PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT
GENERAL COMMITTEES

Public Bill Committee

BUILDING SAFETY BILL

Twelfth Sitting

Tuesday 19 October 2021

(Afternoon)

CONTENTS

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

Saturday 23 October 2021

The Committee consisted of the following Members:

Chairs: Philip Davies, Peter Dowd, Clive Efford, †Mrs Maria Miller

† Amesbury, Mike *(Weaver Vale)* (Lab)
† Bailey, Shaun *(West Bromwich West)* (Con)
† Baillie, Siobhan *(Stroud)* (Con)
† Byrne, Ian *(Liverpool, West Derby)* (Lab)
Cadbury, Ruth *(Brentford and Isleworth)* (Lab)
Clarke, Theo *(Stafford)* (Con)
† Clarke-Smith, Brendan *(Bassetlaw)* (Con)
† Cooper, Daisy *(St Albans)* (LD)
† Hopkins, Rachel *(Luton South)* (Lab)
† Hughes, Eddie *(Walsall North)* (Con)
† Logan, Mark *(Bolton North East)* (Con)
† Mann, Scott *(Lord Commissioner of Her Majesty's Treasury)*
† Osborne, Kate *(Jarrow)* (Lab)
† Pincher, Christopher *(Tamworth)* (Con)
† Rimmer, Ms Marie *(St Helens South and Whiston)* (Lab)
† Saxby, Selaine *(North Devon)* (Con)
† Young, Jacob *(Redcar)* (Con)

Yohanna Sallberg, Adam Mellows-Facer, Abi Samuels, *Committee Clerks*

† attended the Committee

Public Bill Committee

Tuesday 19 October 2021

(Afternoon)

[Mrs Maria Miller *in the Chair*]

Building Safety Bill

2 pm

The Parliamentary Under-Secretary of State for Levelling Up, Housing and Communities (Eddie Hughes): On a point of order, Mrs Miller. It is a pleasure to serve under your chairmanship, and I am just marginally embarrassed that I am starting that experience by making an apology. I would like to make a correction to the Committee. When we were debating clause 85 this morning, I said that the secondary legislation for the form and content of safety case reports will follow the affirmative procedure. That was incorrect; I should have said the negative procedure. That was purely a slip of a tongue, but I would like to assure hon. Members that consultation will be held before the regulations are finalised. An ongoing programme of work is under way to support the smooth introduction of the safety case regime.

The Chair: I am sure that the Committee is very grateful to the Minister for clarifying that at the beginning of the sitting. That neatly brings us on to further consideration of clause 85 stand part.

Clause 85

Safety case report

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

The Chair: I remind the Committee that with this we are discussing clause 86 stand part.

Question put and agreed to.

Clause 85 accordingly ordered to stand part of the Bill.

Clause 86 ordered to stand part of the Bill.

Clause 87

Mandatory reporting requirements

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

Eddie Hughes: Clause 87 creates requirements for mandatory occurrence reporting for occupied higher-risk buildings under the new building safety regime. The Government recognise the success of mandatory occurrence reporting systems in improving the safety of industries the world over, including the UK's civil aviation industry.

We concur with the recommendation in the independent review that systems of mandatory occurrence reporting be set up under the new building safety regime, and the clause contributes to its implementation. It requires the principal accountable person of an occupied higher-risk building to establish and operate an effective system for capturing and reporting safety occurrences. Accountable persons will be required to report such occurrences to the Building Safety Regulator. A safety occurrence will be defined in secondary legislation; the intention is to capture any structural or fire safety event or situation that presents a significant risk to life.

Accountable persons will be responsible for taking all reasonable steps to ensure that mandatory occurrences are identified, and that when they are the Building Safety Regulator is informed as soon as is practicable. In addition to that immediate notification, accountable persons will be responsible for ensuring that a full report is submitted to the Building Safety Regulator within a specified timeframe. Once received, the Building Safety Regulator can choose to use a mandatory occurrence report as a basis for further investigative action if necessary. The situations or events that will constitute reportable occurrences, along with information needed in the reports and reporting timescales, will be prescribed in secondary legislation.

Safety occurrences will represent the most serious of safety-related incidents. Non-compliance with mandatory occurrence reporting will be a criminal offence. Mandatory occurrence reporting will ensure that the Building Safety Regulator receives the crucial intelligence needed to identify systemic issues in the management of a building's safety and take effective enforcement measures.

We expect reports received by the Building Safety Regulator to contain valuable lessons learned and allow for identification of emerging safety trends across the built environment. The Building Safety Regulator will be able to share that useful information with industry to improve safety standards and best practices across the built environment. For example, lessons learned from a series of reported safety occurrences relating to fires may allow others in industry to amend their fire safety protocols and raise safety standards accordingly. Alternatively, a reported rise in a type of safety occurrence, such as a widely used fire door discovered to be defective, may prompt industry to identify otherwise unknown risks.

We also expect that the sharing of such information will further underline to industry the value and importance of reporting safety incidents, helping to promote a more positive, proactive culture around safety reporting. Mandatory occurrence reporting will ensure that incidents too serious for voluntary occurrence reporting are captured, reported to the Building Safety Regulator, and learned from. The two reporting systems, along with whistleblowing, will work in a complementary manner to engender a more proactive culture around safety reporting within industry.

Question put and agreed to.

Clause 87 accordingly ordered to stand part of the Bill.

Clause 88

Keeping information about higher-risk buildings

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

Eddie Hughes: The Government are committed to bringing about the biggest improvement in building and fire safety for a generation. The clause creates a power to make regulations to require a golden thread of information for all occupied buildings in scope of the more stringent regime.

The golden thread is the information that allows someone to understand a building and keep it safe, and the information management needed to ensure that the information is accurate, easily understandable and up to date. The clause enables the Secretary of State to make regulations to require the people responsible for those buildings—the accountable person—to put in place and maintain the golden thread. The clause also creates the power to make regulations to set out the information and documents that must be stored in the golden thread, and to set out standards that the golden thread must be held to. The independent review recommended that a golden thread be put in place for all buildings in scope of the regime.

We agree with that recommendation, recognising that it is critical to ensure that buildings are safe. Currently, there is a lack of information about buildings in the new more stringent regime. That lack of information makes it difficult to manage and maintain those buildings safely and to ensure that they are safe for those who live and work in them. We are also aware that, even if there is information, it is often not kept up to date, is not accurate or is not accessible.

The clause will ensure that the information is recorded and that it is accurate, kept up to date and accessible to those who need it. Having accurate, up-to-date information is critical to ensuring that buildings are managed safely. Clause 88 is vital to ensuring that all buildings in scope of the new, more stringent regime are safe and remain safe.

Mike Amesbury (Weaver Vale) (Lab): I welcome you to the Chair, Mrs Miller. I have one question for the Minister about the golden thread. How will it apply to buildings that are converted by permitted development and are in scope—that is, buildings of 18 metres and above or of seven storeys or more?

Eddie Hughes: Regardless of how buildings have ended up in scope—whether through permitted development rights or otherwise—they will be part of the regime. Therefore, the golden thread will apply. My understanding of permitted development rights, however, is that currently a permitted development right cannot convert to a building over 18 metres. Someone would have to apply for planning permission.

