PARLIAMENTARY DEBATES

HOUSE OF COMMONS
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GENERAL COMMITTEES

Public Bill Committee

RENTERS (REFORM) BILL

Seventh Sitting

Thursday 23 November 2023

(Morning)

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Monday 27 November 2023

The Committee consisted of the following Members:

Chairs: Yvonne Fovargue, James Gray, † Ian Paisley

† Aiken, Nickie *(Cities of London and Westminster)* (Con)
† Amesbury, Mike *(Weaver Vale)* (Lab)
† Bailey, Shaun *(West Bromwich West)* (Con)
Britcliffe, Sara *(Hyndburn)* (Con)
† Buck, Ms Karen *(Westminster North)* (Lab)
† Firth, Anna *(Southend West)* (Con)
† Glindon, Mary *(North Tyneside)* (Lab)
† Hughes, Eddie *(Walsall North)* (Con)
† McDonagh, Siobhain *(Mitcham and Morden)* (Lab)
† Mohindra, Mr Gagan *(South West Hertfordshire)* (Con)
† Morgan, Helen *(North Shropshire)* (LD)
† Pennycook, Matthew *(Greenwich and Woolwich)* (Lab)
Russell, Dean *(Watford)* (Con)
† Russell-Moyle, Lloyd *(Brighton, Kemptown)* (Lab/Co-op)
† Spencer, Dr Ben *(Runnymede and Weybridge)* (Con)
† Tracey, Craig *(North Warwickshire)* (Con)
† Young, Jacob *(Parliamentary Under-Secretary of State for Levelling Up, Housing and Communities)*

Simon Armitage, Sarah Thatcher, *Committee Clerks*

† attended the Committee

Public Bill Committee

Thursday 23 November 2023

(Morning)

[Ian Paisley *in the Chair*]

Renters (Reform) Bill

11.30 am

The Chair: I have a few preliminary announcements. Most Members will be familiar with them, but I will run through them anyway. Members should send their speaking notes by email to *Hansard*. Please switch electronic devices to silent—I had better do that myself. Officials in the Gallery should communicate with Ministers electronically.

Today we continue line-by-line consideration of the Bill. The selection and grouping list for this sitting, which shows how the clauses and selected amendments have been grouped, is available in the room. Grouped amendments are generally on the same or a similar issue. Please note that decisions on amendments take place not in the order in which they are debated, but in the order in which they appear on the amendment paper. The selection and grouping list shows the order of debates. Decisions on each amendment and on whether each clause should stand part of the Bill are taken when we come to the relevant clause.

The Member who has put their name to the leading amendment in a group is called first, which sometimes surprises people. Other Members are then free to catch my eye to speak to all or any of the amendments in the group. A Member may speak more than once in a single debate. At the end of the debate on a group of amendments, I will call the Member who moved the leading amendment again. Before they sit down, they will need to indicate whether they wish to withdraw the amendment or to seek a Division. If any Member wishes to press any other amendment in a group to a vote, they will need to let me know in advance. If Members find it too hot and want to take their jacket off, they may do so.

Schedule 1

Changes to grounds for possession

Amendment proposed (21 November): 180, in schedule 1, page 74, line 20, leave out "After Ground 8" and insert "Before Ground 9".—*(Matthew Pennycook.)*

This amendment would move new Ground 8A from the list of mandatory grounds for possession (in Part I of Schedule 2 to the Housing Act 1988) to the list of discretionary grounds for possession (in Part II of Schedule 2 to the Housing Act 1988).

Question again proposed, That the amendment be made.

The Chair: I remind the Committee that with this we are discussing the following:

Amendment 153, in schedule 1, page 74, line 20, leave out paragraph 22.

This amendment would remove the new ground for possession for repeated rent arrears.

Amendment 154, in schedule 1, page 74, line 22, leave out "three" and insert "one".

This amendment would limit the period to demonstrate repeated serious rent arrears to one year.

Amendment 155, in schedule 1, page 74, line 25, leave out "a day" and insert "two weeks".

This amendment would extend the period during which at least two months' rent was unpaid from a day to two weeks.

Amendment 156, in schedule 1, page 74, line 28, leave out "a day" and insert "two weeks".

This amendment would extend the period during which at least two months' rent was unpaid from a day to two weeks.

Matthew Pennycook (Greenwich and Woolwich) (Lab): It is a pleasure to continue our line-by-line consideration of the Bill with you in the Chair, Mr Paisley. As you said, we adjourned on Tuesday with the Minister having responded to amendments 180, 153, 154, 155 and 156. That response, which you did not have the pleasure of hearing, was deeply unsatisfactory. It amounted to little more, I have to say, than an unsubstantiated assertion of the Government's position that new mandatory ground 8A is required to support landlords in all instances of a tenant falling into serious arrears, and to prevent tenants from repeatedly paying down a small amount of arrears to frustrate existing ground 8 possession proceedings.

In moving amendment 180 and speaking to the other amendments in the group, I advanced three arguments as to why the Government's position is flawed. First, there are already robust mechanisms in place, namely discretionary grounds 10 and 11, to deal with the very small minority of problem tenants who attempt to game ground 8, and courts use them. Secondly, new ground 8A can be gamed in much the same way as the Government believe existing ground 8 is being gamed, and ground 8A will have the added flaw of actively discouraging tenants from paying off a third set of arrears because they know that they will inevitably lose their home. Thirdly, all the evidence suggests that the number of people seeking to game ground 8 is vanishingly small, if not non-existent.

The Minister did not provide a rebuttal to any of those arguments. There was no response from him to our argument that new ground 8A can be gamed in much the same way as ground 8, and that it will have an impact on landlords as a result of incentivising tenants to avoid paying their third set of arrears. There was no response to the point that all the evidence suggests that the number of tenants gaming ground 8 is vanishingly small. After we heard extensive expert testimony last week supporting our arguments, the Government essentially said on Tuesday, "We dismiss the evidence. We think we know better." To say that their position is unconvincing would be a gross understatement. I say to the Minister that he is going to have to do better on some of these very controversial clauses on Report.

We are extremely concerned about the implications of leaving new ground 8A in the Bill. We believe that it will lead to a great many vulnerable tenants being evicted unfairly. These are tenants who, I remind the Committee, will be struggling financially. Many will be in crisis and will desperately require debt advice and support, but we know they will have been trying to do the right thing because they will have made previous attempts to pay off their arrears in full. As I argued in our last sitting, the idea that we are talking about a bunch of people familiar enough with ground 8 in schedule 2 of the Housing Act 1988 to sit down and work out how they can game it is frankly insulting.

This is a punitive and draconian measure that will cause great hardship without providing the additional certainty that the Minister claimed it would. It is not necessary to tackle the genuine instances of persistent arrears or the rare instance of a problem tenant seeking to deliberately avoid ground 8 action. On that basis, we intend to press to a vote both amendment 153, which seeks to remove new ground 8A from the Bill entirely, and, if that fails, amendment 180, which seeks to make the ground discretionary. We will certainly be returning to the issue at a later stage.

The Chair: Just to clarify, I will put the Question on amendment 180 first.

Question put, That the amendment be made.

The Committee divided: Ayes 7, Noes 8.

Division No. 6]

AYES

Amesbury, Mike	Morgan, Helen
Buck, Ms Karen	Pennycook, Matthew
Glindon, Mary	
McDonagh, Siobhain	Russell-Moyle, Lloyd

NOES

Aiken, Nickie	Mohindra, Mr Gagan
Bailey, Shaun	Spencer, Dr Ben
Firth, Anna	Tracey, Craig
Hughes, Eddie	Young, Jacob

Question accordingly negatived.

Amendment proposed: 153, in schedule 1, page 74, line 20, leave out paragraph 22.—*(Matthew Pennycook.)*

This amendment would remove the new ground for possession for repeated rent arrears.

Question put, That the amendment be made.

The Committee divided: Ayes 7, Noes 8.

Division No. 7]

AYES

Amesbury, Mike	Morgan, Helen
Buck, Ms Karen	Pennycook, Matthew
Glindon, Mary	
McDonagh, Siobhain	Russell-Moyle, Lloyd

NOES

Aiken, Nickie	Mohindra, Mr Gagan
Bailey, Shaun	Spencer, Dr Ben
Firth, Anna	Tracey, Craig
Hughes, Eddie	Young, Jacob

Question accordingly negatived.

