed to be an efficient process, but the process is simply not working at the moment.

Kit Malthouse: My role on this Committee is obviously becoming clear: it is to manage Members' legitimate desire for urgent action and change, and to indicate that there is a process we need to go through in order to get this matter exactly right. I find myself in that position once again.

The fire safety order establishes a self-compliance regime. There is currently no requirement for responsible persons to record their completed fire risk assessments, save for limited provisions in respect of employers. They are simply required to record the significant findings of the assessment and any group of persons identified by the assessment as being especially at risk. The creation of a fire risk assessment register will place a new level of regulation upon responsible persons that could be seen as going against the core principles of the order, notably its self-regulatory and non-prescriptive approach.

There is also a question of ownership and maintenance, and where the costs of such a register would lie. A delicate balance needs to be struck. There are certainly improvements to be made, but we also need to ensure that such improvements are proportionate.

The Government acknowledge that there is work to be done to ensure that residents have access to the vital fire safety information they need in order to be safe and feel safe in their homes. People need to be assured that a suitable and sufficient fire risk assessment has been completed, and that all appropriate general precautions have been taken or will be taken.

I also say to potential buyers of leasehold flats that any good conveyancing solicitor would ask for sight of the fire risk assessment from the responsible person—the freeholder—as part of their pre-contract inquiries. If the assessment was not forthcoming, one would expect that the solicitor would advise their clients accordingly and that all due inferences would be made. I can assure the Committee that the fire safety consultation will bring forward proposals for the recording of the fire risk assessment and the provision of vital fire safety information to residents.

New clause 2 would create a public register of fire risk assessors and require the fire risk assessors to be accredited. I agree that there is a clear need for reform concerning fire risk assessors, to improve capacity and standards. I understand the probing nature of the new clause, so it may be helpful to outline work that is ongoing in the area of fire risk assessor capacity and capability.

Some hon. Members will be aware of the industry-led competency steering group and its working group on fire risk assessors. The group will soon publish a report, including proposals for creating a register, third-party accreditation and a competency framework for fire risk assessors. The Government will consider the report's recommendations in detail.

We are working with the NFCC and the fire risk assessor sector to take forward plans for addressing the short-term and long-term capability and capacity issues within the sector. I share hon. Members' alarm at the existence of unqualified fire risk assessors; one wonders how many decades this situation has been allowed to persist unnoticed by anybody in this House or by any Government of any hue. The fire safety consultation, which will be issued shortly—I have already committed to that—will bring forward proposals on competence issues.

To summarise, the right approach is for the Government first to consider the proposals of the competency steering group and its sub-groups in relation to a register of fire risk assessors and accreditation. The Government's position is that that work should continue to be led and progressed by the industry. I am happy to state on the record that we will work with the industry to develop it. Any future statutory requirements on fire risk assessors might be achieved through secondary legislation, which will offer us greater flexibility to add to it or amend it in the future. For those reasons, I intend to resist these new clauses.

Daisy Cooper: I beg to ask leave to withdraw the motion.

Clause, by leave, withdrawn.

New Clause 2

PUBLIC REGISTER OF FIRE RISK ASSESSORS

“(1) The Secretary of State must, by regulations, make provision for a register of individuals who are qualified to make fire risk assessments under article 9 (risk assessment) of the Regulatory Reform (Fire Safety) Order 2005 (SI 2005/1541).

(2) Those regulations must provide that only persons on the register may make such assessments.

(3) Those regulations must provide that the register is—

- (a) publicly available; and
- (b) kept up-to-date.

(4) Regulations under this section are—

- (a) to be made by statutory instrument; and
- (b) subject to annulment in pursuance of a resolution of either House of Parliament.”—(*Daisy Cooper.*)

This new clause would enable home owners to verify fire assessors qualified to conduct compulsory checks such as completing the EWS1 form, and would enable government and industry to assess the numbers of assessors to be trained.

Brought up, and read the First time.

Question put, That the clause be read a Second time.

The Committee divided: Ayes 6, Noes 9.

Division No. 1]

AYES

Buck, Ms Karen
Cooper, Daisy
Duffield, Rosie

Eshalomi, Florence
Jones, Sarah
Slaughter, Andy

NOES

Bacon, Gareth
Britcliffe, Sara
Lewer, Andrew
Longhi, Marco
Malthouse, Kit

Moore, Damien
Saxby, Selaine
Simmonds, David
Tomlinson, Michael

Question accordingly negatived.

New Clause 3

PROHIBITION ON PASSING REMEDIATION COSTS ONTO LEASEHOLDERS AND TENANTS

“The owner of a building must not pass the costs of making any remedial work attributable to the provisions of this Act on to any leaseholders or tenants of that building.”—(*Daisy Cooper.*)

The purpose of this new clause is to stop freeholders passing on remediation costs to leaseholders and tenants, such as through demands for one-off payments or increases in service or other charges.

Brought up, and read the First time.