In the absence of further questions, this feels cheeky but speaking as someone who has managed buildings from construction to operation and seen documents handed over that are out of date, inconsistent or incomplete, I know that it is incredibly important to have that golden thread running through not only newly constructed buildings, but existing buildings. It will be invaluable to their safe management.

Question put and agreed to.

Clause 88 accordingly ordered to stand part of the Bill.

Clause 89

PROVISION OF INFORMATION ETC TO THE REGULATOR, RESIDENTS AND OTHER PERSONS

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

The Chair: With this it will be convenient to discuss clause 90 stand part.

Eddie Hughes: Clause 89 creates a power to make regulations to ensure that the information in the golden thread is shared with those who need it. This will help ensure that all buildings in scope of the more stringent regime are safe. It enables the Secretary of State to make regulations to require the people responsible for these buildings—the accountable persons—to share information with prescribed persons. Prescribed persons include the Building Safety Regulator, residents, other accountable persons in the building and owners of residential units within the building, among others.

Clause 89 enables the Secretary of State to make regulations to set out what information must be shared, when and how it must be shared and in what format. We know that it is currently difficult to access information about buildings in scope of the new, more stringent safety regime. Clause 89 will ensure that the appropriate information from the golden thread is shared with the people who need it. Having easily accessible information is critical to manage buildings safely, for residents to feel safe in their homes, for people to understand their responsibilities in keeping their home safe and for the Building Safety Regulator to be able to regulate effectively.

The independent review recommended that information on buildings should be available and that this would drive greater accountability throughout the system, which would support safer buildings. We agree with this recommendation, recognising that it is critical that information is available on buildings in scope of the more stringent regulatory regime. Clause 89 is vital to ensuring that information is available on these buildings.

Clause 90 requires the golden thread to be handed over whenever the person responsible for the building—the accountable person—changes. This applies to all occupied buildings in scope of the more stringent regime. The golden thread is the information that allows someone to understand a building and keep it safe, and the information management needed to ensure the information is accurate, easily understandable and up to date.

Clause 90 enables the Secretary of State to make regulations to set out what information is handed over, when and how the information is handed over, and in what format it needs to be. We know that currently there is a lack of information. This lack of information makes it difficult to manage and maintain buildings. The clause will ensure that the information is handed over and is not lost when the accountable person leaves their role. Regulations under this clause will ensure that the information is handed over in a timely and appropriate manner. The independent review recommended that a golden thread is put in place for all buildings in scope of the regime and that there are requirements to ensure the golden thread is handed over throughout the life cycle of the building. We agree with that recommendation, recognising that this is critical to ensuring that buildings are safe.

Question put and agreed to.

Clause 89 accordingly ordered to stand part of the Bill.

Clause 90 ordered to stand part of the Bill.

Clause 91

RESIDENTS' ENGAGEMENT STRATEGY

Mike Amesbury: I beg to move amendment 13, in clause 91, page 99, line 20, after "management" insert "and ownership structure".

This amendment would ensure that residents of buildings receive information about the ownership of a building.

The Chair: With this it will be convenient to discuss clause stand part and clause 92 stand part.

Mike Amesbury: The amendment would strengthen the provisions laid out in clauses 91 and 92 by bringing the ownership of the building, as well as its management, under their scope. This issue has been raised by residents and leaseholders going through that ping-pong of building safety remediation. The amendment would enhance transparency and, ultimately, the building safety regime. I know that a number of colleagues will want to interject and contribute to the broader debate about residents' engagement, drawing on my earlier comment on what makes a good residents' engagement strategy.

2.15 pm

Rachel Hopkins (Luton South) (Lab): It is a pleasure to speak in this important debate under your chairship, Mrs Miller. I thank my hon. Friend the Member for Weaver Vale for pointing out vital it is that we understand the ownership structure. For example, I have been having talks with leaseholders in Luton South who live in buildings with dangerous cladding.

Residents often do not have much time to investigate complex ownership structures because they have jobs to hold down. It is absolutely right, however, that they should know who owns their building and how they can follow that golden thread of ownership when there are issues. It is important that the proposed resident's engagement strategy hears their voices on every aspect that matters to them.

Constituents living in the Point Red building in Luton have told me of their difficulties in finding out where they need to go when issues become apparent, particularly given that the entity that built the property no longer exists. They have spent a lot of time trying to find out who now owns it, but that information has proved difficult to come by. Members on both sides of the House know how important our residents' voices are—we hear them loud and clear.

I fully support the amendment, but, at the same time, the voices of residents and leaseholders are equally important to the overall engagement strategy.

Eddie Hughes: I thank hon. Members for raising this important matter, but I am afraid that the Government are not able to accept the amendment. However, having listened to the hon. Member for Luton South speak, I now understand more fully the intended purpose of the amendment. Personally, I feel that the role of the accountable person fulfils the intention that she seeks.

As we have touched on, ownership of buildings can be complex. We need to be able to point to the person or entity that residents can go to if they have the kinds of concerns mentioned by the hon. Lady. The accountable person fulfils that purpose and will be a useful addition to the needs of her constituents. Our assessment is that this amendment would not deliver improved building safety protections for residents in high-rise buildings.

Clause 91 requires that the accountable person must prepare strategy "for promoting the participation" of residents in decision making about building safety and decisions relating to the management of the building or performance of the accountable person's duties. Inserting "ownership structure" in the clause would not require residents to be provided with information on the ownership of the building, but it would require an accountable person to include in their strategy ways to promote the participation of residents in decisions related to the building's ownership structure.

I assure hon. Members that their intention of ensuring that residents have information on and are able to hold to account those responsible for their safety has been met by the Bill. Information about accountable persons will, by virtue of clause 73, be publicly available on the register of higher-risk buildings, which will be published by the Building Safety Regulator.

In addition, clause 77 requires important details about the identity of those responsible for managing building safety to be displayed in a conspicuous position in the building by the principal accountable person. This will further ensure that residents have information about key people responsible for their buildings. Clause 90 provides that where there is a change in accountable persons, the regulator must be notified and residents given updated information about their accountable person through the notice displayed conspicuously in the building. This ensures that when there are changes to who is responsible for a building's safety, this is captured and residents will be informed. Therefore, I respectfully ask the hon. Member for Weaver Vale to withdraw the amendment.

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

Amendment, by leave, withdrawn.

Clauses 91 and 92 ordered to stand part of the Bill.

Clause 93

COMPLAINTS PROCEDURE OPERATED BY PRINCIPAL ACCOUNTABLE PERSON

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

The Chair: With this it will be convenient to discuss clause 94 stand part.

Eddie Hughes: The Government are committed to making sure that residents' safety concerns and views are never ignored by those responsible for managing the safety of their building. Residents need to be able to hold the accountable person to account when things go wrong, and be confident that prompt, effective action is taken. Clause 93 places an obligation on those responsible for managing a high-rise building to establish and operate an internal complaints process to handle and resolve residents' complaints about their building's safety. This process should be clear, quick and effective.

In buildings that are managed by multiple accountable persons, a single complaints system will be established. Each accountable person will be responsible for safety concerns raised by residents in the area of the building for which they are responsible. The complaints system will provide residents of all tenures and owners of residential units in high-rise buildings with a clear process to raise safety concerns, and with a right not to have those concerns ignored. Residents will be able to further escalate their concerns to the new Building Safety Regulator.

The independent review found that residents did not have a strong enough voice in matters about the safety of their homes, and that residents struggled to get their complaints addressed. The Bill addresses this by placing an obligation on those responsible for managing high-rise buildings to establish and operate an internal complaints system for residents to raise their safety concerns.