Helen Morgan (North Shropshire) (LD): I beg to move amendment 130, in schedule 1, page 75, line 4, leave out paragraph 23.

This amendment would maintain the existing definition of anti-social behaviour as being conduct causing or likely to cause a nuisance or annoyance, rather than being defined as behaviour "capable of causing" nuisance or annoyance.

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

Amendment 131, in schedule 1, page 75, line 5, at end insert—

"23A In Ground 14, after 'residing in' insert 'regularly'".

This amendment would clarify that visitors to a property displaying anti-social behaviour must be regular visitors, so that Ground 14 cannot be used to penalise tenants for the behaviour of a one-off visitor.

Amendment 158, in schedule 1, page 75, line 5, at end insert—

"23A In Ground 14, at start of line 1 insert—'Where the landlord seeking possession has had regard to any relevant guidance made by the Secretary of State and'".

This amendment would require landlords seeking possession on Ground 14 to have regard to any guidance produced by the government on what constitutes anti-social behaviour.

Government new clause 1—*Factors for court considering granting possession order for anti-social behaviour*.

New clause 55—*Duty to publish guidance on what constitutes anti-social behaviour*—

"(1) The Secretary of State must, within 180 days of the day on which this Act is passed, publish guidance defining anti-social behaviour for the purposes of Ground 14 in Schedule 2 to the Housing Act 1988.

(2) Guidance under subsection (1) must define how anti-social behaviour differs from nuisance and annoyance caused by incidents of domestic violence, mental health crises, and behaviour resulting from adults or children with autism spectrum disorders or learning difficulties."

This new clause would place a duty on the Government to produce guidance on what constitutes anti-social behaviour for the purpose of assisting landlords to determine when Ground 14 conditions have been fulfilled.

Helen Morgan: It is a pleasure to see you in the Chair, Mr Paisley. I draw Members' attention to my entry in the Register of Members' Financial Interests.

I tabled these amendments to reflect my general concerns about the potential for abuse of ground 14, the discretionary ground for eviction on the basis of antisocial behaviour. We heard, both on Second Reading and in last week's evidence sessions, about concerns that ground 14 could be used to evict a tenant who is a victim of domestic abuse or is suffering with mental ill health or a physical condition that could cause annoyance to surrounding neighbours.

We also heard last week from Liz Davies KC, in our fourth sitting, that the threshold is being lowered by a very small margin. She said that it was difficult to see circumstances in which behaviour would not meet the threshold of "likely to cause", but would meet the threshold of "capable of causing". She outlined that, in her experience, courts use the existing discretionary ground wisely, to rightly allow possession where there is a flagrant problem with antisocial behaviour. We have no reason to believe that courts will not continue to do so. I am therefore a bit perplexed as to why the Government have tried to slightly lower the bar for eviction. Further to our recent discussions of other amendments, I am concerned that it is to allow landlords to exploit the clause as a route to an easier eviction.

Amendment 130 would maintain the existing definition, which, as we heard last week, should be sufficient for landlords to evict where antisocial behaviour is a genuine problem. Unless the Minister can provide some reassurance that the changed terms will not lead to an increased number of evictions, I intend to press amendment 130 to a vote.

[Helen Morgan]

Amendment 131 reinforces that point. Literally interpreted, the legislation does not specify whether or not a visitor exhibiting antisocial behaviour is regularly attending the property. Clearly tenants should be protected from eviction where there has been a single or very intermittent problem. Indeed, a regular antisocial visitor may not be welcome at the property; they may be regularly attending to intimidate or cause distress to the tenant.

I have a piece of casework in which the tenants of a property, through no fault of their own, have been subjected to intimidation and verbal abuse by a member of the community who lives elsewhere. I do not doubt that that causes nuisance and annoyance for other residents, but it would be grossly unfair to evict those tenants. In all likelihood, it would not resolve the problem in the long term either; it would just shift it to a different place in the same town.

I will not press amendment 131 to a vote, because ground 14 is discretionary and we should trust the judgment of the court as to whether an eviction is appropriate in each individual case. However, as we have heard of instances where unreasonable evictions have taken place, I would welcome an assurance from the Government that there will be safeguards and guidance in place to prevent the innocent from being evicted by an unscrupulous landlord under ground 14.

Matthew Pennycook: I rise to speak to amendment 158 and new clause 55, which stand in my name and in the name of my hon. Friends.

It is a pleasure to follow the hon. Member for North Shropshire. Both her amendments to schedule 1, in relation to the proposed revision of existing ground 14, are welcome. Indeed, we tabled an identical amendment to her amendment 130, but it was not selected, on the basis that it was an exact duplicate—that is a lesson for the whole Committee on the importance of tabling amendments in a timely fashion. If the hon. Lady presses her amendment 130 to a vote, we will certainly support it.

As the hon. Lady set out, paragraph 23 of schedule 1 to the Bill will widen ground 14 of schedule 2 to the Housing Act 1988 to include behaviours

"capable of causing nuisance or annoyance",

as opposed to the existing language, which merely refers to

"likely to cause nuisance or annoyance".

We are pleased that the Government are not proposing to make existing ground 14 mandatory, as some had feared prior to the publication of the Bill earlier this year. The court will therefore still have discretion to judge whether it is reasonable and proportionate to evict a tenant for the behaviour in question.

11.45 am

However, we remain concerned about the implications of the proposed widening of the ground. We believe that to make the test for judges whether a particular behaviour is capable of causing annoyance or nuisance—in other words, whether it has the potential to do so—could result in courts feeling obliged to award possession for behaviours or patterns of behaviour that some might interpret as antisocial but that most reasonable people would not class as such. For example, one could quite easily imagine the new definition leading to ground 14 being applied to tenants experiencing mental health crises, victims of domestic abuse, or adults and children with autism spectrum disorders or learning difficulties.

Indeed, we argue that the range of behaviours that might be interpreted as falling within the definition of "capable of causing nuisance or annoyance" is so expansive that even families with high-spirited children renting privately might fall foul of it. As the Law Centres Network's head of policy, Nimrod Ben-Cnaan, suggested in his evidence to the Committee last week, it could even be applied to nuisance that is "more of a modality", as he put it. He gave the example of a tenant who is a hoarder and whose behaviour probably affects only themselves, but whom a landlord might allege is capable of meeting the proposed widened definition.

We have discussed at length in previous line-by-line consideration the impact of evictions on tenants. It is inherently disruptive and often incredibly damaging, and no one should use an eviction except in extremis. We are extremely uncomfortable about the principle of evicting anyone for behaviour that has the potential to cause nuisance or annoyance. We hope that Government Members feel the same, even if they will not go on the record to say so today, because I cannot imagine many provisions more unconservative than one that penalises individuals not for what impact they have had on others, but for their potential to have such an impact.

One would hope that the discretion that is still given to the courts in respect of the application of ground 14 would see such cases resulting in no award being granted. However, given that clause 3 provides only a two-week notice period before a landlord can begin court proceedings under the ground, thereby allowing the affected tenant only an extremely short period to find a new property if they are evicted, with the clear risk that many will be made homeless as a result, it is entirely reasonable to call into question the proposed widening of the definition.

To date, the Government have failed adequately to explain why they believe that the change in wording is required. The Minister has an obligation to explain in some detail today what the rationale for the widening is and precisely why the existing wording is not sufficient to deal with instances of genuine antisocial behaviour. We would welcome some specific examples, if the Minister can give them, of genuine instances of antisocial behaviour that the Government believe will be addressed by means of the amended ground 14 that would not meet the current definition of "likely to cause nuisance or annoyance". I am more than happy to give way to the Minister at this point if he wants to give me such an example. If not, I will leave him to respond in due course.

It is not a surprise to me that the Minister did not take the chance to intervene, because I suspect that the change is driven more by the politics—*[Interruption.]* There is chuntering from Government Members. We will hear when the Minister responds whether he can provide a list of specific examples of instances that will meet the new ground where others would not.

The Parliamentary Under-Secretary of State for Levelling Up, Housing and Communities (Jacob Young): With respect to the hon. Member, we have heard previously in Committee how the existing grounds do not work. There was an ask in the evidence for us to amend the grounds in the way we are doing.

Matthew Pennycook: The Minister must have been listening to a different balance of the totality of the evidence from what I heard. I heard significant criticism of this proposed change by the Government. He still has not given me an example of the types of behaviour that would not fall under the existing definition, but that would be covered by the expanded one. I think that is because the change is driven more by the politics of what is required to get the Bill through than by any empirical evidence that such a change is required to deal with instances in which landlords cannot recover their properties from tenants who cause antisocial behaviour.