Daisy Cooper: I beg to move, That the clause be read a Second time.

New clause 3, by my own admission, is a rather blunt instrument—I put that down to the fact that I joined the Committee at rather short notice last week. I would not want to invite the law of unintended consequences, which the new clause does slightly, and prohibit people from paying towards something that might actually help them to move house if they wanted to do so. The purpose of the new clause is to seek to draw the Government's attention to the question of who has financial responsibility. It is one that we discussed this morning, and to which there were no clear recommendations or answers from those who gave evidence.

The Bill puts the onus for fire safety on the building owner, but not enough has been said about who should take the financial burden of the measures that follow. The fact is that, despite the responsibility of the freeholder, building insurance premiums that residents may have paid for years, valid nuclear new build warranties, financial burden—all those things—it has been shifted and shirked, and ultimately the financial burden seems to land upon their tenants and leaseholders.

In my constituency of St Albans, one residents' association has been told that every individual leaseholder will probably face extra charges of around at least £20,000 each per flat. Some of their service charges have already increased sixfold since the tragedy of 2017. Those service charges have increased in preparation for the necessary works, and I hope that the Government will agree that in a property market that is already so financially challenging, with the pandemic recession just ahead of us, to be hit by a further bill of £20,000 is completely unacceptable and, for some, completely impossible.

3.30 pm

More needs to be done to protect those leaseholders, and others like them around the country, from being totally and utterly financially crippled. We heard from the National Fire Chiefs Council that disputes over the liability for remediation costs are very likely without access to funding. We heard from the L&Q Group this morning that the Government should exhaust all options before passing the costs on to leaseholders, and that that needs to be done ideally through Government support. There seemed to be a lot of consensus that without Government support we will end up with very complicated lease arrangements.

My constituents, and many others around the country, are in a completely impossible position. They are struggling to, or cannot, extend their mortgage to pay this large one-off fee. However, they also cannot sell their flat without the EWS1 certificate. They feel trapped in an unsafe building, while having to try to find the funds to pay the escalating service charges that they simply cannot afford. That simply cannot be right.

Sarah Jones: I want to put on record our support for the notion that leaseholders have been incredibly hard done by in recent years. They are championing their cause through incredibly powerful campaign groups, and we have heard over the past three years of the costs that have been put on them to remove cladding. It is extraordinary. In new clause 4, I try to ensure that they are not part of the definition of the responsible person in the legislation.

I agree with the premise of the new clause proposed by the hon. Member for St Albans, but having been the shadow housing Minister for three years, looking at the issues of leasehold and freehold and working with the Law Commission and with lawyers to try to unpick some of the legal issues, I think that it would be a challenging new clause to accept as it is, without significant compensation having to go to freeholders. I think the hon. Lady is probably right to describe it as being a blunt instrument, but I agree about the impossible position of leaseholders being faced with more costs when they are struggling so much.

Andy Slaughter: I applaud the hon. Member for St Albans for bringing the matter to the Committee's attention, although the new clause may not quite be the way to deal with the issue in law. I say that because although Government have made funds available in a drip by drip way—it is quite a substantial amount of money, so perhaps drip by drip is the wrong phrase—it is an inadequate sum to deal with the necessary remediation.

The way in which the funding relating to ACM and other types of cladding has been announced to social landlords and then private landlords has not only created some degree of confusion, but meant that there are huge gaps in terms of accessibility to funds to leaseholders and freeholders for carrying out remediation work. Therefore, landlords—not the worst landlords, necessarily; in some ways, it could be the better ones—are seeking to deal with remediation works in relation to blocks that do not fall within the fairly restrictive criteria that the Government have set. They are saying, “Yes, we will remove cladding, or do other works, but it isn't covered by the Government's building funds at the moment. We will therefore look, with section 20 notices or in other ways, for leaseholders to carry the costs.”

We are right to draw attention to this point, and I hope that the Minister will respond to it. He has been reading out his ministerial brief, which is all to the good because we need to put it on the record, but it would be quite good for him to respond to some of the points spontaneously made by Opposition Members.

The Lord Commissioner of Her Majesty's Treasury (Michael Tomlinson): My hon. Friend has done both

Andy Slaughter: I say that because, in the previous debate, there were issues to do with the speed at which the process is going, and I do not think the Minister responded to my points about that nor to those about the qualifications of assessors. If he intends to resist the new clause, which I suspect he probably is, he needs to deal with the issue of leaseholders who, faced with the prospect of bills, cannot then be advised “Go to the Government funds”, because such funds are not available for those purposes.

The Chair: I call on the Minister to read out his brief. [*Laughter.*]

Kit Malthouse: Sir Gary, the hon. Member for Hammersmith knows the impositions put on Ministers of the Crown as to what they can and cannot say in public. Legal interpretations emanate from their words, such is the importance of the things that we say in this

place, and many legal cases have been decided on the words, imprecise or otherwise, of a Government Minister in a Committee such as this, so we try very hard to be precise. I should point out that, although I previously had responsibility for this portfolio when I was Housing Minister, I am covering for a Minister who is shielding at the moment. Hence I have to make sure that the words I use are broadly those that he would use as well.