In addition to an internal complaints system, residents will be able to further escalate complaints relating to building safety to the new Building Safety Regulator. This will be available where the accountable person has not resolved the safety concerns. We intend that secondary legislation will set out how the complaints process will operate, and what subsequent action the regulator must consider in response. The new Building Safety Regulator will consult the residents panel before establishing its complaints system and, subsequently, before any significant change is made. The accountable persons' and Building Safety Regulator's complaints processes are vital in increasing transparency. Strengthening building safety complaints handling in high-rise buildings is critical to providing residents with a strong voice.

Mike Amesbury: I seek clarity on clause 93(2), which says:

"The Secretary of State may by regulations make provision about the establishment and operation of complaints systems under this section."

Should that be "will" rather than "may"?

The Chair: Can I check that no one else wants to speak? In that case, can I bring the Minister in to respond?

Eddie Hughes: You can, Mrs Miller, now that I have phoned a friend. I am delighted to inform the hon. Member for Weaver Vale that this is standard legal language. However, as we have set out, there will be an obligation on the Building Safety Regulator to provide that complaints process anyway, so that is mandated. It will also be mandated that accountable persons, or principal accountable persons, have a complaints process. Regardless of the semantics of the interpretation of that word, the hon. Gentleman can be assured that complaints processes will be in place for both those entities.

Question put and agreed to.

Clause 93 accordingly ordered to stand part of the Bill.

Clause 94 ordered to stand part of the Bill.

The Chair: We are going to have a vote in the Chamber shortly. We will start to consider the next clause, but I alert Members to the fact that when we have a vote, we will suspend the Committee for 15 minutes.

Clause 95

Duties on residents and owners

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

The Chair: With this it will be convenient to discuss clause 96 stand part.

Eddie Hughes: Clause 95 places three clear obligations on residents aged 16 years or over and on owners of residential units in high-rise buildings in relation to keeping their homes and buildings safe.

The first of those obligations requires all residents, irrespective of tenure, to not act or behave in a way that creates a significant risk of fire or structural failure in their building. Secondly, the clause requires residents and owners of residential units to refrain from interfering with safety items that form part of the common parts. By interfering, we mean damaging or removing the safety item or hindering its function without a reasonable excuse for doing so. Thirdly, residents will have to provide the accountable person with relevant information if it is reasonably required by the accountable person to fulfil their safety duties. We believe those obligations to be proportionate and reasonable.

Turning to clause 96, residents have an important part to play in keeping their building safe, and we know that the majority of people who live in high-rise buildings take their safety responsibilities seriously. As part of the new regulatory regime, our aim is to make sure that sufficient requirements, incentives and powers are in place to prevent and put right risks that are posed by behaviours that residents might engage in. The aim is for accountable persons to work with residents in the first instance, but with the ability to escalate issues to the county court where required. This will help to ensure the appropriate and effective assessment and management of building safety risks for all residents in high-rise buildings.

A contravention notice issued by the accountable person and served on a resident is a means to notify that resident of a breach of their obligations and give them the information they need to put it right. The notice will be issued only where it appears that a contravention has occurred. Where the breach involves interference with a safety item, a sum to either repair or replace that item—not exceeding a reasonable amount—may be requested from the resident.

We believe that to be a fair and proportionate approach, as the majority of residents will want to keep their home and building safe and will not interfere with safety items provided to help them do so. Getting this right is particularly important: it underpins the system of accountability for the accountable person responsible for mitigating fire and structural safety risks, as it provides a proportionate means to discharge their duties in relation to individual dwellings.

Ian Byrne (Liverpool, West Derby) (Lab): It is an honour to serve under your chairship, Mrs Miller.

If an accountable person is potentially utilising their position to bully a resident, what recourse does that resident have to challenge the notice, which may end up in eviction? What safeguards are in place for the resident? I find it concerning that this seems to be an awful lot of power. We have talked about imbalances of power on the Housing, Communities and Local Government Committee. My worry is that this is a further imbalance of power, so what recourse will residents have to challenge a notice that is served by the accountable person?

Eddie Hughes: There are two assurances that I can give: first, the natural line of escalation would not be to eviction. The purpose of clause 96 is simply for the accountable person to be able to discharge their duty and keep the building safe. The first line of action would be for the accountable person, if they thought that a resident had done something to affect a safety item in the building, to try to deal with that on a lower level. If it was not immediately possible to do so or if the safety risk was greater, they would have to move to the issuing of the notice.

2.30 pm

In terms of bullying, there is still a complaints process. I fully appreciate that the hon. Gentleman might ask how a resident could have faith in the system when they would be complaining to the accountable person. The reason is that the Building Safety Regulator now sits as a tier above the system. If someone was not happy—if, for the sake of argument, an inappropriate notice was issued, or the resident felt that that was the case—they would be able to make a complaint to the accountable person's complaint process in the first instance, and subsequently to the Building Safety Regulator. The fact that the Building Safety Regulator sits above all this, and is distinct and completely separate from the accountable person, should offer the reassurance that the hon. Gentleman mentions. I completely understand the point that he is making, because any prospect of the system being used in such a punitive way would be inappropriate.

Question put and agreed to.

Clause 95 accordingly ordered to stand part of the Bill.

Clause 96 ordered to stand part of the Bill.

Clause 97

Access to premises

Eddie Hughes: I beg to move amendment 56, in clause 97, page 104, line 40, after "premises" insert "who is aged 16 or over".

This amendment provides that requests to residents to enter premises made under this clause may only be made to residents who are aged 16 or over.

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

Eddie Hughes: Amendment 56 is minor and technical. It will ensure that a request for access by the accountable person can be made only to a resident aged 16 or over. The age of 16 is used, as opposed to 18, because it is the youngest age at which a resident may be granted a tenancy. The amendment will bring clause 97 in line with clause 95, where duties on residents and owners apply only to those aged 16 and over, and I commend it to the Committee.

The purpose of clause 97 is to provide the person responsible for managing building safety in high-rise buildings—the accountable person—with a means by which they can access premises in the building. The Government are committed to ensuring that residents, their homes and their buildings remain safe from fire and structural risks. Clause 97 will enable accountable persons responsible for managing safety in high-rise buildings to carry out their duties effectively, minimising the risk of fire or structural safety risk.

The clause is closely linked to clause 95, which deals with duties on residents and owners. Residents aged 16 and over and owners of residential units are required to comply with the three duties. The duties require all residents, irrespective of tenure, not to act in a way or behave in a manner that creates a significant risk of fire or structural failure in the building; to refrain from interfering with safety items that form part of the common area; and to comply with a request made by the accountable person for information reasonably required to carry out their duties.

The accountable person can request access to premises only to assess or manage building safety risks or to determine whether a resident has breached their duties. To be enforceable, a request by the accountable person must be made in writing, with at least 48 hours' notice, explaining why access is required and giving a reasonable time for when access to the premises is intended. If the resident refuses access, the accountable person can apply to the county court for an order requiring the resident to give access and, if necessary, allowing the accountable person to gather necessary information, such as by taking photographs or measurements.

Amendment 56 agreed to.

Clause 97, as amended, ordered to stand part of the Bill.

Clause 98

Duty on regulator to enforce Part

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

The Chair: With this it will be convenient to discuss clauses 99 to 101 stand part.

