PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT
GENERAL COMMITTEES

Public Bill Committee

RENTERS (REFORM) BILL

Ninth Sitting

Tuesday 28 November 2023

(Morning)

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Saturday 2 December 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

Tuesday 28 November 2023

(Morning)

[James Gray *in the Chair*]

Renters (Reform) Bill

Clause 19

Tenancy deposit requirements

9.25 am

Matthew Pennycook (Greenwich and Woolwich) (Lab): I beg to move amendment 170, in clause 19, page 24, line 29, after "only if" insert

"both at the date of the service of the notice and the date of the hearing".

This amendment would ensure that landlords must protect deposits with an authorised scheme and provide prescribed information in connection with it before a notice for possession is served rather than doing so, or repaying a deposit, at any time up to a court making an order for possession.

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

Amendment 171, in clause 19, page 24, line 33, after "only if" insert

"both at the date of the service of the notice and the date of the hearing".

This amendment would ensure that landlords must protect deposits with an authorised scheme and provide prescribed information in connection with it before a notice for possession is served rather than doing so, or repaying a deposit, at any time up to a court making an order for possession.

Amendment 172, in clause 19, page 24, line 40, after "only if" insert

"both at the date of the service of the notice and the date of the hearing".

This amendment would ensure that landlords must protect deposits with an authorised scheme and provide prescribed information in connection with it before a notice for possession is served rather than doing so, or repaying a deposit, at any time up to a court making an order for possession.

Clause stand part.

Matthew Pennycook: It is a pleasure to continue our proceedings with you in the Chair, Mr Gray.

Clause 19 makes a number of amendments to chapter 4 of part 6 of the Housing Act 2004, the effect of which is to ensure that the requirement for landlords and letting agents to place deposits in a Government-approved tenancy deposit protection scheme is maintained in relation to new assured tenancies and tenancies that were assured shorthold tenancies immediately before the extended application date. Currently, any section 21 notice served on a tenant may be invalid if the deposit requirements are not adhered to, but the clause will ensure that, if landlords take a deposit and do not fulfil the relevant statutory requirements, they cannot be awarded a possession order on any of the grounds set out in the amended schedule 2 to the Housing Act 1988.

On the surface, the clause appears simply to apply the existing tenancy deposit requirements to the new tenancy system that will apply whenever chapter 1 of part 1 of the Bill comes into force. However, there is an important difference between the requirements, which speaks to our wider concern about future landlord compliance with the regulatory obligations that have developed around section 21 notices over the course of the 35 years in which the present tenancy system has been in place. We will explore those wider concerns in more detail when we debate our amendment 176 to clause 34.

With regard to tenancy deposit requirements, the main difference between how the relevant protection rules apply to the existing system and how the Government propose that they will apply to the new one is that, under the Bill, they must be adhered to before a court will award possession, rather than, as now, when a notice is served. Put simply, instead of the landlord having to protect a deposit within 30 days of receipt and provide the prescribed information about how that will be achieved before the notice is served, the Bill will allow them to do either of those, or return the deposit, at any time up to the court hearing date.

From a tenant's perspective, that situation strikes us as a less stringent application of the requirements than we currently have in relation to assured shorthold tenancies. Taken together, amendments 170 to 172 would ensure that landlords must protect deposits with an authorised scheme and provide prescribed information in connection with it before a notice for possession is served rather than doing so, or repaying a deposit, at any time up to a court making an order for possession. I hope that the Minister will consider accepting the amendments.

The Parliamentary Under-Secretary of State for Levelling Up, Housing and Communities (Jacob Young): It is a pleasure to see you in the Chair again, Mr Gray. I thank the hon. Gentleman for tabling amendments 170 to 172, which seek to change the requirement that landlords must comply with the deposit protection rules before a court can order possession. The amendments would require landlords to comply with the deposit protection rules both before serving a tenant with notice and at the time of the possession hearing. If those conditions are not met, courts could not make a possession order.

The Bill already protects tenants from landlords who are not complying with existing tenancy deposit rules, because clause 19 requires landlords to comply with deposit protection rules before a court may make an order for possession. That will impact only on those landlords who are not complying with existing tenancy deposit rules. If the landlord has stored the deposit correctly in one of the prescribed schemes and has complied with all the applicable rules, the measures in the clause will not hinder or delay the possession process. Landlords will also be able to rectify the problem before the case reaches the court, ensuring that those provisions will not trip them up if they have made an honest mistake. Because we recognise that some possession cases are too critical to delay, that will not apply to the grounds relating to antisocial behaviour.