Andy Slaughter *rose*—

The Chair: Mr. Slaughter is going to apologise.

Andy Slaughter: I was seeking to flatter the Minister. We not only want to hear from the civil servants; we also want to hear from him.

Kit Malthouse: Notwithstanding the fact that the hon. Member for St Albans obviously recognises that this blunt instrument, as she put it, might result in unintended consequences, not least driving a coach and horses through the notion of privacy of contract, which is a fundamental part of our economy and legal system, I recognise her aspiration and the obvious concern and distress that there has been across the country among people who have been caught in the nightmare. As the hon. Member for Croydon Central knows, as Housing Minister for 12 months I wrestled with that issue and lobbied the then Chancellor of the Exchequer with increasing ferocity that the Government should step in to assist, which we have now done. My efforts, along with those of my right hon. Friend the Member for Old Bexley and Sidcup (James Brokenshire), who was then the Secretary of State for Housing, Communities and Local Government, managed to secure the first £600 million of the £1.6 billion now pledged for remediation of various types of cladding.

I should point out that the funding does not absolve the industry from taking responsibility for any failings that led to unsafe cladding materials being put on buildings in the first place. We still expect developers, investors and building owners who have the means to pay to take responsibility and cover the cost of remediation themselves without passing on the cost to leaseholders. We committed in a recent Government response to the building safety consultation to extend the ability of local authorities and the new regulators to enforce against building work that does not comply with the building regulations from two years to 10 years. Further details will be set out in the draft building safety Bill when it is published next month. The new regime in that Bill is being introduced to prevent such safety defects from occurring in the first place in new builds and to address systematically the defects in existing buildings. Moreover, as part of any funding agreement with Government, we expect building owners to pursue warranty claims and appropriate action against those responsible for putting unsafe cladding on the buildings. In doing that we are not only ensuring that buildings are made safe and that residents feel safe, and are safe, we are ensuring that the taxpayer does not pay for the work that those responsible should fund or can afford.

I appreciate the intent of the new clause, particularly to protect leaseholders from the very high cost of removing and replacing cladding. That is why we have made

£1.6 billion available to cover the costs, particularly where experts say that they represent the highest risk, and we are working with industry to identify what funding structures would be most appropriate to help cover the cost of further remediation work. Leaseholders should not have to face unmanageable costs. The Secretary of State for Housing, Communities and Local Government will provide an update on the work when he presents the draft building safety Bill to Parliament before the recess. I ask that Members recognise the complexity of this policy area, which cannot be solved, I am afraid, through the new clause. Indeed, it would make owners who, in some cases, would include leaseholders, responsible for funding any and all remediation work. For example, service and maintenance charges would at present meet the costs of safety work required as a result of routine wear and tear, such as worn fire door closers. Under the new clause, those costs would fall to building owners. I hope that hon. Members will agree there are more effective ways of achieving the same aim, which we all share, and I therefore hope this clause can be withdrawn.

Daisy Cooper: I beg to ask leave to withdraw the motion.

Clause, by leave, withdrawn.

New Clause 4

MEANING OF RESPONSIBLE PERSON

“In article 3 of the Regulatory Reform (Fire Safety) Order 2005 (SI 2005/1541) (meaning of responsible person”), at the end of paragraph (b)(ii) insert—

“(2) Where a building contains two or more sets of domestic premises, a leaseholder shall not be considered a responsible person unless they are also the owner or part owner of the freehold.”—(*Sarah Jones.*)

This new clause aims to clarify the definition of ‘responsible person’ to ensure leaseholders are not considered a responsible person unless they are also the owner or part owner of the freehold.

Brought up, and read the First time.

Sarah Jones: I beg to move, That the clause be read a Second time.

The Chair: With this it will be convenient to discuss new clause 5—*Single assessment of risk*—

“In article 9 of the Regulatory Reform (Fire Safety) Order 2005 (SI 2005/1541) (risk assessment), after paragraph (3) insert—

“(3A) Where a building contains two or more domestic premises, any person identified as a responsible person in relation to any part of the building must co-operate with other responsible persons to obtain a single assessment of risk relating to the building as a whole.”

This new clause seeks to create a requirement that, where a building contains two or more domestic premises and there are multiple responsible persons, a fire risk assessment should be a single document in instances.

Sarah Jones: New clause 4 also relates to leaseholders, and I think what it proposes is quite straightforward, easy to do and something that the Government could put on the face of the Bill relatively easily.