Eddie Hughes: Clause 98 places a statutory duty on the Building Safety Regulator to enforce the provisions of part 4. As per the clauses we have already discussed, part 4 is concerned with occupied buildings. Among other things, it defines a building safety risk and it defines and places duties on the accountable person in relation to risks in their building, including duties regarding resident engagement.

Alongside clause 4, part 4 also makes it clear that the Building Safety Regulator will be the responsible regulator for the higher-risk building regime during occupation. The reason for placing the duty to enforce breaches of that regime in the Bill is, I hope, self-explanatory. It cements the position in law of the new Building Safety Regulator.

Clause 99 introduces a power for the Building Safety Regulator to ensure compliance with the new regime where a higher-risk building is occupied, through the use of compliance notices. The new regime imposes a range of new requirements for the management of higher-risk buildings, particularly on the new position of the accountable person. The accountable person has a significant role in ensuring that residents are kept informed with important building safety information and, most importantly, kept safe in their homes.

These compliance notices will provide the Building Safety Regulator with effective tools to enforce the relevant part 4 requirements where contraventions have occurred or are likely to occur, and will be available as urgent action notices with shorter deadlines where people in or around a building are at risk of imminent danger, where immediate action is required.

The use of compliance notices will also afford accountable persons the opportunity for correction before formal prosecution action. Nevertheless, the possibility of a custodial sentence upon conviction for breaching a compliance notice is designed to incentivise the accountable person to comply with their requirements and will further support the Building Safety Regulator to ensure that duties under part 4 of the Bill are being met.

The provision complements clause 37, which makes provision for the use of compliance and stop notices during the design and construction of a building, although there is no provision for stop notices in clause 99. Together, the clauses ensure building control authorities will have consistent enforcement tools available to them during the entire lifecycle of a building.

The compliance and enforcement measures in the Bill are appropriately tough. It is not enough that there is an accountable person for a building; the new regulator must be certain that the accountable person is carrying out their duties and responsibilities as they should, in line with the regime. The design of the new regime and the related requirements in part 4 of the Bill are only part of how we are making buildings safer. The most perfect regime could be created, but without oversight and enforcement, it would completely fail to function.

Clause 100 allows the Secretary of State to make regulations where necessary to ensure that compliance notices issued to accountable persons are as effective as possible. Examples of matters that the Secretary of State can make regulations about include the form and content of notices, or the amendment or withdrawal of notices. The provision allows for amendments where different regulatory bodies may need to be informed of compliance notices, where the period for compliance may need to be extended or where any other change is deemed necessary.

The flexibility the new regulations afford will allow the Building Safety Regulator to issue compliance notices that directly respond to the contemporary needs of the industry. The requirement on the Building Safety Regulator to inform relevant bodies where compliance notices have been issued will be important in ensuring that buildings of concern are on the radar of the relevant authorities. That will align regulatory action across those bodies to avoid the overlap of enforcement action and ensure that each regulatory body is taking appropriate action within its jurisdiction to enforce compliance.

Moving on to clause 101, more than four years ago the Grenfell Tower fire made clear to all of us the consequences that can occur when building safety requirements are not complied with. We have discussed in respect of previous clauses in this part why the Bill creates the new position of the accountable person to deliver safety for residents and others in and around higher-risk buildings. We have also discussed the various duties that this part of the Bill imposes on accountable persons and the provisions of the previous couple of clauses for enforcing those duties by means of compliance notices.

This clause underpins the new regulatory regime for occupied higher-risk buildings, reflecting the potential gravity and consequences of not adhering to the part 4 duties. It makes it abundantly clear that, where any of the duties are breached and have the potential to cause death or serious injury to those in or around the building, the Building Safety Regulator will not have to go through the compliance notice process but will be able to prosecute an accountable person straightaway.

That is in line with the enforcement principles that we set out in our consultation document in 2019 and in the Health and Safety Executive's published enforcement principles—*[Interruption.]* I give way to the hon. Member for Liverpool, West Derby.

Ian Byrne: I have a simple question: what would have happened to who, if that was applied to Grenfell? That is the first part of the question. The second part is whether a two-year sentence is sufficient if we look at the context of Grenfell.

Eddie Hughes: There are two things I would say. First, I do not think it would be appropriate for me to comment regarding Grenfell, not least because, as somebody who listens to the BBC podcast every week to follow the proceedings, we are still a long way from the conclusion and completely understanding what went wrong and what the consequences of that were to be. It would be inappropriate for me to comment—*[Interruption.]* If the hon. Gentleman will let me answer his second point before he comes back with a third, that would be very helpful.

Regarding compliance with these notices, the total purpose of the Bill is to intervene at the earliest possible opportunity. I fully appreciate that the hon. Gentleman would say, because of the parallels he is drawing with Grenfell Tower, that two years does not seem an appropriate sentence, but, given that we are talking about intervening before things have gone wrong—somebody identifying a problem, seeing that an accountable person has not addressed it appropriately and therefore taking action at that point—I think two years is an appropriate sentence.

The Chair: Just for clarification, if people wish to intervene on the Minister, it is for the Minister and not the Chair to agree to that intervention. I take it from the Minister's sedentary position that he was giving way to Ian Byrne.

Ian Byrne: Thank you, Chair, for your patience in bringing us through this process, because some of us are new to this.

The Chair: No problem at all.

Eddie Hughes: Me too.

Ian Byrne: I am not specifically asking about Grenfell per se, but an example like Grenfell that could happen again. That is what I am trying to draw out: is two years sufficient, and would the legislation target the people who would potentially be responsible for another Grenfell?

Eddie Hughes: The entire purpose of the clause, as I say, is to avoid our ever ending up in a position where we have another Grenfell. Therefore, the idea that the accountable person now completely understands their responsibility, and that that is set out in legislation, is increasing in and of itself the focus on safety within the sector. We are seeking to prevent any occurrences by focusing minds and ensuring that even in this new, stricter regime, if people are still prepared to be reckless

[Eddie Hughes]

and ignore the legislation, a custodial sentence can, and hopefully in certain circumstances will, follow. I completely understand the point that the hon. Gentleman makes.

That is in line with the enforcement principles that we set out in our 2019 consultation document, and in the Health and Safety Executive's published enforcement principles. Those documents set out that minor infringements will normally attract informal action, which will be escalated as necessary. More serious breaches will probably attract more formal action, such as compliance notices. The most serious breaches envisaged by the clause will normally attract immediate prosecution. An offence can carry a maximum penalty of an unlimited fine and/or 12 months' imprisonment if tried in a magistrates court, and an unlimited fine and/or two years' imprisonment if tried in a Crown court. Either court may also issue a level 1 fine of £200 for each day the default continues after conviction.

The measures will help to ensure compliance with our new regime, and they reflect our strong stance on breaches and enforcement.

Mike Amesbury: What assessment have the Minister and his Department made of the effectiveness of section 21 notices under the Health and Safety at Work etc. Act 1974?

Eddie Hughes: In all honesty, I am not sure of the answer to that question. However, I would be reassured by the fact that the Building Safety Regulator, in its shadow form—*[Interruption.]*

2.46 pm

Committee suspended for a Division in the House.