Helen Morgan: We heard extensively from the representative of Grainger plc about antisocial behaviour. I felt that her evidence demonstrated clearly that the existing grounds were adequate for tenants to be evicted under such circumstances. Does the hon. Gentleman agree?

Matthew Pennycook: I think that is a worthwhile intervention. I heard the evidence from Grainger and others highlighting concerns about this ground, so the Government are just wrong if their position is that expert opinion out in the country is that there is no problem whatever with the proposed change to ground 14.

We agree with the hon. Member for North Shropshire that the Government should remove paragraph 23 of schedule 1 and leave ground 14 with the current "likely to cause" wording. However, if they resist doing so, we urge the Minister to at least consider clarifying, as I have asked him to, what kind of behaviour is and is not capable of causing nuisance or annoyance so that county courts can better exercise their discretion about whether eviction is reasonable and proportionate in any given circumstance once the Bill has come into force. Let us be clear: the Government's eleventh-hour new clause 1 does not do that. Indeed, it is not clear what on earth they are trying to achieve with it. As with so much of what the Government have tabled fairly late, we suspect it is more a product of rushed thinking than anything else.

New clause 1 would make it a requirement for the court to consider, in particular, the effects of antisocial behaviour on other tenants of the same house in multiple occupation, but that is already the case. Judges already have to consider the impact of behaviours that could be categorised as antisocial on others, so why do the Government feel the need to specify that they are required to do so via this amendment, purely in relation to HMOs? I would be grateful if the Minister could provide us with a reason. Will he also explain why the Government do not believe this provision needs to cover, say, a house under part 3 of the Housing Act 2004 or a rented property that is not covered by parts 2 or 3 of that Act?

The new clause also provides for the court to take into account as a factor in its determination

"whether the person against whom the order is sought has co-operated with any attempt by the landlord to encourage the conduct to cease."

Again, when considering antisocial behaviour, the courts can already consider, and frequently do, what efforts the tenant has made to co-operate—for example, what the tenant's response has been when a landlord has tried to contact them to press them to bring the offending behaviour to an end.

Of course, that presumes that the landlord has tried to contact the tenant, but that highlights a more fundamental problem with the new clause. At present, there is no duty on landlords to prevent or take steps to stop antisocial behaviour on the part of their tenants. I am thinking of the extensive case law reviewed in the recent Poole Borough Council *v.* GN judgment. Is the new clause an attempt to impose such a requirement surreptitiously? If it is, I wonder what the National Residential Landlords Association and other landlord organisations will have to say about it. The problem is that it is not clear at all, and we fear that fact exposes the Government to the possibility of litigation.

If the new clause is not an attempt to impose a requirement for landlords to take steps to stop antisocial behaviour on the part of their tenants, should we instead take it to imply that landlords now have to at least reasonably co-operate with a tenant to limit antisocial behaviour? If it does not imply that, what is the point of it? If landlords do not have to do anything to encourage antisocial behaviour to cease or do anything about it, whether a tenant can "co-operate" is reliant on the whim of the landlord in question and whether they decide to ask the tenant to stop.

Put simply, we question whether the new clause will have any practical effect, and we would appreciate it if the Minister could explain the thinking behind it, particularly because, like the many other last-minute Government amendments to the Bill, there is no detail about it in the explanatory notes. Even if the Minister just reads his box notes into the record, I would welcome the clarification. That would at least give us a sense of the Government's thinking.

Leaving aside the deficiencies of new clause 1, we remain of the view that if the Government are intent on widening ground 14 to cover behaviour likely to cause nuisance or annoyance, they must at least clarify what kind of behaviours they believe will be included in that definition. New clause 55 would place a duty on the Government to produce detailed guidance on precisely what constitutes antisocial behaviour for the purpose of assisting landlords and the courts to determine when ground 14 conditions have been fulfilled under the revised terms that the Government are proposing. Specifically, it requires the said guidance to define how antisocial behaviour differs from nuisance and annoyance caused by incidents of domestic violence, mental health crisis and behaviour resulting from adults or children with autism spectrum disorders or learning difficulties. Amendment 158 would, in turn, require landlords seeking possession on the basis of amended ground 14 to have regard to the guidance that the Government would be obliged to produce.

Taken together, we believe that new clause 55 and amendment 158 would at least provide the extremely vulnerable tenants we fear might fall foul of amended ground 14 with a further degree of protection beyond the discretion that the courts will still be able to apply. I look forward to the Minister's response.

Ms Karen Buck (Westminster North) (Lab): I want to press the Minister on his thinking and on the motivations for widening ground 14 in respect of antisocial behaviour. I support the hon. Member for North Shropshire and my hon. Friend the Member for Greenwich and Woolwich.

[Ms Karen Buck]

There is a continuing theme of the Government looking at this world as they want it to be, rather than at the rather messier reality. In respect of private tenancies, it is a world that they have quite deliberately created. No one likes being exposed to any form of antisocial behaviour or inconvenience. Some antisocial behaviour can literally ruin lives. Many of us will have dealt with casework relating to harassment; stalking; deliberate making of noise at antisocial hours; people running small businesses in flats, which can create noise; behaviour arising from the often illegal use of accommodation for short lets; people stealing post; and abuse, including homophobic and racist abuse. All those things can occur, and they can be extremely damaging to people's lives.

One of the problems, which my hon. Friend addressed, is that these things are often not dealt with not because the threshold is too high for such cases, but because, in many instances, it is extremely difficult to gather the evidence. People are often extremely reluctant to act as witnesses and support evidence, and a lot of evidence is one-on-one and, to some extent, highly subjective.

Managing antisocial behaviour requires landlords to be part of the solution, and it is completely right that we are encouraging the consideration of that. Social landlords spend considerable time and resource trying to do that, with varying degrees of effectiveness, but in the private rented sector—with honourable exceptions—that often simply does not happen. The reduction in the threshold that the Government are proposing will make it even easier for landlords to choose to go down an eviction route or to hold the threat of eviction over the heads of households, in such a way that they themselves do not have to take a great deal of responsibility.

The Government must anticipate consequences from their change to the definition, or one would like to think that they would not have done it, but we need the Minister to spell those consequences out. Obviously, we must expect that more people will risk eviction for behaviour that is below the current threshold; that is a consequence almost by definition. In how many instances do the Government think that is likely to apply? Who might be affected by it, and under what circumstances not currently covered by legislation? What will happen to people who are at risk of eviction with a lower threshold?

Jacob Young: Does the hon. Lady accept that we cannot possibly know those figures? At the moment, landlords have the ability to use section 21 to remove tenants who are causing repeated antisocial behaviour. We are removing section 21, so we cannot possibly know what the impact will be.

Ms Buck: If the Minister is going to propose a change to the law, it is incumbent on him to have some indication of what the implications might be; otherwise, I am not sure why the Government would make the change. I do not understand that argument at all. It might be difficult to provide quantified figures, but the Minister has a duty to present to the Committee a sense of the type of instances that the change will apply to so that we can have some idea why it is necessary.

Jacob Young: Let me put to the hon. Lady—this goes to a point that the hon. Member for North Shropshire made earlier—what Grainger has said in evidence to the Committee:

"We welcome the strengthening of anti-social behaviour grounds for possession, which has been of particular concern to us previously."

Does the hon. Lady not accept that that, in and of itself, is reason enough to proceed on this ground?

Ms Buck: I have a very large Grainger development in my constituency, and it is not an issue that has come to me at any scale. Obviously—the Minister is right—landlords are likely to want these powers. Of course, if a landlord is able to circumvent the abolition of section 21 by using powers of eviction in other ways, at a lower threshold or with a lower evidential base, then they are going to want to do that.

We are saying that a balance has to be struck between the genuine need to deal with serious antisocial behaviour and the consequences of that. It will mean additional pressures on households, on local authorities, which inevitably end up having to deal with the consequences of it, and indeed on the courts, which will be expected to make judgments with a much looser and more nebulous definition of antisocial behaviour. I am not sure that the Minister's argument works there at all.