On Second Reading, the definition of a responsible person was raised again by Members from across the House. There were worries about the ambiguity of that

[Sarah Jones]

definition, and about the risk that the responsible person might seek to use any such confusion or ambiguity to avoid their responsibilities under the Bill. There is a worry that leaseholders might be defined as the responsible person, which they are not unless leaseholders have collectively bought the freehold; that model is not used much, but it does exist. The point of this new clause is simply to ensure that unless that model exists—unless leaseholders have bought the freehold—leaseholders are not the responsible person. It is a relatively straightforward clause, and I cannot see that it would cause any problems.

I suspect that new clause 5 is a probing one, because there are many complex types of buildings, with different types of ownership within them. A block may well contain council housing, housing associations, leaseholders, and—although not part of the Bill—commercial premises within residential premises. All those different types of ownership within a block creates a complex situation when it comes to making the “responsible person” responsible for ensuring the safety assessment is done for the entire building. This clause is a question and challenge to the Government: how will the Bill work when we have all these levels of complexity, including commercial premises, different types of residential premises and different problems with access? This relates in part to some of the issues we were talking about this morning, such as getting access to domestic properties, but there are blocks in my constituency where half of the block is housing association, and half is a mix of all kinds of other private housing. We are worried about how that is going to work in real life when this legislation is introduced, so that is the point of new clause 5.

Kit Malthouse: The fire safety order places the onus on the responsible person to identify and mitigate fire risks. For the most part, it engages responsibility for fire safety in line with the extent of control over a premises or part of a premises. That is the underlying principle.

In multi-occupied residential buildings, the leaseholder of a flat is unlikely to be a responsible person for the non-domestic premises. The exceptions to this would be where they own or share ownership of the freehold, as is acknowledged in new clause 4. However, the leaseholder can be a duty holder under article 5 of the order. This will be determined according to the circumstances in any particular case. This Bill does not change that arrangement; it does, of course, clarify that the order applies to the flat entrance doors. Depending on the terms of a lease or tenancy agreement, responsibility to ensure the door complies with the requirements of the order could therefore fall to the responsible person for the building, having retained ownership of the doors, or the tenant or leaseholder as a duty holder. The lease can also be silent.

Legislating for the removal of the leaseholder as a responsible person, or indeed duty holder, would undermine the principles of the order. It could leave a vacuum when it comes to responsibilities under the order, and therefore compromise fire safety. However, as part of our intention to strengthen the fire safety order, we will test further some of the relevant current provisions of the order with regards to flat entrance doors in order to support compliance, co-operation and, if necessary,

enforcement actions. The NFCC has offered to support these considerations; again, the fire safety consultation is the right place for us to take such matters further. The Government are committed to ensuring that sufficient guidance and support is given to those regulated by the order. That is why the Home Office, working alongside our stakeholders, has established a guidance steering group that will be responsible for recommending, co-ordinating and delivering a robust and effective review of all the guidance provided under the order.

3.45 pm

Article 9 of the fire safety order currently requires all responsible persons or duty holders to complete a “suitable and sufficient” fire risk assessment to ensure the fire safety of the premises for which they are responsible. Where there are multiple responsible persons in one premises, the order requires them to co-operate and co-ordinate with all other persons in order to enable compliance

“with the requirements and prohibitions imposed on them by or under”

the fire safety order. A responsible person is also required to

“take all reasonable steps to inform the other responsible persons concerned of the risks to relevant persons arising out of or in connection with the conduct by him of his undertaking.”

I wish I could extemporise the technical detail for the hon. Member for Hammersmith; sadly, even that is beyond me. The intention of the articles is to ensure a suitable and sufficient fire risk assessment is completed that considers and accounts for the impact that other parts of the premises may have on the fire safety of the building as a whole. From the responses to the 2019 call for evidence, we acknowledge the difficulties faced by responsible persons in complying with the duty to co-operate. We have considered in much detail the responses provided in the call for evidence on co-operation, and we have developed proposals to address these issues.

The fire safety consultation will set out specific proposals to address those and other issues raised in the 2019 call for evidence, and it is of the utmost importance that the fire risk assessments provide robust and accurate assessments of the fire safety of a premises as a whole, regulated by the order. That is why we want to ensure that the steps we take are informed by the people they will impact, and that they can have a say on how best we can address the issues raised from the call for evidence. I will, however, ask officials to reflect on the comments that have been made this afternoon, and to ensure that they and any additional issues that have been raised are incorporated in the consultation. On that basis, I hope the new clause will be withdrawn.

Sarah Jones: I feel like we are being beaten down with consultations, steering groups and promises of honey to come. I know it is complex and there a lot of questions to answer. The basic premise of new clause 4 is that, where there is a freeholder, the leaseholder should not be the responsible person. I know there are complexities with that: who is responsible for the front door, and how does it all work? That all needs to be ironed out, but there is a basic principle in the new clause. Given the Minister’s proposal to go back and talk to officials, however, I beg to ask leave to withdraw the motion.

Clause, by leave, withdrawn.