3.1 pm

On resuming—

Eddie Hughes: I offer the hon. Member for Weaver Vale the assurance that section 21 notices—and whatever else he thinks should be considered as part of this process—will be considered, because the Building Safety Regulator sits within the health executive, and all the knowledge on that subject sits in that department.

Question put and agreed to.

Clause 98 accordingly ordered to stand part of the Bill.

Clauses 99 to 101 ordered to stand part of the Bill.

Clause 102

NOTIFICATION BY REGULATOR BEFORE APPLYING FOR SPECIAL MEASURES ORDER

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

The Chair: With this it will be convenient to discuss clauses 103 to 105 stand part.

Eddie Hughes: The vast majority of accountable persons will meet their new duties under the more stringent building safety regime, but a small number may still fail to comply. The clause establishes the procedural steps that the Building Safety Regulator must take to put a failing building into special measures.

The Building Safety Regulator must notify persons of its intention to apply to the first-tier tribunal for the appointment of a special measures manager who will carry out functions in place of the accountable person. The clause details the persons who should be notified and sets out the information that needs to be provided, which must include the rationale for the special measures proposal. The persons who must be notified include every resident of the building over 16 years old, the fire and rescue authority for the area, and every accountable person for the building, among a number of others.

The Building Safety Regulator must make it clear how a person can make comments and observations about the special measures proposal. That ensures that those who may be affected are consulted and can make representations. Requiring that the rationale for the special measures proposal is contained within the notification gives the residents and those other interested parties clarity on why the notification is being issued.

The Building Safety Regulator must comply with the procedural requirements of clause 102 before making an application for a special measures order. Once the decision is made to make an application to the tribunal, a final notice needs to be given to those persons, detailing the rationale for that decision. The proposed terms of the special measures order must be included in the final notification if the Building Safety Regulator decides to apply to put the building into special measures. Clause 102 enables the Secretary of State to make regulations about the form of notices and the way in which they need to be given. It establishes a key procedural aspect of special measures, and is necessary so that affected parties have the opportunity to make comment and provide representations about the management of their building

The clause builds on that, giving the first-tier tribunal the necessary powers to make a special measures order. Special measures is a last resort intervention. In the majority of circumstances the Building Safety Regulator will be able to take other enforcement measures to direct compliance with the new regime. However, where that fails, the Building Safety Regulator may need to step in and appoint a special measures manager to take over the fire and structural safety management of the building to ensure safety for the residents. The clause sets out the grounds that the tribunal must have agreed to be met when making an order: there must have been a serious failure, or a failure on two or more occasions by the accountable person to comply with a duty or duties under part 4 of the Bill. Those are the same grounds that the Building Safety Regulator must consider when making its application to the tribunal.

The order will set out the functions of the special measures manager, which will have been proposed by the Building Safety Regulator in its application for the order. This will effectively "switch off" the fire and structural safety obligations in part 4 of the Bill of the recalcitrant accountable person. The clause ensures that the tribunal can bestow receivership functions on the special measures manager, allowing them to collect the building safety charge directly from leaseholders, so that the manager can fund the functions that they have been tasked with undertaking.

A special measures order can make provisions covering any matter relating to the special measures manager's exercise of their functions, and any incidental or ancillary matter. That will be vital to ensure that the

special measures manager can carry out their role. The special measures order continues in force until it is discharged. I will speak about the discharging of an order in more detail later.

An example of when a special measures order might be necessary is if an accountable person repeatedly fails to meet the statutory obligations under part 4 of the Bill. Yet if, after using the compliance and enforcement tools at its disposal, the Building Safety Regulator is still of the opinion that the safety of residents is at risk, they apply to the first-tier tribunal for an order to appoint a special measures manager. The special measures order would detail the identity of the special measures manager, the scheme and terms of management, including the specific functions that the special measures manager would be undertaking to make sure that obligations under part 4 of the Bill are met. In making such an order, the first-tier tribunal specifies that the special measures manager has the functions of a receiver of the building safety charge to pay for their own renumeration and functions in relation to undertaking their safety obligations. This clause provides for a hugely important failsafe for when the safety of residents is at risk.

Clause 104 supplements clause 103 in that it sets out further detail about special measures orders. It ensures that a special measures manager takes over the functions of the accountable person for the building as provided for under part 4 of the Bill. However, there are some exceptions to this in order to allow the accountable person to retain the right of appeal, or to make an application, to the first-tier tribunal. Furthermore, once the building is put into special measures, any requirements of a previously issued compliance notice are cancelled. But enforcement action can be continued by the Building Safety Regulator. Once a special measures order is made, the role of the building safety manager ceases and any appointment ends. A special measures manager is solely responsible for managing the fire and structural safety of the building until the order is discharged by the tribunal. My apologies; I thought that I had got to the end of this group of clauses, but I certainly have not.

Clause 105 enables the special measures manager to take over relevant fire and structural safety contracts that may be in place for the building, effectively stepping into the shoes of the accountable person. That ensures that the special measures manager can carry out their functions as set out in the order. The circumstances that led to the appointment of a special measures manager are likely to be so dire that any competent manager would want to replace contractors. There may also be the outstanding provision of works and services, or a breach of contract by a supplier of shoddy workmanship. The clause gives the special measures manager the legal remit to pursue those types of actions under contract.

In pursuing such claims the special measures manager may be liable to pay damages incurred for the actions of the accountable person or building safety manager prior to their appointment. If that happens, those persons will be liable to reimburse the special measures manager. That type of provision is common in receivership, where one party has to step in to take over the management arrangements to help a failing company, and it is necessary here to ensure that the special measures manager can carry out their job effectively. As with other such clauses pertaining to the remit of the special measures manager, our aim is to give them the requisite and necessary ability to effectively carry out their role. In such cases as the example relating to shoddy workmanship and replacement contractors, the special measures manager needs the remit to be able to take a hands-on approach in those issues.

Ian Byrne: Where would the special measures managers come from?

Eddie Hughes: The functions that will be performed by the special measures manager will be the same or similar to those of an accountable person. As we have discussed on previous clauses, an accountable person could be a single person or an organisation, as in the case of a council or a housing association, so it would depend on the circumstances pertaining to the building in question. It might be that that person is simply an individual who has the competence and experience to discharge the role, or it might be that an organisation is brought in and the competences and experience are spread across several people.

Rachel Hopkins: Most of us have heard special measures mentioned in relation to schools and Ofsted, or where the Care Quality Commission has to intervene in health services. There is an element of public good, so when people can move around and come across from other parts of the system to become a special measures manager, so to speak, it is still after that same aim of public good. Given that many buildings that may be affected by this are in the private sector and by dint of that naturally competitive, does the Minister not see that there could be a potential conflict of interest sometimes, and how would he look to remedy that?

Eddie Hughes: I am not sure that the "special measures" description or title translates equivalently from the examples that the hon. Lady gave to this particular example. What we are talking about, and hopefully an incredibly rare occurrence, will be a significant failure on the part of the accountable person to discharge their duties, thereby putting the safety of residents at risk, so, regardless of who comes in to perform that duty, the main function and purpose of the clause in allowing this to happen is to ensure that the safety of residents is maintained, and that an appropriate person or entity with the appropriate skills, qualifications and experience takes over those duties to ensure a smooth transition.