The aim of our measures in clause 19 is therefore not to prevent or frustrate possession, but to ensure that tenancy deposits are protected for the benefit of the tenant. The hon. Member's amendments would simply act as another administrative trap that good-faith landlords could fall into. The Bill already ensures that deposits will be protected, while giving landlords sufficient time to comply with the rules before the case reaches the court. I therefore ask the hon. Member to withdraw his amendment.

Matthew Pennycook: I welcome the Minister's response. What I remain unclear about—if he wishes to clarify this, I will happily allow him to intervene—is whether, in the Government's view, the change is a less stringent application of the requirements that currently apply to assured shorthold tenancies. That is all we are seeking to probe, and if the Minister can reassure me on that point I will withdraw the amendment.

Jacob Young: The existing possession restrictions have made the possession process more complex for all parties, and we do not feel that they are an effective way to ensure that tenants are living in safe and decent homes during a tenancy. That is part of the reason for the changes.

Matthew Pennycook: I do not know about other members of the Committee, but from the reasons that the Minister stated, I take it that the change is a less stringent application. I will not press the amendment to a vote at this point, but we may return to this issue, and we will discuss another amendment that we have relating to preconditions and requirements of the Bill around section 21 notices. I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Clause 19 ordered to stand part of the Bill.

Clause 20 ordered to stand part of the Bill.

Schedule 2

CONSEQUENTIAL AMENDMENTS RELATING TO CHAPTER 1 OF PART 1

Amendment made: 60, in schedule 2, page 77, line 13, at end insert—

"7A In section 39 (statutory tenants: succession) omit subsection (7).

7B In section 45 (interpretation of Part 1), in subsection (2) omit 'Subject to paragraph 11 of Schedule 2 to this Act,'.

7C In Schedule 2 (grounds for possession), omit Part 4.

7D In Schedule 4 (statutory tenants: succession), in Part 3, omit paragraph 15."—*(Jacob Young.)*

This amendment makes changes to the 1988 Act which are consequential on the changes to the regime for prior notice for some grounds for possession.

Schedule 2, as amended, agreed to.

Clause 21 ordered to stand part of the Bill.

Clause 22

PENALTIES FOR UNLAWFUL EVICTION OR HARASSMENT OF OCCUPIER

Amendment made: 61, in clause 22, page 28, line 4, at end insert—

"(10) In this section and Schedule A1, 'local housing authority' means a district council, a county council in England for an area for which there is no district council, a London borough council, the Common Council of the City of London or the Council of the Isles of Scilly."—*(Jacob Young.)*

This amendment defines "local housing authority" for the purposes of section 1A of, and Schedule A1 to, the Protection from Eviction Act 1977.

Clause 22, as amended, ordered to stand part of the Bill.

Clause 23

MEANING OF "RESIDENTIAL LANDLORD"

Matthew Pennycook: I beg to move amendment 173, in clause 23, page 31, line 29, at end insert—

"(c) an agreement to which the Mobile Homes Act 1983 applies; or

(d) any licence of a dwelling".

This amendment would extend the definition of residential landlord to include park home operators, private providers of purpose-built student accommodation, and property guardian companies.

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

Government amendments 62 to 64.

Clause stand part.

Government amendment 70.

Matthew Pennycook: Part 2 of the Bill concerns landlord redress schemes and the private rented sector database. We welcome part 2 and the Government's intention to use its clauses to bring the private rented sector within the purview of an ombudsman and to establish a new property portal, including a database of residential landlords and privately rented properties in England. As the Committee will know, two letting agent redress schemes already exist, but the case for bringing all private landlords within the scope of one, irrespective of whether they use an agent to provide management services on their behalf, is compelling and has existed for some time.

The Government first announced their intention to explore options for improving redress in the housing market in late 2017, and in 2019 committed themselves to extending mandatory membership of a redress scheme to all private landlords through primary legislation. Much like the abolition of section 21, a statutory single private rental ombudsman has been a long time in the making. There are myriad issues with the ombudsman that lie outside the scope of the Bill, not least how the Government will address its role within what is already a complicated landscape of redress and dispute resolution; there are already multiple redress schemes and tenants already have recourse to local authorities, the first-tier tribunal, a deposit protection scheme and ultimately to the courts.