12 noon

I reinforce the point that the proposed change will apply disproportionately to certain groups of people, as we heard in the evidence sessions. It will affect people who are vulnerable, people with mental health problems, people with learning disabilities, people who are neuro-divergent, people in crisis, and obviously people experiencing domestic violence. We heard compelling evidence from the Domestic Abuse Housing Alliance last week. I have had cases of parents who have had to deal with adult children with drug addiction or severe mental health problems, whose behaviour undoubtedly has negative consequences for them and their neighbours. We wish it were not so. We wish none of these social problems existed, but they do. The change will also affect people in the grip of a psychotic episode, which are not uncommon, particularly in inner cities.

The proposed change will affect people with children, as my hon. Friend the Member for Greenwich and Woolwich mentioned. A woman wrote to me recently saying, "My neighbours are complaining about the noise of the kids—too much noise, running around. I am in a block with no other children, so my neighbours are now complaining and the landlord is complaining, but what can I do about it? They are 20-month-old twins. I should not have to deal with complaints about children making noise." Under the Minister's proposals, just having little babies running around could be enough to trigger—

Matthew Pennycook: My hon. Friend makes a good point, which we have made in connection with other grounds for possession, and I think it is worth putting on the record again. Lots of these notices that will be given will not go to court. We cannot rely on the courts' discretion in all these instances. The tenant that my hon. Friend mentioned could be served with a notice,

might not know the recourse that she has and might feel she has to go. The threat of the expanded ground will be enough in most instances.

Ms Buck: I absolutely agree. The sword of Damocles is hanging over the heads of lots of people just living a fairly ordinary life. Families with special needs children are a particularly high-risk category. A woman and her representative came to me recently to say that her current property is unsuitable. She lives with her non-verbal autistic 19-year-old son, and they have occupied the property for over 20 years. As her son has grown older, he has displayed more challenging behaviours, in line with those often associated with autism. The family has been subject to several complaints from neighbours in relation to the noise being made, but the mum states that it is near-impossible to have full control over her son, due to his increasing support needs.

There is one other category the Minister needs to address, which is what we do about families who have already been evicted from social housing. Clearly, families cannot be on the street. Getting landlords to provide accommodation to households in those cases is essential, but already extremely difficult.

Jacob Young: Is the hon. Lady suggesting that landlords should be forced to house tenants that were committing antisocial behaviour, simply because they have been removed from social housing?

Ms Buck: Of course I am not suggesting that landlords should be forced. I am saying that a balance needs to be struck. As I have said several times, the Minister is completely failing to recognise that the Government have chosen to use the private rented sector for housing, at scale, households who previously would often have been provided with social housing and supported. The Government have to recognise the consequences of that. There has to be proper provision in law. The abolition of section 21 is part of that, but as we keep arguing, by taking away other safeguards in the legislation, the Government are undermining something that we regard as very positive.

The proposed change will lead to more evictions at a lower threshold; it will lead to families leaving their property before going to court, as my hon. Friend the Member for Greenwich and Woolwich says; it may lead to landlords actively avoiding tenants who may pose a risk; and it will lead to more applications to local authorities, which will then have to source more temporary accommodation, inevitably in the private rented sector, to house them.

The Minister has to ensure that there is a proper backstop. If the Government want to house people—particularly those with vulnerabilities and families—in the private rented sector at scale, as they do, getting the balance right is essential. The weakening of legislation in this respect is one way in which they are failing to do that.

Lloyd Russell-Moyle (Brighton, Kemptown) (Lab/Co-op): I repeat the declarations that I have made previously in Committee about the support I get for running the all-party parliamentary group for renters and rental reform, the rent I receive from tenants in my personal house, my work on the advisory group of a housing co-operative federation legal group, and my work as a trustee of the University of Bradford Union of Students, which has interest in Unipol housing, which offers housing for students. The list gets a little longer every time we talk about different things.

I rise to support what my colleagues have said. It is striking that the Government say in the impact assessment that the change will have no monetised or non-monetised impact on tenants, although—the changes to grounds are all clumped together—they list a number of positives and negatives for landlords. That seems rather odd. If the Government are saying that they need to lower the threshold to get rid of antisocial behaviour, there will be a cost to tenants and local authorities.

Now, perhaps that cost is worth it in order to stop antisocial behaviour; perhaps it is better that the local authority, opposed to the private sector, comes in and houses a family that might be causing a particular problem, because the family needs more wraparound support. I am more than willing to go along with that line of argument, but the Government do not make that argument in the impact assessment. They argue that there will be no impact.

I wonder whether the Minister really believes what the impact assessment says. Have he and the Department done the due diligence on the change? If they are genuinely saying that there will be no impact, what is the point of the change, other than to enable landlords to threaten tenants more? That is what it will be. If they are saying that, when a case gets to court, there will be no material change, what they are actually saying is, "Yes, in the court there will be no change, but we'll be able to put the kibosh on tenants a bit more." We need some clarity on that from the Minister.

Clearly, "likely to cause" is an extremely low threshold, but it still requires evidence. What I heard from Grainger and others was that it was difficult for them to gather evidence, because people did not want to come forward, and that in the end people wanted to move out of the situation rather than confront it. Even if we lower the threshold—it is a discretionary ground that we all agree on—there will still need to be evidence. I therefore do not see how changing the threshold—as opposed to, for example, changing court evidence guidelines—helps. The court guidelines could be quite easily changed to say that more regard can be given to diaries, recordings and other forms of evidence. I think we would all agree that we should ensure that landlords and courts can use and have more regard to all the evidence and technology that we have nowadays, such as Ring doorbells and so on. When such behaviour can be evidenced, people need to move out.

There is another problem. As the Opposition Front-Bench spokespeople have said, there is a grey line between nuisance and antisocial behaviour. Let us be honest that that is a very grey area. Clearly, the most egregious forms of antisocial behaviour are horrible and nasty, and everyone can see them from a million miles away. Those are not the cases that are struggling in the courts at the moment; it is the grey-area cases where we are unsure. I am not sure that that helps the debate.

It would be much better if the Secretary of State accepted Labour's new clause 55, which empowers the Secretary of State to issue guidelines from time to time on the levels, thresholds and evidential thresholds for antisocial behaviour. That would be much better, because

[Lloyd Russell-Moyle]

it would also allow us to understand the changing nature of antisocial behaviour. It would help with problems of cuckooing and drug dealing. We know these kinds of behaviour change with legislation. It is a cat and mouse game with drugs and gangs. The danger with changing the threshold to "likely" is that we will not actually target those people correctly, but will end up bogging down the courts and people with things that are just nuisances, and we will not be able to pinpoint and get people on areas where we all agree real problems need to be targeted.

The Minister should either accept our new clause or say that he will go back and think about guidelines to frame the matter, so that it is clear. We have heard evidence from domestic abuse charities that they are deeply worried. I remember living opposite a lovely woman whose husband had been sent to prison for domestic abuse. On his release, every other night he was outside her house banging the door and shouting abusive expletives. Yes, the police were called and that was dealt with, but it happened repeatedly month after month. It was hugely antisocial for the rest of the residents, but clearly she should not have been evicted.

The problem is only changing the "likely" thresholds, rather than saying, "We will produce a comprehensive set of guidelines that will ensure and give security to those people." In changing the threshold to "likely" in a vacuum, the Minister has created a lot of fear and panic in some of the sector, whereas that could have been closed down and the Minister could have been given more discretion. I do not say this very often, but on these matters, I am always in favour of giving Ministers more discretion.

I support amendment 131 on repeat visitors. We have all had situations where constituents or neighbours, particularly—dare I say it—younger people with parties that might have gotten out of hand, where they have had to eject visitors from their flat and in the process of doing so, it has created a great deal of antisocial behaviour. We do not want it to suddenly trigger a threshold when the tenant has done the right thing by trying to stop the problem but that has caused a disturbance. It needs to be when someone has repeatedly and voluntarily invited a person back into their flat to cause a disturbance. It also links to things like cuckooing, where the tenant does not have the capacity to resist that individual. Clearly other interventions, particularly by the police and social security, are needed.

I think the Minister is trying to do the right thing, and we all agree that we need tougher abilities to tackle antisocial behaviour. First, he should accept the amendment. Secondly, it always sticks in my throat that we create a whole different set of regimes for people in the private rented sector compared with people who own houses. We assume that people who live in the private rented sector are more prone to antisocial behaviour, but I must admit that I know lots of people who own their own homes who are darn antisocial as well.

I do not disagree that there should be cause to evict, sometimes and when needed, but it needs to be on a fair and equitable basis, and it should be based on guidelines that can change as the need changes, rather than just lowering a threshold of one word, which the Minister says in his own impact assessment will have no impact whatsoever.