New Clause 6

DUTIES OF OWNER OR MANAGER

“The relevant authority must by regulations amend the Regulatory Reform (Fire Safety) Order 2005 (SI 2005/1541) to require an owner or a manager of any building which contains two or more sets of domestic premises to—

- (a) share information with their local Fire and Rescue Service in respect of each building for which an owner or manager is responsible about the design of its external walls and details of the materials of which those external walls are constructed;
- (b) in respect of any building for which an owner or manager is responsible which contains separate flats, undertake regular inspections of individual flat entrance doors;
- (c) in respect of any building for which an owner or manager is responsible which contains separate flats, undertake regular inspections of lifts and report the results to their local Fire and Rescue Service; and
- (d) share evacuation and fire safety instructions with residents of the building.”—(*Sarah Jones.*)

This new clause would place various requirements on building owners or managers, and would implement the recommendations made in the Grenfell Tower Inquiry Phase One Report.

Brought up, and read the First time.

Sarah Jones: I beg to move, That the clause be read a Second time.

The Chair: With this it will be convenient to discuss new clause 9—*Inspectors: prioritisation*—

“In discharging their duties under article 27 of the Regulatory Reform (Fire Safety) Order 2005 (SI 2005/1541) (powers of inspectors) in relation to any building which contains two or more sets of domestic premises, an inspector must prioritise the premises which they consider to be at most risk.”

This new clause would require the schedule for inspecting buildings to be based on a prioritisation of risk, not an arbitrary distinction of types of buildings.

Sarah Jones: The new clause does what the Government say will come later: it puts on the face of the Bill the recommendations made in the Grenfell Tower inquiry phase I report. At the beginning of June, the MHCLG announced that it was preparing to open a public consultation on recommendations for new fire safety regulations emerging from the Grenfell Tower inquiry. In a letter to Martin Moore-Bick, the Prime Minister gave assurances that action on the findings of the inquiry’s first report “continues at pace”. However, the Government had already promised in October 2019 to implement the inquiry’s recommendations in full and without delay. Failing to include the simpler recommendations for the Bill, such as inspections of fire doors and testing of lifts, is a breach of their commitment to implement the recommendations without delay.

Only this week we saw alarming statistics that underline the urgency of implementing the recommendations. Of more than 100,000 doors in about 2,700 buildings across the UK inspected by the fire door inspection scheme in 2019, 76% did not comply with building regulations and about one in six, or 16%, were not even proper fire doors. Nearly two thirds, or 63%, of the buildings also had additional fire safety issues. Those are huge challenges. We need to move as quickly as possible to implement the recommendations.

Earlier this month, the Secretary of State for Housing, Communities and Local Government said that the Bill “provides a firm foundation upon which to bring forward secondary legislation”.—[*Official Report*, 2 June 2020; Vol. 676, c. 41WS.]

The Minister has taken the same approach, but there is no timetable for when everything else will happen. There are lots of committees, consultations and groups looking at these things, but it is not acceptable that after the promise of “without delay” in October 2019, we still have not moved on those issues by the middle of summer 2020.

I do not understand, and it would be good for Minister to explain, why we would not put such provisions in the Bill. They have the support of the organisations that we heard from this morning. It is just a case of putting things up front in the legislation, rather than waiting for an undefined time that may or may not come at some point in the future.

The new clause would require an owner or manager to

“share information with their local Fire and Rescue Service in respect of each building for which an owner or manager is responsible about the design of its external walls and details of the materials of which those external walls are constructed...in respect of any building for which an owner or manager is responsible which contains separate flats, undertake regular inspections of individual flat entrance doors...in respect of any building for which an owner or manager is responsible which contains separate flats, undertake regular inspections of lifts and report the results to their local Fire and Rescue Service; and...share evacuation and fire safety instructions with residents of the building.”

It just pushes faster and implements more quickly the action that the Government have committed to implementing. I press the Government to accept that that is possible, or to set out exactly when those things will become part of legislation.

David Simmonds: I have similar feelings about new clause 6 as I had about amendment 1. There is a risk that by seeking to be precise, we may create additional gaps in the legislation. Looking at the list, it would be clear to anybody with experience of the issue in a wider context that many other issues would come into consideration in such circumstances.

For example, the London Borough of Hillingdon had to go to court on 16 occasions last year to gain access to tenants’ properties to undertake essential safety-critical work on gas installations. If we were to define the duties that we are placing on the responsible individuals, the list would be extremely long. I have heard the Minister talk on the issue and I know that, with his local government experience, he is well aware of the context.

The properties to which the legislation will apply are hugely diverse, as are the risks that they offer. I therefore strongly believe that the new clause is another example where we are better off having a broader-brush piece of legislation that provides the opportunity to catch every set of circumstances flexibly, rather than being unnecessarily specific and risking missing out things that might turn out to be safety-critical.

Andy Slaughter: Thank you, Sir Gary. I apologise for referring to you as Mr Streeter throughout.

The Chair: You can call me whatever you like.

Andy Slaughter: I will get it right before the end.