However, we support the principle of bringing the private rented sector within the scope of a single ombudsman. If the ombudsman covering the private rented sector, whoever it ultimately is, makes full use of the powers available to it and is well-resourced, and if the potential for confusion and perverse incentives that might result from multiple schemes is addressed, that should ensure that tenants' complaints can be properly investigated and disputes can be resolved in a timely, more informal manner. That would help to ease the pressure on local authorities and the courts.

In contrast to the proposal for an ombudsman covering the private rented sector, the commitment to introduce a new digital property portal was made only last year in the White Paper. Nevertheless, we strongly support it. Indeed, I would go so far as to say—I have done so on previous occasions—that we believe a well-designed, resourced and properly enforced portal has the potential to utterly transform the private rented sector and the experience of tenants within it.

[Matthew Pennycook]

We want the Bill to deliver a property portal that makes it easier for landlords to understand and demonstrate compliance with their existing obligations and evolving regulations; which empowers tenants by rendering transparent the rental history of landlords; and which enables landlords to be held to account by those they are renting to. We also want the property portal to help local authorities with enforcement against non-compliant landlords and to monitor and crack down on the minority of rogues in the sector.

We are concerned that chapter 2 of part 2 of the Bill, which deals with landlord redress schemes, is arguably too prescriptive, and that chapter 3 of part 2, which deals with the private rented sector database, are not nearly prescriptive enough. Fundamental to the operation of both measures is the question of which tenancies fall within their scope. As a means to probe the Minister on this issue, we tabled amendment 173, which would extend the definition of residential landlord to include park home operators, private providers of purpose-built student accommodation and property guardian companies. Each of those was explicitly referenced in the White Paper with regard to the schemes. I will make some brief comments on each to explore how the Government might define the scope of the private rented sector database and landlord redress scheme provisions via regulations in due course.

When it comes to residential park home operators, the Government's October 2018 review of the legislation in this area found that some site operators

"continue to take unfair advantage of residents, most of whom are elderly and on low incomes."

Furthermore, the Government said in their 2019 report, "Strengthening Consumer Redress in the Housing Market":

"Currently, if a site operator fails to meet their contractual obligations a resident has little recourse except via the First-tier Tribunal, and those who rent directly from the site operator also lack access to redress. We are satisfied that there is a gap in redress services for park home residents and are committed to extending mandatory membership of a redress scheme to all residential park home site operators."

When it comes to purpose-built student accommodation, the 2019 report also stated:

"Responses highlighted a gap in redress provision amongst students living in purpose-built student accommodation run by private companies."

While the majority of such private companies have signed up to a code of practice administered by Unipol, the Government nevertheless made clear that private providers of purpose-built student accommodation, as opposed to educational establishments that provide student accommodation, should come within the scope of a redress scheme. When it comes to property guardians, recent reports in the press have highlighted rising instances of misconduct on the part of some property guardian companies that operate through licences to occupy rather than tenancies, which provide significantly fewer protections.

Research conducted by Sheffield Hallam University, commissioned by the Department and published last year, found that most property guardians

"reported very poor conditions, with properties frequently described as deteriorating and susceptible to adverse weather conditions. Local authorities also reported poor conditions in properties they had inspected. Persistent issues with damp and mould were very commonly reported, including damp from flooding, faulty plumbing and leaking roofs."

That research also found that local authority enforcement teams are not routinely reviewing, inspecting or enforcing standards in guardian properties. There would therefore appear prima facie to be a strong case for including property guardians as well as park home sites and purpose-built student accommodation within the scope of the ombudsman and property portal as a means of increasing enforcement action and driving up standards.

It may well be the case that the Government fully intend to include each of those within the scope of the ombudsman and the private rented sector database in chapters 2 and 3 of part 2 when they introduce the relevant regulations and to provide access to redress for residents living in each type of accommodation, but we would appreciate a degree of clarity from the Government so that we can understand how extensive the operation of both schemes should be. I look forward to the Minister's response.

Jacob Young: I thank the hon. Member for moving amendment 173, which proposes to expand the scope of the mandatory landlord redress scheme, which I will now refer to as the ombudsman, and the database, which I will now refer to as the portal. Specifically, the amendment would expand the ombudsman and portal to include park homes and dwellings occupied under licence, such as private purpose-built student accommodation and buildings occupied under property guardianship schemes.