The Chair: Just before I call the next speaker, I want to let the Whips know that there will be a Chairperson in place this afternoon at 2 pm.

12.15 pm

Mike Amesbury (Weaver Vale) (Lab): I will be brief. The proposed definition is, of course, far too broad and our concern on the Opposition Benches is that it could potentially give the green light to that minority of unscrupulous landlords, giving them an opportunity to evict tenants with very little evidence indeed, and within quite a draconian timeframe; I think that my hon. Friend the Member for Greenwich and Woolwich, who is on the Labour Front Bench, referred to two weeks, which is quite remarkable.

Of course, there is no clear definition, so I will be interested to hear the Minister's response. Surely there will be a definition and surely the Secretary of State will outline guidance on what constitutes nuisance and "capable of causing" nuisance or "anti-social behaviour". Probably every one of us in this room—I speak respectfully, Chair—is "capable", from time to time, of causing a nuisance. I mean, is it a nuisance if a toddler is running up and down in an upstairs flat or playing with their toys?

My hon. Friend the Member for Westminster North referred to children with autism. I am quite confident that we all know people and families with autism who we have tried to help and we know the complexities of that disability for the child and their family. That could constitute a nuisance and be considered by some people as "anti-social behaviour", according to the definition in the Bill. Perhaps when a former Prime Minister has a row with their partners—it is quite well-documented that it did upset the neighbours—then, according to the definition, that could constitute a nuisance or "anti-social behaviour".

I declare an interest as chair of the all-party parliamentary group on antisocial behaviour. I am incredibly keen—as I know quite a number of us are, on a cross-party basis—on strengthening the law and making sure that people live peaceful and fulfilling lives. But it has got to be good law and this is not good law.

I look forward to hearing the Minister's response, which I hope will outline quite clearly today—of course, when we change the law, it must be evidence-based—what constitutes something "capable of causing" a nuisance and "anti-social behaviour", according to the definition.

The Chair: Thank you, Mr Amesbury. As 50% of a pair of terrible twins, I recognise the analogy.

Jacob Young: It is a pleasure to see you in the Chair, Mr Paisley. I thank hon. Members for tabling amendments 130, 131 and 158, and new clause 55. As we have heard, antisocial behaviour causes misery and it is an issue that the Government have considered extremely carefully when developing the reforms.

We know that antisocial behaviour can be hard to prove, as the hon. Member for Westminster North said, so this measure gives landlords more confidence that they will be able to evict a tenant when necessary.

Members will be aware that antisocial behaviour encompasses a wide range of conduct. Lowering the threshold for this ground will help landlords to recover their properties when tenants engage in antisocial behaviour, even if it cannot be proved that it has caused or is likely to cause a nuisance or annoyance in any given case.

Repetition and regularity is obviously likely to be a key part of most people's experience of antisocial behaviour. A one-off incident involving a visiting relative, for example, is already unlikely to be classed as antisocial behaviour. There is also precedent elsewhere in the statute book for defining antisocial behaviour as conduct that is "capable of causing" nuisance or annoyance to a person in occupation of residential premises or in relation to housing management functions.

It is important to remember that the ground remains discretionary. Judges will determine whether it is met and whether giving the landlord possession is reasonable. The Government are committed to publishing guidance on tackling antisocial behaviour before the new rules come into effect. My officials have already set up a working group with key stakeholders, including landlord and tenant groups, charities, antisocial behaviour specialists and legal professionals. The group will ensure that the reforms are implemented effectively and that the guidance is clear and thorough.

Lloyd Russell-Moyle: It is very good that the Minister is talking about the guidance. Will he expect courts to consider that guidance in their deliberations?

Jacob Young: On the hon. Gentleman's specific point, we have expanded the factors a judge needs to consider when using discretion so they have particular regard to people who are sharing properties or not engaging with their landlord's efforts to tackle ASB.

Lloyd Russell-Moyle: I am trying to ensure that courts will be empowered, required or encouraged—whatever form of words the Minister wants—to consider the guidance that he has outlined in making their deliberations.

Jacob Young: As we have already heard a number of times in this debate, it is important that the courts have that flexibility to make that discretionary judgment on this issue, and I think that they would consider all manner of things when deciding on that.

The working group will help to ensure that the reforms are implemented effectively and that guidance is clear and thorough. We intend to use the guidance to highlight the important links to domestic abuse, mental health and other vulnerabilities. That is the aim of new clause 55, and I hope that addresses some Members' concerns.

Mike Amesbury: But if the guidance is not mandatory for the courts, what is the point?

Jacob Young: With respect to the hon. Gentleman's question, he mentioned whether a victim of domestic abuse would fall short of these grounds. I would say to him that that is exactly what a judge is there to determine—whether it is reasonable to grant possession to the landlord in those circumstances. I think that I have addressed that in my remarks. I hope that this provides some reassurance and that hon. Members will withdraw their amendments.

To further bolster landlords' confidence in being able to regain their properties in cases of antisocial behaviour, Government new clause 1 expands the matters a judge must consider, as I outlined previously, when making a discretionary antisocial behaviour eviction. It ensures that the court must also consider specific issues that have been of concern to the sector. First, the new clause asks judges to give regard to whether the perpetrator has engaged with measures to resolve their antisocial behaviour, making it easier for landlords to evict non-compliant tenants.

Matthew Pennycook: I asked the Minister a very specific question about this new clause, to which I would be really grateful for an answer. Does new clause 1 in any way imply or direct landlords, by a new requirement, to proactively engage with their tenants to resolve the behaviour, rather than just putting the onus on tenants to do so, and therefore, in instances where the landlord will not engage, leave that tenant in an impossible situation, one might say?

Jacob Young: I do not believe that it does, but I will write to the hon. Gentleman to clarify. Turning back to what I was saying, it asks judges to give particular regard to the effect of antisocial behaviour on other tenants within houses of multiple occupation, which the hon. Gentleman had mentioned.

Ms Buck: Will the Minister clarify that, if the courts found grounds to evict a tenant under this lower threshold—without certain circumstances, such as special needs, mental health, and so on—would a local authority find that household to be intentionally homeless?

Jacob Young: I will write to the hon. Lady and other hon. Members to confirm the status of that issue—I appreciate that question was raised in the last sitting as well. As I was saying, with houses of multiple occupation, it will make it—

Lloyd Russell-Moyle: Further to that, will a judgment of a 5A be in the public domain and therefore available or declarable to potential new landlords? I am asking because a section 21 is not, but a county court judgment on financial grounds is.

Jacob Young: We are not discussing 5A right now, but I will write to the hon. Gentleman to clarify that point.

As I was saying on houses in multiple occupation, this measure will make it easier to evict perpetrators who are having a severe impact on those living in close proximity with them day to day. I therefore commend Government new clause 1 to the Committee.

Matthew Pennycook: I will say two things to the Minister, because I think that was a helpful answer, although his officials are going to be doing a lot of writing over the coming days and weeks. It was helpful in two ways: it is welcome to hear an assurance that we expect guidance before these measures come into force, and that the working group has been set up to that end.

[Matthew Pennycook]

This is where the private rented sector is very different from the social rented sector, where registered providers operate. Registered providers often have trained antisocial behaviour teams who are equipped and trained with the tools—injunction powers and others—to remedy antisocial behaviour before eviction action has to take place. They are trained to distinguish between antisocial behaviour and things such as the domestic violence instances that we are worried about, and to take safeguarding action to protect tenants from either eviction or criminalisation. The private rented sector has none of that. I do very much think we need guidance in this area, so I welcome the Minister's clarification in that regard. On that basis, I am happy to not to push new clause 55 to a vote.

However, what I am still concerned about, and why we will support the hon. Member for North Shropshire if she pushes her amendment to a vote, is that in some ways it does not matter what the guidance says if the definition of what constitutes antisocial behaviour is very broad and the change from "likely" to "capable" is made. That still concerns us a great deal. The Minister has not given me an example—I only want one—of a kind of behaviour that would be "capable of causing" antisocial behaviour without falling under the existing "likely to". I do not think he has any such behaviour in mind; I do not think the officials have any idea, either.

I think the Minister gave the game away, intentionally or otherwise, that this power is to be used to make it easier for landlords to threaten tenants in the first instance, and most will not go to court, and then to be able to evict tenants. As he said, the behaviour in question does not have to have caused or be likely to have caused antisocial behaviour in any given instance. It will enable an argument on the basis that there is a pattern of behaviour that now meets the reduced threshold.