I have a brief comment about new clause 9, which goes to the heart of our discussion. It says that where there are

“two...sets of domestic premises, an inspector must prioritise the premises which they consider to be at most risk”.

That echoes what Mr Carpenter, the head of fire safety at L&Q, said in evidence this morning, and it must be right. It also mirrors the debate that we are having about covid-19 and the balance between the health implications and the economic implications. If all our eggs are put into the basket of buildings where there is believed to be a singular risk or multiple risks, there will be all the consequences we have already discussed relating to delays to sale and so on for buildings with a more marginal risk that nevertheless need remedial work. The Government have to grasp that dichotomy and say how they propose to deal with it.

At the moment individual landlords are dealing with it in their own way. My local authority, for example, has gone far beyond what are considered to be minimum standards. It has something called a fire safety plus programme, which means that fire safety experts visit tenants to check electrical and fire detection appliances. They replace white goods for free if they are faulty. I referred earlier to problems with flame failure devices, where gas leaks can occur, and the authority has now incorporated checks of all gas devices into annual boiler checks.

Some responsible landlords, and particularly social landlords such as Hammersmith and Fulham Council, take those responsibilities seriously and prioritise those matters. However, that has to happen across the board and not be left to landlords' good will, as it were, or their responsible action. It has to be something that the Government enforce. It would be useful to include that with new clause 9 and provide for such prioritisation in the relevant circumstances. However—and yes, this is cake-and-eat-it, but this is a cake-and-eat-it Government, so I am sure they can incorporate it—we cannot forget those tenants or leaseholders who are at the back of the queue and who, as Mr Carpenter said at column 14 in the first sitting of the Committee, may be waiting 10 years for remedial work to take place. I should be interested to hear the Minister's response to that—both whether he agrees with the content of new clause 9 with respect to prioritisation, and what he would do as a consequence.

Kit Malthouse: As the hon. Member for Croydon Central has pointed out, the Prime Minister has accepted the outcome of the Grenfell inquiry. However, Sir Martin Moore-Bick's report stated that his recommendation should command the support of those with experience of the matters to which they relate. That means that we need to make sure that everyone is on board with the proposals as we take them forward.

Our intention is to enact the proposals, subject to the views of the consultation, under article 24, which specifically requires the Secretary of State to

“consult with such persons or bodies of persons as appear to him to be appropriate.”

Once again I acknowledge the impatience of the hon. Lady and everyone else in the Committee to get on with it, and get the Grenfell inquiry measures in place, but

there are stages that we need to go through to make sure that we get the measures right and to ensure that the changes made to building safety will be cultural as well as legislative and structural. That is an issue that became clear during my time as Housing Minister. The entire sector has to acknowledge its moral and legal duties for the safety of those in its care, whether that is in the design, building, management or maintenance of properties. That means we need to make sure everyone is bought in.

On new clause 9, I do not dispute the need to ensure that resources and enforcement activity are targeted, but I dispute the need for legislation to do so. Fire and rescue authorities are in the business of managing risk and are accountable for how they do so. The fire and rescue national framework for England requires fire and rescue authorities to have a locally determined risk-based inspection programme in place, for enforcing compliance with the order. It sets out the expectation that FRAs will target their resources on those individuals or households at greatest risk from fire in the home and on those non-domestic premises where the life safety risk is greatest. In parallel, the regulators' code states that all regulators should base their regulatory activities on risk, take an evidence-based approach to determine the priority risks in their area of responsibility, and allocate resources where they would be most effective in addressing those priority risks.

We acknowledge the vital work that local FRAs do and the NFCC has done, and will continue to do, to ensure that building owners are taking all necessary steps to make sure that those living in high-rise buildings are safe and feel safe to remain in their homes.

4 pm

The building risk review programme, which will see all high-rise residential buildings reviewed or inspected by fire and rescue authorities by the end of 2021, is a key part of this work. The programme will enable building fire risks to be reviewed and data to be collected to ensure that local resources are targeted at those buildings most at risk. It will also provide reassurance to residents that the risks in their buildings have been assessed and appropriate action has been taken.

We have provided £10 million of funding to support the work—not only to facilitate the review of all buildings, but to support the strengthening of the NFCC central strategic function to drive improvements in fire protection. This is in addition to a further £10-million grant to support the bolstering of fire protection capacity and capability within local fire and rescue services. The funding has been allocated based on the proportion of higher-risk buildings, further demonstrating the need to target resources at the risk.

In summary, the Government's position is that adequate arrangements are in place to ensure that enforcement authorities target their resources appropriately and are accountable for their decisions without the need to make it a statutory requirement. I ask that the new clause be withdrawn.

Sarah Jones: I hear what the Minister says—there are stages that we need to go through to get this right—but the Bill has no date for its commencement, so we could put this provision in the Bill and then do the things that need to be done in order to bring it into force at the time

that the Secretary of State deems right. Therefore I would, on this new clause, like to test the will of the Committee.

Question put, That the clause be read a Second time.