Rachel Hopkins: I understand that the absolute objective is about safety, but what I was trying to get at is that with schools there is a very like-by-like aim of education. It may be that someone moves across, where functions have failed, to take on that role, but they could be, in the private sector, competing. They may not want to come across, so that we cannot find anyone to take it on because they are a rival building provider; or it may be that it is an assertive move to say, "We will rectify this but take it on." How would the Minister keep the safety element for residents despite private businesses' potentially using this as a mechanism to secure a greater place in the market?

3.15 pm

Eddie Hughes: I refer again to the overarching responsibility of the Building Safety Regulator. That is the ultimate entity to which these people will be responsible.

[Eddie Hughes]

The Building Safety Regulator will have complete oversight, will understand and will be there to validate that the special measures manager is appropriate for the job.

With regard to the market for this, we now have so much more focus on building safety in this country and there has been an appropriate, commensurate growth in the services provided by some big providers, who understand the demand and need for this service provision. So I do not think we need to feel anything other than assured that there will be a smooth transition.

Shaun Bailey (West Bromwich West) (Con): It is a pleasure to serve under your chairmanship again, Mrs Miller. Just to expand on the response that my hon. Friend gave, does he agree that with the preceding clauses we have created a building safety sector and profession that will ultimately have their own professional regulatory obligations? If someone is going in as a professional within that sector, is it really worth their certification or their job to put profit before the duties they have to their profession? It is no different—to use my experience as a lawyer, for example—from a solicitor going in with their overarching professional regulatory obligations and then trying, for some reason of malfeasance, to undercut that. Does the Minister agree that we have to look at the overarching professional obligations that these people will have?

Eddie Hughes: I completely agree with my hon. Friend's point. What we have seen through the development of this Bill is that specific people will now be accountable for very specific functions: the accountable person, the building safety manager and, in the case of the building safety manager, a specific person identified with that responsibility. Now that there is a clear line of sight to who is ultimately to be held accountable, I think we will see increased professionalisation and the sector responding to that, in terms of developing the professional capacity of the people involved.

Mike Amesbury: I thank the Minister for his description of the new regime under the clauses. I do not know whether he remembers Mr Benn—he probably does—who could be something different every day, or several different things in one day. This reminds me of that, with the principal accountable person, the accountable person, the responsible person, the building safety manager and the special measures manager. Certainly, in a lot of cases, they will be one and the same thing if they have the competency, knowledge, experience and so on to do that. What would be incredibly helpful going forward—for us all, collectively—would be some kind of diagram. I know the Minister referred to things becoming clearer now in regard to accountability. I am not convinced that they are. That is not meant as a criticism, but I would find a diagram incredibly helpful.

I worry also that we are having almost a first and second-class approach to building safety. Again, I go back to the point about 18 metres or seven storeys. This whole regime, this whole professionalisation, that hon. Members have referred to is for the higher-risk buildings. There are still risky buildings from 11 metres up to 18 metres —below the seven storeys—that do not have this regime.

Eddie Hughes: I think the hon. Gentleman makes a point that may have passed me by. Because I started off as a civil engineer and have worked in construction all my life, I was excited by the prospect of serving on this Bill Committee. I am immersed in the detail and so it all makes sense in my head. But the hon. Gentleman makes a very important point: it is just not enough that it makes sense to people who are technically engaged in it; it is meant to make sense to residents as well. When we talk about the engagement strategy and the approach that is taken to working with tenants and residents, we need to ensure that they have a clear understanding of who is responsible for what and to whom they need to apply, depending on what their grievance might be, so it is a very fair point to make.

With regard to the Mr Benn element, I fully appreciate that that is possible for some people. It is possible for an accountable person to discharge the duties of the building safety manager if they have appropriate competencies, so it could be one and the same person. Perhaps some sort of diagrammatic explanation of how these things work would be appropriate.

Question put and agreed to.

Clause 102 accordingly ordered to stand part of the Bill

Clauses 103 to 105 ordered to stand part of the Bill.

Clause 106

Application by special measures manager for order under section 24 of Landlord and Tenant Act 1987

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

The Chair: With this it will be convenient to discuss clauses 107 and 108 stand part.

Eddie Hughes: Clause 106 amends the Landlord and Tenant Act 1987 to enable a special measures manager to make an application to the first-tier tribunal for the appointment of a manager under section 24 of the Act. That will ensure that the special measures provisions of the Bill operate effectively with the existing landlord and tenant legislation for occupied higher-risk buildings.

Section 24 of the Act enables tenants to apply for a manager to take over the management of a building where the landlord is failing to manage the building properly. When a building is in special measures, we want to give the special measures manager the same right to ensure that they can replace any incompetent or unco-operative manager. The clause sets out the procedural steps that the special measures manager must take, by amending section 24 of the Act, including notifying persons such as the landlords, the tenants and the accountable person.

The clause also specifies the circumstances in which an application by the special measures manager can be made: the current landlord or manager must be in breach of an obligation owed to the special measures manager, detailed in the special measures order; and it must be just and convenient to do so. The tribunal can also make the order where there is no breach but it is satisfied that such other circumstances exist that it is just and convenient for an order for a manager to be made.

Without the clause, the special measures manager may be compromised and unable to carry out the functions as per the special measures order. The special measures manager needs to be able to work constructively with those involved in the management of the building to ensure that the building safety risks are adequately mitigated, which the clause is an important aspect of.

Clause 107 gives the first-tier tribunal the necessary power to amend an existing order to appoint a manager for a building made under section 24 of the 1987 Act. It ensures that the special measures provision of the Bill operates effectively with the existing landlord and tenant legislation for occupied higher-risk buildings. Section 24 of the Act gives certain leaseholders a right to apply for the appointment of a manager in a number of circumstances, such as when the landlord has breached their obligation under the lease. If a building is put into special measures and there is an existing section 24 manager, the tribunal may need to amend the order to ensure that the manager's functions do not overlap with those of the special measures manager.

The clause also limits the section 24 order when a special measures order is in force for the building. A section 24 order may not provide for those fire and structural safety functions detailed in the special measures order. For example, a circumstance may arise where an accountable person has repeatedly failed to fulfil their duties under part 4 of the Bill. The Building Safety Regulator would then apply to the first-tier tribunal to appoint a special measures manager for the building. Proper management of a building and its safety risks is pivotal to the safety of the residents who occupy it. This provision ensures clarity and certainty with regard to the management of the building, and avoids confusion with regard to the responsibilities and duties between the respective managers.

Clause 108 is non-controversial and wholly procedural, and complements the provision of clause 103. It gives the first-tier tribunal the necessary power to provide directions to the special measures manager, or any other such person, to carry out actions to ensure that the special measures order is complied with. The direction would be given as a result of an application for such by the Building Safety Regulator, an accountable person or the special measures manager.

An application can be made in respect of any function relating to the exercise of the special measures manager's functions and any incidental or ancillary matter. An example of this might include directing the special measures manager to arrange building insurance upon application by the Building Safety Regulator after it discovers that the building is uninsured.

The provision is important to ensure that the first-tier tribunal has adequate jurisdiction in relation to the special measures regime. It is also important for the safety and proper management of a building. As with the previous example, the lack of insurance on a building would be a serious failing that would need remedying expediently. The tribunal should rightly be able to direct the special measures manager to rectify such an issue.

Question put and agreed to.

Clause 106 accordingly ordered to stand part of the Bill.

Clauses 107 and 108 ordered to stand part of the Bill.