Clause 23 sets out the tenancies that will fall within the scope of the ombudsman and the portal. It currently provides that they will capture assured and regulated tenancies, which make up the great majority of residential tenancy agreements in England, so under the clause the majority of landlords of private tenancies in England will initially need to be registered with the ombudsman and the portal.

We want to ensure that the introduction of the ombudsman and the portal is as smooth as possible, so tenants and landlords will need to have clarity over their rights and responsibilities. The issues that affect students, property guardians and park home owners can often be quite different from those faced by the majority of those in the private rented sector. Given those differences, it is reasonable to first apply the ombudsman membership requirements to the majority of private landlords. That will mean that all initial landlord members will be subject to the same expectations. We can then consider expanding the remit of the ombudsman to more specialised accommodation.

The clause also gives the Secretary of State the power to make regulations to amend the definitions and change the letting arrangements that would be captured by the requirements. We intend to use the regulations to potentially include different types of letting arrangements in future. I assure the hon. Member that we will continue to engage with the sector, and that we have the flexibility to determine the best course of action following such engagement. I therefore ask him to withdraw the amendment.

I turn to Government amendments 62 to 64. The current definition of "dwelling" would potentially preclude shared accommodation from being brought into scope.

The amendments change the definition of "dwelling" that could be used in future so that shared accommodation may be included. In addition, clause 23 provides clarity on the meanings of private "residential landlord", "relevant tenancy" and "dwelling" for the purposes of determining which tenancies are within the ambit of the private landlord ombudsman and the portal. Ministers will be able to make regulations to allow for divergence between the scope of the ombudsman and the portal. That will ensure that each scheme can retain full autonomy and operate independently in the future.

Matthew Pennycook: That was a very helpful clarification from the Minister. I take it from his answer that, although the Government are quite rightly focused on bringing assured and regulated tenancies within the scope of the ombudsman and the portal to cover the majority of private landlords, they are open to considering how their remit and scope may expand in the future to cover important other types of tenancy, as I have described. On that basis, I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Amendments made: 62, in clause 23, page 32, line 5, leave out from second "building" to "it" in line 6.

This amendment removes words that are no longer needed as a result of Amendment 64.

Amendment 63, in clause 23, page 32, line 7, leave out "so occupied or intended to be so occupied".

This amendment removes words that are no longer needed as a result of Amendment 64.

Amendment 64, in clause 23, page 32, line 8, at end insert—

"(ia) so that it includes a building or part of a building, and anything for the time being included in the meaning of "dwelling" by virtue of sub-paragraph (i), which is occupied or intended to be occupied as a dwelling that is not a separate dwelling,".—*(Jacob Young.)*

This amendment allows the power to amend the definition of "dwelling" that applies for the purposes of Part 2 of the Bill to be used so as to add to that definition places that are not occupied as a separate dwelling. This will enable the power to be exercised to bring shared living accommodation within the definition of "dwelling".

Clause 23, as amended, ordered to stand part of the Bill.

Clause 24

LANDLORD REDRESS SCHEMES

Matthew Pennycook: I beg to move amendment 174, in clause 24, page 32, line 27, leave out "may" and insert "must".

This amendment would impose a duty on the government to require residential landlords as defined in clause 23 to join a landlord redress scheme.

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

Clause stand part.

Amendment 196, in clause 25, page 34, line 17, at end insert—

"(ba) providing that complaints about deposits held in tenancy deposit schemes under Chapter 4 of Part 6 of the Housing Act 2004 (tenancy deposit schemes) may be made under the scheme,".

This amendment would ensure that where there is a dispute regarding deposits this can be submitted to the ombudsperson for redress rather than just to the private schemes themselves.

Clause 25 stand part.

Matthew Pennycook: Amendment 24 is a simple and straightforward measure that is designed purely to ensure that the Bill guarantees that the private rented sector will be brought within the purview of an ombudsman. The Opposition are slightly concerned by the deliberate choice of the phrase "may make regulations" rather than "must make regulations" in subsection (1) of the clause, not least because it has been four years since the Government committed to extending mandatory membership of a redress scheme to all private landlords through primary legislation. We would be content to withdraw the amendment if we receive firm assurances that the Government will, at the earliest possible opportunity, bring the private rented sector within the remit of an ombudsman and if the Minister provides further detail about the Government's intentions in that regard.