None of the evidence I listened to last week suggested that that was necessary. I remember—one good example—that Timothy Douglas from Propertymark could not understand the difference between "likely" to cause and "capable" of causing, and the need for the change in this instance. He did call for guidance—absolutely. However, none of the evidence I heard supported the change, apart from evidence from some landlords, who, of course, are going to say that they welcome a widened power. They do not have to deal with the consequences. It is local authorities and society that will have to do that.

I know this is not the Minister's brief, but he really should know whether tenants, if evicted under these grounds, will be made intentionally homeless. I suggest that it is almost certain that they will be. We are talking about an easier way to make people homeless, and we will all pick up the costs in various ways. This will impact some incredibly vulnerable tenants. We therefore think that this measure needs to be removed from the Bill. Again, we will certainly return to the issue at a later stage.

Helen Morgan: I welcome the support from Opposition Members, who, I think, have summed up the issue very well. There is an increased threat of eviction even if these cases are not taken to court, because the threat of having notice served in the first place is very frightening for people who do not necessarily have the legal ability to follow that through and oppose it.

Jacob Young: I take the hon. Lady's point fully on board. I inadvertently forgot to mention during my speech that tenants will be given full information on their rights when notice is served. I hope that addresses her concerns about the threat being enough to push someone out. People will know their rights and whether or not they can challenge this in a court.

Helen Morgan: I welcome the Minister's intervention. It is sometimes hard for us to put ourselves in the position of the tenant who may not have the professional skills of some of us in this room. The threat of being taken to court is a very serious one, even if someone has been advised of their rights. It is an intimidating place, and an intimidating process to go through.

12.30 pm

Lloyd Russell-Moyle: The timetable referred to is two weeks. We all know about the crisis in people being able to get a lawyer, seek advice or even get an appointment at a citizens advice bureau: it can often take longer than two weeks. By the time a person has got advice or legal support, they will be out, will they not? Is that not a key problem with the provision?

Helen Morgan: I thank the hon. Gentleman for his well-made point. In Shropshire, citizens advice bureaux sometimes refer people to their MP's office because they do not have the capacity to deal with the number of issues that are brought to them. The point about the threat is an extremely important one that we need to bear in mind: it will have a strong adverse effect on tenants who are put in that position. The hon. Member for Westminster North made the excellent point that we are dealing with people who would otherwise be in social housing, but they are not in social housing because we do not have an adequate social housing stock. With the best will in the world, a lot of landlords in the private sector—particularly when it is not their main business or primary job, but they happen to rent out a property—do not have the skills or capacity to deal with these things.

I welcome the Minister's explanation that a working group will come up with detailed guidance. That is a positive step forward and is the reason why I will not press amendment 131 to a vote. However, I am concerned about his comment that the point of the expansion of the definition is to reduce the evidential level at which a landlord is allowed to serve notice. For that reason, I will press amendment 130 to a vote.

Question put, That the amendment be made.

The Committee divided: Ayes 7, Noes 8.

Division No. 8]

AYES

Amesbury, Mike	Morgan, Helen
Buck, Ms Karen	Pennycook, Matthew
Glindon, Mary	
McDonagh, Siobhain	Russell-Moyle, Lloyd

NOES

Aiken, Nickie	Mohindra, Mr Gagan
Bailey, Shaun	Spencer, Dr Ben
Firth, Anna	Tracey, Craig
Hughes, Eddie	Young, Jacob

Question accordingly negatived.

Schedule 1, as amended, agreed to.

Clause 4

FORM OF NOTICE OF PROCEEDINGS FOR POSSESSION

Matthew Pennycook: I beg to move amendment 177, in clause 4, page 3, line 34, at the beginning insert—

"(1) In section 8 of the 1988 Act, after subsection (2) insert—

'(2A) A notice under this section must include reference to the unique identifiers allocated to each person and dwelling-house with an entry on the database in accordance with section 41 of the Renters (Reform) Act 2023 (Allocation of unique identifiers).'"

This amendment would require landlords to be registered on the database to serve grounds for possession notices.

We will debate at some length the provisions in the Bill that will establish a private rented sector database when we consider chapter 3 of part 2 in detail, so I do not intend to dwell on our view of the Bill's database provisions more generally, or how they might be improved. We will have sufficient time to do so in due course. Suffice it to say that we take it as given that the Government wish to see, as we do, as many existing and prospective residential landlords registering themselves and their properties on the property portal that the database will support.

We acknowledge that the Bill already contains provisions designed to ensure that registration rates are high. These include the financial penalties that local authorities can impose, assuming that they have the capacity and capability to do so, on people who, for example, do not meet the requirements in relation to marketing, advertising and letting set out in clause 39. However, we believe that the Government should seek to make it virtually impossible for a residential landlord to operate without registering themselves and their property on the database by ensuring that every single process that the Bill covers bites on them in that regard.

Amendment 177 seeks to contribute to that objective by inserting into section 8 of the Housing Act 1988 a new subsection that would compel landlords to be registered on the database in order to serve grounds for possession notices by requiring them to add to any possession notice served the unique identifier that they will be allocated on registering. Requiring landlords to append a unique identifier to a possession notice, and thus denying landlords not registered with the database the opportunity for a court to make an award of possession, would be an important means of ensuring maximum compliance with the proposed portal and properly regulating the new system to the benefit of both landlords and tenants. For those reasons, I hope the Minister will look favourably on the amendment.

Jacob Young: I thank the hon. Gentleman for moving amendment 177, which would require landlords to have registered on the property portal before serving a tenant with a valid notice for possession under section 8 of the Housing Act 1988. The property portal will play a crucial role in helping landlords to understand their legal obligations and will give tenants the information they need to make informed choices before starting a tenancy. Our view is that the enforcement mechanisms in the Bill, including the mandatory duty on landlords to be on the portal and the ability of local authorities to find those, will prevent abuse. However, I note the hon. Member's concerns, and if there are further measures we can take to ensure that all landlords are on the portal, we will explore them further.

Matthew Pennycook: I welcome the Minister's response and his commitment to look further at this matter. Although the mandatory duty is welcome, we have real concerns about the ability of local authorities to properly investigate and enforce. We will come back to those concerns, because they relate to a number of areas in the Bill. I therefore hope that the Minister goes away and thinks about every—

Eddie Hughes (Walsall North) (Con): There is form in this area: a landlord cannot evict their tenants if the property does not have an energy performance certificate. It seems like an interesting proposal.

Matthew Pennycook: I very much welcome the hon. Gentleman's intervention. I have covered all bases in our set of amendments. We will come to the preconditions and requirements that have developed around section 21 that fall away under the Bill; they are a concern. The hon. Gentleman is right: to serve a section 21 notice, a number of regulatory obligations must be met.

Lloyd Russell-Moyle: Another advantage of doing it through the property portal is that it helps to speed up the digitalisation process that the Government are so keen on with the courts. The portal would retain the information that the courts need.

Matthew Pennycook: Absolutely, and it is one of several ways that we think that, with some reasonable, common-sense amendments, we can strengthen the Bill so that every part of it works together. I hope that the Government will go away and think about the other ways in which we can ensure maximum landlord compliance with the portal. I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Clause 4 ordered to stand part of the Bill.

Clause 5

STATUTORY PROCEDURE FOR INCREASES OF RENT

Lloyd Russell-Moyle: I beg to move amendment 200, in clause 5, page 5, line 17, at end insert—

"(4F) It shall be an implied term of every assured tenancy to which this section applies that percentage increase between the existing rent and any new rent specified in a notice given under subsection (2) shall not exceed whichever is the lesser of—

(a) the percentage increase in the rate of inflation (calculated by reference to the Consumer Prices Index) since the date on which the existing rent took effect; or

(b) the percentage increase in median wages in the local authority area in which the dwelling-house is situated, calculated over a three-year period ending on the date on which the notice was served."

This amendment specifies that the annual increase in rent requested by a landlord may not exceed the lesser of either the Consumer Prices Index or wage growth in the relevant local authority area.

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

Amendment 159, in clause 5, page 6, line 23, at end insert—

"**13B Recovery of rent**

(1) Any increased rent which is paid otherwise than in accordance with section 13 or section 13A is recoverable from the landlord by the tenant as a debt claim in the courts.