Clause 109

NOTIFICATION BY REGULATOR BEFORE APPLYING TO VARY SPECIAL MEASURES ORDER

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

The Chair: With this will it be convenient to discuss clauses 110 and 111 stand part.

Eddie Hughes: Clause 109 establishes the procedural steps that the Building Safety Regulator must take if it wishes to vary a special measures order that is in force on a building. The clause should be read in conjunction with clause 110, which provides more detail on variation or discharge of a special measures order.

The Building Safety Regulator must notify persons of its intention to apply to the first-tier tribunal for the variation of a special measures order. Clause 109 details the persons who should be notified and sets out the information that needs to be provided, which must include the rationale for the proposed variation to the special measures order. The Building Safety Regulator must make it clear how a person can make comments and observations about the variation. This ensures that those who may be affected by the changes to the management arrangements are consulted and can make representations.

The Building Safety Regulator must comply with the procedural requirements of clause 109 before making an application for a variation to a special measures order under clause 110. Once the decision is made to make an application to the tribunal for the variation of the order, a final notice needs to be given to those persons consulted, detailing the rationale for the decision. The proposed terms of the revised special measures order must be included in the final notification by the Building Safety Regulator if it decides to apply for the variation. Finally, clause 109 enables the Secretary of State to make regulations about the form of notices and the way in which these need to be given.

Clause 110 gives the first-tier tribunal the necessary powers to vary a special measures order. While the building is in special measures, circumstances may change and it may become necessary to change the functions of the special measures manager. Those who are responsible for the building should be able to vary the special measures order to ensure that it remains fit for purpose. The clause enables that and gives the first-tier tribunal the necessary remit to do so. Furthermore, the special measures manager may have fulfilled the functions that it has been appointed to carry out, and the building needs to be handed back to the accountable person. In this case, it would be necessary to discharge the special measures order, and clause 110 gives the tribunal the necessary powers to do so.

On application by the accountable person, special measures manager or Building Safety Regulator for a variation or discharge of the special measures order, the tribunal will normally be required to consider whether, in so doing, there is a likelihood of recurrence of the circumstances that led to the special measures order in the first place, and whether it is just and convenient in the circumstances.

3.30 pm

The clause limits how a variation to the identity of the special measures manager can be effected. Only the Building Safety Regulator can do that, unless there is an agreement between the Building Safety Regulator, the accountable persons and the special measures manager.

Clause 110 gives a power to the first-tier tribunal to give directions to any person in respect of any matter relating to the variation or discharge of the order and any incidental or ancillary matter, which is necessary to ensure that the fire and structural safety management operates effectively on the ground following any changes made.

Clause 111 supplements both clauses 103 and 110, in that it provides that the Building Safety Regulator must notify persons about special measures orders. It ensures that those who have an interest in the fire and structural safety management of a building are informed of the making of a special measures order or any variation or discharge of an order. That ensures they are aware of the actions being taken by the Building Safety Regulator and the first-tier tribunal's consequent decision.

Residents would want to know if an order is made by the tribunal to appoint a special measures manager—for example, if the Building Safety Regulator deems that a building should be placed in special measures and successfully applies to the first-tier tribunal for a special measures order appointing a special measures manager, the regulator must notify each accountable person in the building. As set out in subsection (3), it must also notify the building safety manager and a number of other people, including all tenants of the building aged 16 or over. The contents of such a notification would likely be a straightforward notice detailing that the court has made, varied or discharged a special measures order.

Moreover, clause 111(5) gives a power to the Secretary of State to amend by way of regulation the list of notifiable persons, which will mean that the right persons are notifiable in the future if changes are made to the new building safety regime. The clause is a key aspect of making the fire and safety management of a building more transparent and accessible.

Shaun Bailey: Speaking to what my hon. Friend has said, I appreciate that we are dealing with a very technical clause, but it is important that we have the opportunity to be as flexible as we need to be and enable variations to take place, because quite often in these circumstances orders can need to be varied. Although this is a very technical clause, it allows us to have the flexibility and fluidity we need in the special measures procedure. The one thing right hon. and hon. Members would not want to do with these technical provisions is to pin ourselves into any sort of corner, so we need the tribunal to have the ability to vary orders.

We also need to ensure that there is still an engagement piece as part of that variation, which is equally important. As we found earlier in our deliberations, it is a technical process and can seem quite disconnected, so it is important that there is a flow of information to key and vital stakeholders.

I welcome the provisions. It is absolutely important that we enable that fluidity, combined with communication, to complement the regulatory framework that the legislation will build.

Eddie Hughes: My hon. Friend has got to the heart of the technicality of the clauses, given that they need to be able to apply in multiple circumstances. If we were too prescriptive and there was no opportunity for flex in the system, it would be difficult for the clauses to apply to all the circumstances for which they may be necessary. On his second point about the flow of communication, it is of course expected that if a special measures order has been made on a building, a resident should be notified and made aware of the circumstances surrounding it. He is absolutely right on both points.

Question put and agreed to.

Question 109 accordingly ordered to stand part of the Bill.

Clauses 110 and 111 ordered to stand part of the Bill.

Clause 112

APPEALS AGAINST COMPLIANCE NOTICE ETC

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

The Chair: With this it will be convenient to discuss clauses 113 to 116 stand part.

Eddie Hughes: Clause 112 sets out a right of appeal for accountable persons who have been served with a compliance notice. It makes clear that an appeal of a normal compliance notice will suspend its effect. An appeal of an urgent action notice will not suspend its effect, however. That appropriately reflects the gravity of issues giving rise to an urgent action notice, including imminent danger to people in or around a building.

The provision will enable the Building Safety Regulator and accountable persons to take the necessary steps to ensure that residents are kept safe at all times. Where individuals dispute the continued effect of an urgent action notice, they may apply to the first-tier tribunal for suspension, pending resolution of the appeal. The provision ultimately allows for a degree of flexibility where compliance notices are issued. That enables the Building Safety Regulator to be as proportionate as possible when taking enforcement action against non-compliant work.

Clause 113 creates routes of appeal for decisions concerning the registration and certification of higher-risk buildings. It also establishes a route of appeal where the regulator has given a direction to carry out an assessment of building safety risks. Those are significant decisions with wide impacts on costs and business operations. Where decisions are disputed, it is right and proportionate that there should be a statutory right of appeal.

That is why the clause sets out for part 4 of the Bill what can be appealed, who can lodge the appeal and on what grounds. The Building Safety Regulator may have declined to issue a building assessment certificate for a higher-risk building due to non-compliance with the duties specified in clause 75, for example. In this instance, if the accountable person considered the decision unreasonable, or erroneous on a point of fact, they could appeal to the tribunal. The clause reflects established procedures for access to civil justice.

Clause 114 provides future-proofing for the Government. It will allow the Secretary of State to create, through regulations, routes of appeal for decisions that the regulator makes for higher-risk buildings. The new building

safety regime will require time to bed into the built environment. Ministers may want to alter or add requirements in regulations as the regime settles in over future years.

The clause provides a degree of flexibility so that where the Secretary of State creates new regulations, there is also a corresponding route of appeal for those directly affected. As such, the regulatory system can adapt to regulatory needs in the future. A decision by the regulator to treat an application for registration of a building as withdrawn will be in regulations under clause 73(5), and there may need to be a right of appeal against such a decision, for example. The clause relates to part 4 only, and also provides that regulations may prescribe who can make the appeal and on what grounds.