Turning to clause 25, the Minister will know that all other ombudsman-level redress schemes that have been set up in recent decades, including the new homes ombudsman, the legal ombudsman, the housing ombudsman and the pensions ombudsman, have all been clearly defined in statute as the only bodies responsible for ombudsman-level redress operating within the relevant sector. That is because the Government think it important to avoid having multiple redress schemes in individual industry sectors. As the relevant Cabinet Office guidance sets out, multiple redress schemes should be avoided because they may

"confuse consumers and may introduce uneven practices in investigation and redress".

The Government have made it clear since the publication of the White Paper that they intend to introduce a new single ombudsman that all private landlords must join, yet clause 25 and others in this chapter deliberately refer to "redress schemes", rather than a single ombudsman. Clause 25(6)(a) specifically makes clear that the regulations that the Secretary of State may introduce under clause 24 can provide for a number of redress schemes to be approved or designated.

9.45 am

Given the Government's position, as outlined in the White Paper, I would be grateful if the Minister explained why it has been felt necessary to draft the Bill in such a way that it would potentially facilitate the creation of multiple redress schemes. Would he explain why the Government believe it necessary for multiple schemes to be set up and why it was not adequate simply to specify, as precedent would dictate, that a singular ombudsman be established in the Bill?

I have a final question for the Minister in relation to this clause that relates to the concern I flagged when speaking to amendment 173 to clause 23—namely, that chapter 2 of part 2 of the Bill concerning landlord redress schemes is too prescriptive. In the evidence he gave to the Committee two weeks ago, Professor Christopher Hodges made the argument for not over-specifying operational details in legislation but leaving a degree of discretion to the ombudsman and the portal operator.

However, rather than limiting the Secretary of State's powers to approval of the scheme, this clause provides them with powers to direct the operation of the ombudsman in all manner of areas, including fee setting, the time allowed for complaints to be resolved, the circumstances in which complaints may be rejected, the types of sanction available for redress, and the general enforcement decisions made under the scheme. My question to the Minister is simply why do the Government believe that a different approach from the norm is necessary in the case of the new ombudsman with responsibility for the private rented sector?

Lloyd Russell-Moyle (Brighton, Kemptown) (Lab/Co-op): I rise to support my hon. Friend the Member for Greenwich and Woolwich and to speak to amendment 196, which stands in my name.

Amendment 196 aims to include deposits as an area that the ombudsperson can overview, and it touches on my hon. Friend's point. The deposit schemes are three in number, which causes great problems for many constituents. Most believe that they will never get their deposit back, because they know that their landlords can run rings around the respective deposit schemes.

The outcomes of deposit scheme disputes are not published; they are secret. There is no precedent set when a scheme determines that a particular action puts someone at fault, and there is no cross-referencing between schemes. A constituent could be treated in one way under one scheme and a completely different way under another, even though the scenarios are exactly the same. It is a complete mess, and most other countries have one deposit protection scheme. I am not proposing that—that is outside the scope of the Bill—although I would love the Minister to look seriously at this when the deposit scheme licences come up. The New South Wales model is much more efficient and involves one scheme, the profits of which are rather large and pay for all legal aid in New South Wales. Early estimates of what would happen in Britain show that the amount raised would far exceed the cuts made to housing legal aid previously. There would be some real wins if the Minister got to grips with that.

My amendment 196 would at least allow for an appeal process. If someone does not believe that the deposit schemes have come to a fair and just conclusion, they can go to the ombudsperson for determination—that is important, because the ombudsperson's deliberations would be public, which would allow the schemes to take into account what they were each doing—just as we would have to go through a local council complaints system, but can then go to the Local Government and Social Care Ombudsman if we feel there is a problem.

I would expect most complaints to still be resolved within the deposit schemes. However, where there is disagreement and the threshold of going to court is too high, and where maladministration, which is the main part of an ombudsperson's remit, can also be identified, the ombudsperson can redress that and then publish their findings, and we can ensure harmonisation in the deposit system, which does not currently exist.

If we do not explicitly identify deposit schemes as falling within scope, there is a danger that the anomalies in the deposit system will never be addressed. I therefore hope that the Minister will give me some reassurance that there is an intention to address these problems with deposit schemes, where judgments are sealed and there is no idea of the outcome. It is also important, in relation to the property portal, for residents to know whether the landlord routinely—or every time—keeps the deposit. That would show a pattern of behaviour, which would be important information for tenants. Bringing it within the purview of this Bill is therefore also important.