(2) The Secretary of State may, by regulations, provide for such claims to be recoverable by proceedings in the First-Tier Tribunal, rather than the courts."

This amendment would ensure that in instances where a private landlord increases the rent without issuing a section 13 or section 13A notice the tenant can seek to recover costs through a debt claim in the court. It also provides the government with the power by regulation for such claims to be recoverable by tribunal.

Clause stand part.

Amendment 201, in clause 6, page 7, line 3, leave out paragraphs (b), (c) and (d) and insert—

"(b) leave out from 'shall determine the rent' to end of sub-section and insert 'in accordance with subsection 13(4F)'."

This amendment would require a tribunal to determine an appropriate rent in accordance with proposed subsection 13(4F).

Amendment 197, in clause 6, page 7, line 13, at end insert—

"(3A) After subsection (1) insert—

'(1A) In making a determination under this section, the appropriate tribunal must have regard to the original rent agreed with the tenant and subsequent changes in—

(a) Local Housing Allowance;

(b) the average rent within the broad rental market area as assessed by the Valuation Office Agency or as listed in the Property Portal;

(c) the consumer price index; and

(d) median income growth.'"

This amendment would allow the tribunal to take into account not only new rents in the market but current rents in existing tenancies, changes in wages, inflation, and local housing allowance when making a determination.

Amendment 198, in clause 6, page 7, line 25, at end insert—

"(5A) After subsection (5) insert—

'(5A) Where a notice under section 13(2) has been referred to the appropriate tribunal, then, unless the landlord and the tenant otherwise agree, the rent determined by the appropriate tribunal (subject, in a case where subsection (5) applies, to the addition of the appropriate amount in respect of rates) shall be the same or below the original rent and the increase in consumer price index or medium income growth, whichever is lower over the period since the tenancy started.'"

This amendment would limit tribunals to an upper cap of CPI or medium income growth, whichever is lower, for rent increases.

Amendment 199, in clause 6, page 7, line 25, at end insert—

"(5A) After subsection (5) insert—

'(5A) Where a notice under section 13(2) has been referred to the appropriate tribunal, then, unless the landlord and the tenant otherwise agree, the rent determined by the appropriate tribunal (subject, in a case where subsection (5) applies, to the addition of the appropriate amount in respect of rates) shall be set using the statutory guidance on in-tenancy rent increases laid before Parliament by the Secretary of State.'"

Amendment 199 and NC66 would require the Secretary of State to issue guidance to tribunals on the determination of in-tenancy rent increases, and require tribunals to take such guidance into account when making determinations.

Amendment 160, in clause 6, page 7, line 27, at end insert—

"(7A) After subsection (8) insert—

'(8A) Where a notice under section 13(2) has been referred to the appropriate tribunal then, unless the landlord and the tenant otherwise agree, the rent determined by the appropriate tribunal (subject, in a case where subsection (5) above applies, to the addition of the appropriate amount in respect of rates) shall be the same or below the rent specified in the section 13 notice and the rent as determined by the tribunal shall only become payable once the decision of the tribunal has become final.

(8B) A decision becomes final only on the latest of—

(a) the determination of any appeal;

(b) if earlier, on the expiry of the time for bringing a subsequent appeal (if any); or

(c) by its being abandoned or otherwise ceasing to have effect.'"

This amendment would ensure that where a rent assessment is carried out by a tribunal, the rent subsequently determined by that tribunal cannot be higher than that originally requested by a landlord in a section 13 notice.

Amendment 190, in clause 6, page 7, line 38, at end insert—

"(c) no more than the rent proposed by the landlord in the notice served on the tenant under section 13 of the 1988 Act."

This amendment would mean that the rent payable after a tribunal determination can be no higher than the rent initially proposed by the landlord in the notice served on the tenant.

Amendment 161, in clause 6, page 8, line 20, at end insert

"which must be no earlier than two months following the date of determination".

This amendment would ensure that in cases of undue hardship tenants would have a minimum of two months from the date of determination before a new rent became payable.

Amendment 162, in clause 6, page 8, line 21, leave out subsection (4) and insert—

"(4) A date specified under subsection (3)(b) must be no earlier than the date on which the determination becomes final, with a decision only becoming final on the latest of—

(a) the determination of any appeal;

(b) if earlier, on the expiry of the time for bringing a subsequent appeal (if any); or

(c) by its being abandoned or otherwise ceasing to have effect."

This amendment would remove the requirement for a date determined by a court for rent to become payable in cases of undue hardship to not be later than the date of the determination.

Clause 6 stand part.

New clause 58—*Requirement to state the amount of rent when advertising residential premises*—

"(1) A landlord must not advertise or otherwise offer a tenancy of residential premises unless the amount of rent is stated in the advertisement or offer.

(2) A letting agent acting on behalf of a landlord must not advertise or otherwise offer a tenancy of residential premises unless the amount of rent is stated in the advertisement or offer."

This new clause would require landlords or persons acting on their behalf to state the proposed rent payable in the advertisement for the premises.

New clause 59—*Not inviting or encouraging bids for rent*—

"(1) A landlord must not invite or encourage a prospective tenant or any other person to offer to pay an amount of rent for residential premises that exceeds the amount of rent stated as part of the advertisement or offer of the premises as required by section [*requirement to state the amount of rent when advertising residential premises*].

(2) A letting agent acting on behalf of a landlord must not invite or encourage a prospective tenant or any other person to offer to pay an amount of rent for residential premises that exceeds the amount of rent stated as part of the advertisement or offer of the premises as required by section [*requirement to state the amount of rent when advertising residential premises*].

(3) Subsection (1) does not prohibit a prospective tenant or other person from offering to pay an amount that exceeds the stated amount of rent."

This new clause would prevent landlords or persons acting on their behalf from inviting or encouraging bids that exceed the amount stated as part of the advertisement or offer of the premises.

New clause 62—*Limit on amount of rent that a residential landlord can request in advance*—

"In Schedule 1 to the Tenant Fees Act 2019, after paragraph 1(8) insert—

'(9) Where rent is payable in advance, the maximum that may be charged is equivalent to the amount specified in paragraph 2(3).'"

This new clause would ensure that the maximum amount of rent that could be lawfully requested by a residential landlord in advance of a tenancy commencing would be 5 weeks' rent for tenancies of less than £50,000 per annum and to 6 weeks' rent for tenancies over £50,000 per annum.

New clause 66—*Rent increase regulations*—

"The Secretary of State must lay before Parliament, from time to time, guidance for tribunals on the determination of in-tenancy rent increases under a section 13(2) notice, such guidance shall include reference to Local Housing Allowance, average rents as assessed by the Valuation Office Agency or published on the Property Portal, consumer price index and median income growth."

Amendment 199 and NC66 would require the Secretary of State to issue guidance to tribunals on the determination of in-tenancy rent increases, and require tribunals to take such guidance into account when making determinations.

Lloyd Russell-Moyle: I will speak to amendments 197 to 201 and new clause 66. I also support the other amendments put forward by my Front-Bench colleagues: amendments 160, 161 and so on.

The reason for these amendments is generally to probe the Government. The intention of the Bill is to stop landlords evicting people with no reason. It might well be through no fault of the tenant, or it might be that the landlord has genuine reasons, but it is still through no fault of the tenant. The danger is that without proper safeguards on economic evictions, landlords will be able to evict through the back door by whipping up the rent. The explanatory note from the Department for Levelling Up, Housing and Communities acknowledges the need to prevent back-door evictions, and that is why there are clauses to strengthen some of the rent tribunals' work. We all welcome that.

However, there are a few particular problems with the current definitions of the rent tribunal. The Secretary of State himself says that 20% and 30% rent increases are "unacceptable". However, the reality is that those kinds of rent increases could, in certain markets, still be acceptable in the rent tribunal, primarily because the rent tribunal looks at current market rents. Off the top of my head, I believe that the wording around current market rent refers to the rent that the landlord would be able to get if they were to put a property on the market, or in that phraseology. The problem with that is fewfold.

First, current market rent is based on the market rent of newly let properties, not of properties that have a sitting tenant. Quite understandably, if there is a sitting tenant, a landlord may not require as high a rent. They have not just had to deep-clean the property. Most good landlords—we all accept that they are the majority—make repairs to a house between tenancies and make sure it is back up to speed after general wear and tear. For a sitting tenant, those changes due to wear and tear will probably not be made, or they will have to make some of those improvements themselves. Asking the tenant to pay the general market rent is not a fair allocation of what the rent would be.