Clause 115 relates to appeals to the tribunal regarding decisions made by the regulator under part 4. It provides supplementary detail on what the tribunal can do on determining an appeal, and what evidence can be heard at an appeal. The clause also creates a provision so that the Secretary of State can, in regulations, stipulate what happens in the event of a specific appeal, including whether the appeal should suspend the effect of the regulator's decision. For example, the regulator may decide to remove a higher-risk building from the register. On appeal, regulations may specify that the building remains on the register until the appeal decision is reached. Other decisions may not be suitable for a suspensive effect, and the clause allows the Secretary of State flexibility in that regard.

The first-tier tribunal has been given a significant role in underpinning not only the new building safety regime but the existing regime under the Building Act 1984, as the new chamber for nearly all building-related disputes in England. However, as the tribunals do not currently hold powers to enforce their decisions, apart from ordering the payment of sums, this provision enables the enforcement of tribunal decisions with the permission of and through the county courts. It follows existing practice, as it is usual to insert a provision in legislation to enable the county court to enforce tribunal decisions. As such, the clause ensures that the tribunals are able to sufficiently deliver on building safety-related disputes, and thereby support the effective functioning of the building safety regime for both building control authorities and service users.

Question put and agreed to.

Clause 112 accordingly ordered to stand part of the Bill.

Clauses 113 to 116 ordered to stand part of the Bill.

Clause 117

Guidance

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

Eddie Hughes: Clause 117 sets out in one place the key powers of the Building Safety Regulator to issue guidance with statutory force on its functions under part 4, and the constraints on it doing so. If Members wish me to go into detail on any of the specific powers to issue guidance, I am happy to do so, but given that we have already discussed each of the clauses about which guidance may be issued, I do not propose to detain the Committee further.

I should point out that subsections (1), (2) and (5) enable the regulator to issue, withdraw or amend guidance, but only with the consent of the Secretary of State. Subsection (3) makes similar provision to that in the Building Act on the approved documents. That means that compliance with the guidance can be relied upon in court or tribunal proceedings as tending to establish compliance with the provision to which the guidance relates, while not following the guidance will tend to establish non-compliance with the relevant provision.

Question put and agreed to.

Clause 117 accordingly ordered to stand part of the Bill.

Clause 118

Cooperation and coordination

Mike Amesbury: I beg to move amendment 40, in clause 118, page 118, line 39, at end insert—

"(5) In the event that one or more accountable person or responsible person considers that another accountable person or responsible person is in breach of any requirement or duty imposed by this section then that dispute shall be determined in accordance with such arrangements as the Secretary of State may direct by order.

(6) For the purposes of subsection (5), a 'breach' includes—

(a) any failure to act on the duties imposed by this section; and

(b) any dispute about the extent of steps taken, or said to be required, pursuant to the duties imposed by this section."

This amendment would require the Secretary of State to arrange a resolution in a dispute between accountable or responsible persons.

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

Mike Amesbury: This is a simple amendment, the reason for which has arisen in the oral and written evidence given by housing lawyer Justin Bates, which addresses what happens when the duty to co-operate between two accountable persons, where the accountable person is not the same as the responsible person, reaches an impasse. Our proposed solution is simply that the Secretary of State would arrange a resolution in a dispute between accountable and responsible persons—something that is currently missing from clause 118.

3.45 pm

Eddie Hughes: I thank the hon. Member for raising this important matter. The amendment would give the Secretary of State the power to make arrangements by order to resolve disputes between accountable persons, or between accountable and responsible persons, in relation to the co-operation duties provided for in clause 118. Our assessment is that the amendment would not achieve the intended effect of formally resolving such disputes more than would be achieved through the provisions already in the Bill. The amendment would therefore not deliver improved building safety.

I must point out that the policy of the Office of the Parliamentary Counsel sets out that an order made by the Secretary of State would no longer be the suitable way to deliver the outcome sought by the hon. Member's

[Eddie Hughes]

amendment; rather, it should be done by regulations. I must also point out that the primary objective of the Bill is to ensure that building safety duties, including duties to co-operate, are delivered through the robust regulatory powers that we are creating. Where a lack of co-operation will have, or is likely to have, a negative impact on building safety, we are confident that there are already sufficient provisions in the Bill to deal with that.

The hon. Member's amendment would require the Secretary of State to create a further mechanism to deal with disputes regarding failures to co-ordinate and co-operate. This would not only undermine the power of the regulatory functions upon which we will rely, but might have the unintended effect of adversely impacting on building safety, through delays caused by adding another layer to the regulatory and enforcement functions that we are already providing for. I must therefore tell the hon. Member that the Government cannot accept the amendment. While we consider the policy intent of his amendment to be sound, I would like to assure him that we believe it is addressed elsewhere.

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

Amendment, by leave, withdrawn.

Clause 118 ordered to stand part of the Bill.

Clause 119

MANAGERS APPOINTED UNDER PART 2 OF THE LANDLORD AND TENANT ACT 1987

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

Eddie Hughes: We recognise the need to ensure that the building safety regime is compatible with existing legislation and provides clarity as to the avenues of redress for any breaches of building safety obligations. Clause 119 makes amendments to section 24 of the Landlord and Tenant Act 1987 to ensure that the new building safety obligations, as set out by the Bill, are kept separate from other general management functions for buildings.

The clause makes amendments that provide that a tribunal cannot appoint a manager under section 24 where the breach of obligations complained of by a resident is a breach of the accountable persons building safety obligations. This means that where a manager is appointed under section 24, the tribunal cannot confer upon that manager building safety functions, which are to be carried out by an accountable person.

Selaine Saxby (North Devon) (Con): It is a privilege to serve under you, Ms Miller. I just want to ask the Minister on a point of clarification. What will you do to ensure that all accountable persons are bound by a special measures order where an accountable person changes after the order has been made, but while it remains in place?

The Chair: Order. Before I call the Minister, I remind everyone that we refer to other Members in the third person in general Committees of all types. It is not "you", it is "him".

Eddie Hughes: I thank my hon. Friend for her intervention. That may be something upon which we need to deliberate further, to ensure that the purpose that she described is addressed.

Redress for any failings on the part of the accountable person are to be dealt with by the Building Safety Regulator through the residents' complaints mechanism. Having assessed the nature and seriousness of the complaints, the Building Safety Regulator can decide whether to make an application to the tribunal to appoint a special measures manager if there have been persistent or serious breaches of building safety obligations by the accountable person.

Question put and agreed to.

Clause 119 accordingly ordered to stand part of the Bill.

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

3.51 pm

Adjourned till Thursday 21 October at half-past Eleven o'clock.

Written evidence reported to the House

BSB35 Construction Industry Council (supplementary submission)

BSB36 BRE (supplementary submission)

BSB37 CICAIR Ltd

BSB38 Henry Grala, on behalf of Drayton Park Residential Group (further submission)

BSB39 Consensus Business Group and Estates & Management Limited (joint submission)

BSB40 UK Certification Authority for Reinforcing Steels (CARES)

BSB41 Get it Right Initiative (GIRI)

BSB42 London Borough of Camden

BSB43 Jennifer Melmore

BSB44 National Housing Federation (supplementary submission)

BSB45 Mayor of London

BSB46 Building Safety Alliance

BSB47 Andrew Brookes, Anthony Gold Solicitors LLP

BSB48 Joule Group

BSB49 FBU