Jacob Young: Amendment 174 would legally oblige the Government to make regulations requiring residential landlords to be members of a landlord redress scheme, rather than giving the Government the discretion to do so. The Government are committed to requiring private landlords to be members of an ombudsman, and a binding obligation is not required on the face of the Bill. We have taken powers in the Bill to allow the Government to ensure that the ombudsman is introduced in the most effective way, and with the appropriate sequencing.

Amendment 196 would require the ombudsman to handle complaints about tenancy deposits. It would be unwise to list in the Bill specific issues that the ombudsman can or cannot look at. The ombudsman would need the flexibility to consider any complaint duly made, but also to direct a tenant elsewhere if more appropriate. As tenancy deposit schemes already provide free alternative dispute resolution, the ombudsman may decide that the case is better handled elsewhere, but it will ultimately depend on the circumstances of each case. The ombudsman will have the final say on jurisdiction, subject to any agreement with other bodies.

We have made provision under clause 25 to enable the ombudsman to publish a Secretary of State-approved code of practice, which would clarify what the ombudsman expects of its landlord members. The ombudsman scheme will also provide more clarity about the circumstances in which a complaint will or will not be considered. I therefore ask the hon. Member for Brighton, Kemptown not to press his amendment.

As discussed, clause 24 provides the Secretary of State with powers to set up a mandatory redress scheme, which all private residential landlords of a relevant tenancy in England will need to join. We intend for the scheme to be an ombudsman service, and will look to require former landlords, as well as current and prospective landlords, to remain members after their relevant tenancies have ended, for a time specified in secondary regulations.

Members have asked for clarity about who the new PRS landlord ombudsman will be. No new ombudsman can be selected until after regulations have been laid following Royal Assent, but we can show the direction of travel. We have listened to the debates and the evidence given to this Committee, and our preferred approach at this time is for the existing housing ombudsman service to administer redress for both private and social tenants. As an established public body already delivering redress for social tenants, the housing ombudsman is uniquely positioned to deliver the private sector landlord redress scheme. Having one provider for all social and private renting tenants would provide streamlined and simple-to-use redress services for complainants.

To be clear, we are not ruling out the possibility of delivering through a different provider; we are still in the early stages of designing this new service. We now

intend to explore how best to deliver on our ambition for a high-quality, streamlined and cross-tenure redress service.

To address the point that the hon. Member for Greenwich and Woolwich made about multiple redress schemes, the intention is to approve a single ombudsman scheme that all private landlords will be required to join. However, allowing for multiple schemes in legislation offers the Government flexibility, should the demand for redress prove too much for a single provider to handle effectively. I hope, on that basis, that the hon. Member will withdraw his amendment.

Matthew Pennycook: That is useful clarification from the Minister. Based on the assurances he has given, I do not intend to press amendment 174 to a Division. I understand fully, with the caveats that he has just given, what he is saying about a single ombudsman. We would welcome the Government's preferred approach—for the housing ombudsman to take on responsibility for the private rented sector. The Landlord and Tenant Act 1985 does not distinguish between tenures, and we think that the ombudsman is probably best placed to provide that service and to do so quickly.

I would push back slightly against what the Minister said about how the clause is drafted, purely because, in a sense, it diverges from precedent. Most other Bills that we have looked at are very clear about establishing a single body and not being too prescriptive about how it operates. The Government have taken a different approach here. The Minister has given as one reason for doing so that the ombudsman might be overwhelmed by demand. Our response would be that we should ensure that the ombudsman that is given responsibility is properly resourced and adequately supported to do its job, rather than contemplate setting up additional redress schemes. However, it has been useful to hear the Government's response, so we will not push the issue any further at this stage. I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Clause 24 ordered to stand part of the Bill.

Clause 25 ordered to stand part of the Bill.

Clause 26

Financial penalties

Matthew Pennycook: I beg to move amendment 165, in clause 26, page 36, line 21, leave out "£5,000" and insert "£30,000".

This amendment would increase the maximum financial penalty that local authorities could impose on a person if it is satisfied beyond reasonable doubt that they have breached the requirement in Clause 24 to be a member of an approved or designated redress scheme or in instances where a property has been marketed where the landlord is not yet a member of a landlord redress scheme.

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

Amendment 166, in clause 26, page 36, line 22, leave out "£30,000" and insert "£60,000".

This amendment would increase the maximum financial penalty that a local housing authority may impose on a person as an alternative to prosecution, if it is satisfied beyond reasonable doubt that an offence under clause 27 has been committed.

Clause stand part.