The Committee divided: Ayes 6, Noes 9.

Division No. 2]

AYES

Buck, Ms Karen	Eshalomi, Florence
Cooper, Daisy	Jones, Sarah
Duffield, Rosie	Slaughter, Andy

NOES

Bacon, Gareth	Moore, Damien
Britcliffe, Sara	Saxby, Selaine
Lewer, Andrew	Simmonds, David
Longhi, Marco	Tomlinson, Michael
Malthouse, Kit	

Question accordingly negated.

New Clause 7

ACCREDITATION OF FIRE RISK ASSESSORS

“The relevant authority must by regulations amend the Regulatory Reform (Fire Safety) Order 2005 (SI 2005/1541) to require fire risk assessors for any building which contains two or more sets of domestic premises to be accredited.”—(*Sarah Jones.*)

This new clause would require fire risk assessors to be accredited.

Brought up, and read the First time.

Sarah Jones: I beg to move, That the clause be read a Second time.

New clause 7 is about fire assessors being accredited. Again, I heard what the Minister said: there is the competency steering group; we are going to bring forward these kinds of changes. I think that we could be doing that sooner rather than later, so I would like to test the will of the Committee on this new clause, too.

Question put, That the clause be read a Second time.

The Committee divided: Ayes 6, Noes 9.

Division No. 3]

AYES

Buck, Ms Karen	Eshalomi, Florence
Cooper, Daisy	Jones, Sarah
Duffield, Rosie	Slaughter, Andy

NOES

Bacon, Gareth	Moore, Damien
Britcliffe, Sara	Saxby, Selaine
Lewer, Andrew	Simmonds, David
Longhi, Marco	Tomlinson, Michael
Malthouse, Kit	

Question accordingly negated.

New Clause 8

WAKING WATCH

“The relevant authority must by regulations amend the Regulatory Reform (Fire Safety) Order 2005 (SI 2005/1541) to specify when a waking watch must be in place for any building which contains two or more sets of domestic premises and which has been found to have fire safety failings.”—(*Sarah Jones.*)

This new clause would require the UK Government (for England) and the Welsh Government (for Wales) to specify when a waking watch must be in place for buildings with fire safety failures.

Brought up, and read the First time.

Sarah Jones: I beg to move, That the clause be read a Second time.

New clause 8 refers to an issue about waking watch that has been raised with us many times by struggling leaseholders. The aim of the new clause is to clarify exactly when a waking watch must be in place and when one should not be. We have seen since Grenfell that this involves a huge number of buildings; tens of thousands of people are living in blocks where some kind of remediation work is necessary and so a waking watch has been put in place. There are lots of concerns about waking watch in general. How qualified are the people doing the job, and are there enough of them? Is it a suitable alternative to the work that needs to be done?

Many leaseholders have told us that there are conflicting instructions on whether people should have waking watch, depending on where you are and which block you live in. The National Fire Chiefs Council says that waking watch should be temporary, but there are residents living in blocks that have had a waking watch for nearly three years, at huge cost. I have spoken to leaseholders who are paying £14,000 a year for the waking watch. In one galling case, residents on the block spent £700,000 on waking watch, but when the building was tested, it was found to be safe, so they spent a lot of money collectively for something that they never actually needed in the first place.

We will clearly not remove all the cladding that needs to be removed for some time, given that the issue it is not just ACM cladding, but HPL and other forms, too. Those things take time and we do not have enough people to do the work. What will happen in that time? Do people really have to pay that much money for that long when, in some areas, people are told they need a waking watch, and in others, they are not? Other questions remain about whether people can have other alarm systems that would mean not paying as much. People are going bankrupt paying for something that is supposed to be temporary but is not needed or the best thing for them to do.

Through the new clause, we are saying to the Government that this issue has been raised many times. There is inconsistency about the waking watch and how it is applied. In any case, it is not supposed to be in place for only a short period, not three years. The issue was raised by Government Members on Second Reading and has been raised in housing questions for some time. We want a system where it is clear what waking watch is for and what it is not for, to resolve inconsistencies.

Kit Malthouse: I should start by acknowledging the issue of waking watch. It is obviously very serious. In my previous position as Housing Minister, I met a number of groups that were struggling to pay for waking watch. I will speak later about what the Government are doing to support its proper use. I acknowledge the issue the hon. Member for Croydon Central raised, and I am sorry for the particular story she pointed to. However, expanding the scope of the Bill with this new clause is not the best way to achieve what she seeks.

[Kit Malthouse]

There are significant issues with the wording of the new clause. First, it would introduce a regulation-making power that “must” be exercised to amend the fire safety order. Further, the term “fire safety failings” is very broad and subject to interpretation. There could be several circumstances where there is a fire safety failure that would not warrant the imposition of a waking watch—for example, cases where only a faulty fire door or smoke detector needed replacing. In such circumstances, swift remedial action can be undertaken, but the wording makes no distinction between fire safety failures.