Tenants might have moved in and started paying a rent that was accessible on local housing allowance. Changes might then have happened around the area, or the area might have been gentrified, but the landlord may not have made any changes themselves—they have not invested anything more in the property. Suddenly, the rents go up and make that house unaffordable on local housing allowance. That does not seem fair to me either. The landlord has not invested. Clearly if the landlord has invested, there could be increases in rent. Under certain circumstances, we all think that rent needs to go up; it could not be fixed at one number forever.

I have therefore tabled a number of amendments. Amendments 200 and 201 state that the landlord may increase rents only according to the consumer prices index or median wages in the local area. This is effectively the clause that Grainger puts on its new properties. Grainger said in evidence that it does this routinely. It is not something that will come as a horrible surprise to lots of landlords, because many of the good ones—many of the big institutions—do it already.

Jacob Young: With respect to the hon. Member's point, the Committee has heard other evidence that Grainger does not do that. Grainger did it specifically in relation to their fixed-term rents. Since we are abolishing fixed terms, I do not think his point applies.

Lloyd Russell-Moyle: Grainger currently does it on its fixed-term rents, and almost all new rents are fixed-term rents for a period of time. The Minister is right: we do not know what Grainger will do in future. However, Grainger did not say that it would abolish them for sure in future either. I would expect Grainger to continue some sort of mechanism where there is that discussion. That is one suggestion I put to the Committee, and I would like to have the Minister's thoughts on it.

12.45 pm

Another of my suggestions, in amendment 197, is that rather than restricting what a landlord can put forward, they can propose any rent that they wish, as they can at the moment; however, if the tenant genuinely feels that it is unacceptable, they should be able to go to the tribunal. All I am doing in amendment 197 is allowing the tribunal to consider a number of different factors, not just what the current new market rents are. Because we will have this fantastic property portal, which will eventually list all rents, and to which the

courts will have access, the courts should consider what the current rents across the whole market are in a local area.

I am allowing the courts to consider what the local housing allowance increases might be. If a house was marketed at local housing allowance, and it was given particularly to people in receipt of universal credit or housing benefits, the courts could consider what a fair increase in local housing allowance would be for that tenant and property, bearing in mind that the landlord was happy for that property to be rented at local housing allowance initially.

Helen Morgan: I am interested in what the hon. Gentleman suggests, and I am broadly supportive of it. If we get this right, we should see a stable private rented sector where rents do not go up very much each year; they might fall in some local areas, depending on local circumstances. Does he envisage allowing rents to drop, or does he envisage them always going up by some kind of consumer price inflation-linked level?

Lloyd Russell-Moyle: That is an interesting question. In amendments 200 and 201, they would be linked to CPI or median local rents. Where that has been introduced in Belgium, two-thirds of landlords declined to increase rent at the rate of inflation, so it has not particularly caused a constant push to always increase.

In amendment 197, I am talking about a negotiation between the tenant and the landlord. If they do not agree, the tribunal can consider not just what the current market rate would be if the property were to be put on the market brand-new, but a number of other indicators, and come to a conclusion. It might well be that if market rents have decreased in an area, the tribunal would be able to come to that consideration; I am not forcing the tribunal, but allowing it to come to that consideration. Some of these amendments allow more flexibility, and I always think that flexibility in these issues is probably right. Amendment 197 also allows the tribunal to consider CPI and median income growth.

However, amendment 198 says that the tribunal might consider all those things, but even then it can never increase rent above CPI or median wages. It might well be that the tribunal wants it to go down, and it might find a different place, but there is a ceiling. Amendment 197 allows the tribunal to consider; amendment 198 puts a cap on what the tribunal can impose. Amendment 199 and new clause 66 give the Secretary of State the power, from time to time, to lay before Parliament statutory guidance or a statement outlining the consideration that courts should take into account in their rent deliberations the maximum amount by which they can increase it. I think that is the most flexible. It allows the Secretary of State, from time to time, to look at the wider market and be able to say, "It needs to be locally driven," or, "It needs to be national indicator-driven."

As I have already discussed, the market is changing, and there is not just one market throughout the UK. We would not necessarily have to find a single indicator that would work for everyone. We have development areas, areas where house prices have slumped and areas that are going through gentrification. We have properties that are increasing in value because of infrastructure inputs. If High Speed 2 was ever to happen, property prices might increase in parts of the north. If Labour gets in, perhaps we will see some actual improvements in rail and other infrastructure in the north of England, and that will help the market. Of course, we have had many promises that have never been delivered so far.

The Chair: Order. Let us stick to the amendments, please.

Lloyd Russell-Moyle: I digress, but I do believe that all of Britain will have a better deal under Labour—although, of course, I would say that.

Amendment 199 would give the Secretary of State the flexibility to work out what the local markets are, and they could even devolve that to local or regional bodies. It would give them the ability to say, "I'm laying down a statement to say that there is no restriction of the total amount whatever," or they could say, "Certain areas have restrictions, and certain areas have none." The Secretary of State should consider introducing the ability to do that, given that certain areas are more problematic than others, and also the ability to look at indicators that might be relevant from time to time. At the moment, the courts cannot consider Secretary of State guidance on this matter because they are bound to consider only one thing. All I am saying is that they should consider market rents and the Secretary of State's guidance.

Jacob Young: The hon. Gentleman suggested that the Secretary of State could devolve that decision. The Mayor of London has asked for powers to introduce rent controls in London. Does the hon. Gentleman agree with the Mayor of London?

Lloyd Russell-Moyle: We are talking about in-tenancy rent controls, and I think there are cases where they should be devolved and cases where they should be decided by the Government. Different Governments will take different approaches, depending on the need of the local area. Out-of-tenancy rent controls are a different matter and are not covered by the Bill. I will not be distracted, because I am sure you would pull me up for going into a different area, Mr Paisley.

The Chair: I would.

Lloyd Russell-Moyle: I also support some of the other important amendments in the group. Amendment 160, from my hon. Friend the Member for Greenwich and Woolwich, is about ensuring that rents cannot be above the initial section 13. What I mean by that—I am sure my hon. Friend will discuss it further—is that if the landlord says, "I want a rent of *x*," and the tenant says, "That's unreasonable," and takes it to the tribunal, the tribunal cannot issue a higher rent than what the landlord was asking. We heard a lot of evidence about how that would have a chilling effect and prevent people from going to the rent tribunal.

The whole premise of the Bill—even the Government acknowledge this—is that what prevents economic evictions is the threat of going to the court or tribunal. Nobody wants to go to the rent tribunal, so landlords propose decent rents; there is self-control and self-restraint. If there is no upper cap on what the rent tribunal can decide, a landlord who is happy to accept a lower amount might end up dancing out of the court because they were suddenly offered more than they asked for. That does not seem fair to me; that does not seem fair in any form of the market. That is important.

Of course, if we give courts the ability to consider Secretary of State guidance, that could be included in the Secretary of State guidelines, but I assume the Minister will reject that proposal, so it is important that there is a backstop. Amendment 160 is important for that backstop.

Then there are some amendments about undue hardship. I support them, and other hon. Members will talk about them. It is important that the Government give some indication of how they think tribunals should interpret these measures. I also say that because it is in nobody's interest for every single rent to be challenged in the tribunal in the first few years of the new system. That will not help the tribunals, renters or landlords. Landlords need guidelines. If landlords are just told, "Punt a rent and find out what happens in tribunal," we are letting down landlords as well. Providing some clearer guidelines, either in the Bill or through the Secretary of State, would reassure landlords that when they want to raise their tenants' rents reasonably, they can do so.

Finally, I have heard some concern externally that if we limit rent increases, a landlord who forgoes a rent increase over one or two years will be unable to match the rent up later. All my amendments refer to when the tenancy started, so the court and tribunal could consider what the rent increases have been throughout that tenancy. Of course, sometimes a landlord will say, "I will not increase your rent for a few years, because I do not need to, but when I do get round to doing it, I will increase it to what it would have been had I done it annually." That is fair enough, and my amendment allows for it. No landlord would be disadvantaged by the amendment; it would provide security for landlords, security for tenants and flexibility for the tribunals.

If there is any movement from the Government on any of my very reasonable amendments, I would love to hear about it.

Ordered, That the debate be now adjourned.—*(Mr Mohindra.)*

12.56 pm

Adjourned till this day at Two o'clock.