Aside from the wording, we oppose putting this provision in primary legislation in any event. A decision on the use of waking watch is a matter for the responsible person when considering how to achieve compliance in particular premises. That decision must factor in the circumstances of the premises and other fire protection measures in place. Auditing for compliance is ultimately an operational issue, best dealt with by the relevant enforcing authority on a case-by-case basis. Specific circumstances will dictate what form of remedial action is necessary. The fire safety order already provides for an appropriate enforcement action to be taken. To impose a prescriptive legislative requirement of this type would be unhelpful and, worse, potentially inhibit an enforcing authority from taking the most appropriate action.

We are, however, taking forward work in conjunction with the NFCC on waking watches; it might reassure Members if I outlined it briefly. First, the NFCC is updating its guidance on waking watches. Once that guidance is available, we will ask fire protection boards to advise fire and rescue services on how best to ensure the guidance is implemented on the ground by responsible persons. That will include looking into other measures, such as installing building-wide fire alarm systems to reduce the dependency on waking watches wherever possible.

We are also looking to publish data on the costs of waking watches. That will ensure transparency on the range of costs, so that comparisons can be clearly made. Our aim is to help reduce the over-reliance on waking watch and, where it is necessary, reduce costs.

Furthermore, as Committee members may be aware, we are already working with the NFCC and fire and rescue services to undertake a building risk review programme on all high-rise residential buildings of 18 metres and above in England, which will ensure that all such buildings are inspected or reviewed by the fire service by the end of next year. It should give residents in high-rise blocks greater assurance that fire risks have been identified and action taken to address them, reducing the need for waking watches and other interim measures.

Essentially, we find ourselves in the same argument that my hon. Friend the Member for Ruislip, Northwood and Pinner has raised on a number of occasions: by being prescriptive, we create a situation where anomalies may occur and lacunae open up in the fire safety framework, of which this foundational Bill is meant to be the keystone—or whatever firm word we want to use—for the future. For that reason, we hope that this new clause will also be withdrawn.

Sarah Jones: Heaven forbid that lacunae should open up! I immediately withdraw the new clause. I completely understand the point about this being a matter for the

responsible person. The issue is that the freeholder is the responsible person, and the leaseholder is the one who has to pay, so there is a problem there.

I welcome the work that the Government are doing in trying to shine a light on some of the issues about costs; we have heard all kinds of accounts of different costs for the same job, so shining some light on that would be helpful. I think this is an issue that needs to be pushed, but I am happy to beg to ask leave to withdraw the motion.

Clause, by leave, withdrawn.

Question proposed, That the Chair do report the Bill to the House.

The Chair: Colleagues, we have done well. If anyone wishes to say anything pleasant about officials at this stage, that is the usual course of events.

Kit Malthouse: Strangely, the officials have not provided me with a script of nice things to say about them. First, I am obviously grateful to all Members of the Committee for the constructive way in which our proceedings have taken place and to you, Sir Gary, for your benign chairmanship.

This is obviously a difficult and complex piece of work, and while we see the emanation of it in the clauses and the various bits of legislation that come before us, a whole team of officials at both the Home Office and MHCLG has been beavering away on this for some time, engaging with various industry groups and often with affected residents who are in distress, in as sensitive and proportionate a way as possible. I know the Committee express their appreciation for all that work as well.

I hope, as we move into the next phase of this very important journey and this enormous reform to the system, we can continue with not only that very forensic work that officials have done to put us in this position, but the collegiate and co-operative political atmosphere. As I say, this is a situation that, unfortunately, has arisen over a number of decades, under Governments of all colours, and it behoves us all as a political class to put it right.

Sarah Jones: I will be brief; my hon. Friend the Member for Canterbury has put her jacket on, so I know it is time. I thank the officials who have helped me to find my way through this, not least when the House adjourned at 5.30 pm on Monday instead of 10.30 pm as normal, since that was the deadline by which we had to table amendments. There was a particular pickle at that moment, but the officials were incredibly helpful. Thank you, Sir Gary, for your chairmanship.

I will finish by saying again that we welcome this piece of legislation. We wish things had gone a lot further and faster. There is a lot more to be done, and we are very hungry to see it done and happy to help the Government in any way we can to get it done. We all keep top of mind the people who lost their lives in the Grenfell Tower fire. That is what we are here for, and we must therefore act as quickly and as well as we can.

The Chair: Thank you very much. I know the whole Committee will endorse those remarks. I also thank Yohanna for her excellent clerking of the proceedings.

Question put and agreed to.

Bill accordingly to be reported, without amendment.

4.16 pm

Committee rose.

Written evidence reported to the House

FSB01 Fire Brigades Union

FSB02 Institution of Engineering and Technology ('IET')

FSB03 Fire Sector Federation

FSB04 National Fire Chiefs Council (NFCC)

FSB05 British Property Federation

FSB06 Greater Manchester Fire and Rescue Service

FSB07 National Housing Federation