Matthew Pennycook: In precisely the same way that amendments 163 and 164, which we debated previously, sought to raise the maximum financial penalty that local authorities could levy where the provisions in clauses 9 or 10 were contravened or an offence committed, amendments 165 and 166 seek to raise the maximum financial penalty in respect of breaches relating to the requirements in clause 24 to be a member of an approved or designated redress scheme—that is, the ombudsman.

If the ombudsman is to cover all private landlords who rent out property in England, as I think every member of the Committee would wish, the penalty for not complying with mandatory membership must be sufficiently severe to act as a deterrent. We have tabled these amendments because we remain unconvinced that a £5,000 fine for a breach and a £30,000 fine as an alternative to prosecution will deter the minority of unscrupulous landlords who wish to evade regulation from failing to join. We urge the Government once again to reconsider.

Jacob Young: As the hon. Gentleman has mentioned, we discussed related points in earlier debates. His amendments 165 and 166 relate to the requirement for landlords to be members of the Government-approved redress scheme, which we intend to run as an ombudsman service, and a ban on marketing a property where a landlord is not registered with such a scheme. Our proposed fine regime is fair and proportionate. A £5,000 fine will be enough to deter non-compliance for most, yet fines of up to £30,000 are also possible if non-compliance continues. The legislation allows for fines to be imposed repeatedly every 28 days after a penalty notice has been issued. For repeat breaches, local housing authorities can also pursue prosecution through the court, which carries an unlimited fine. This escalating procedure gives our new ombudsman the necessary teeth for maximum compliance without making the fines unnecessarily excessive. I therefore ask the hon. Member to withdraw his amendment.

Matthew Pennycook: I will withdraw the amendment, as I made clear, but there is a point of difference here. We do not believe these fines will be enough. I take on board, as I have previously, the Minister's point that repeat fines can be levied. For us, these fines are important because of their deterrent effect in cautioning landlords away from ever contemplating a breach or repeat offences. The maximum fine level also has implications for enforcement more generally, which we will debate in due course. In this instance we are probing the Government on the maximum levels, so I do not intend to push the amendment to a Division.

The Chair: On a slight technicality, the Member is seeking the leave of the Committee to withdraw the amendment. Other members of the Committee may press it to a Division if they wish to, although in this case they do not.

Amendment, by leave, withdrawn.

Clause 26 ordered to stand part of the Bill.

Clause 27

Offences

Jacob Young: I beg to move amendment 65, in clause 27, page 38, line 23, leave out subsection (9).

This amendment removes provision that is no longer needed as a result of NC19.

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

Clause stand part.

Government amendment 68.

Government new clause 19—*Rent repayment orders for offences under sections 27 and 48*.

New clause 57—*Extension of rent repayment orders*—

"(1) In Section 40(3) of the Housing and Planning Act 2016, at end of table insert—

8	Housing Act 1988	Section 16D, 16E	Duties on landlords and agents as regards information provision and prohibition on reletting
9	Renters (Reform) Act 2024	Sections 24	Landlord redress provisions
10	Renters (Reform) Act 2024	Section 39 (3)	Active landlord database entry"

This new clause would ensure that rent repayment orders can be made to the landlord under the relevant tenancy in any instance where a financial penalty or offence is made relating to clauses 9, 10, 24 or 27 of the Bill.

Jacob Young: Clause 27 sets out when a person will be liable for a criminal offence under the redress clauses. The provisions cover landlords who repeatedly fail to sign up with the ombudsman and persons of business who repeatedly market the property of an unregistered landlord. They will specifically include those who breach the same regulations after a previous conviction or who have received a financial penalty for breaching the regulations within the previous five years. These offences will not carry a custodial sentence, but can be subject to an unlimited fine.

10 am

Government amendments 65 and 68 and Government new clause 19 will amend existing housing regulations in the Housing and Planning Act 2016 so that, in the most extreme cases, local councils can ban landlords who have been successfully prosecuted under the redress provisions. Tenants and councils will be able to apply to the first-tier tribunal for rent repayment orders against landlords convicted of failing to join the ombudsman. Landlords who refuse to join cannot be legally bound by its decisions. Allowing rent repayment orders will make sure that tenants are entitled to some recompense, regardless of whether a landlord follows the rules or not.

I thank the hon. Member for Greenwich and Woolwich for tabling new clause 57, which would allow rent repayment orders to be made against landlords for less serious, non-criminal breaches of the Bill and for some of the new tenancy reform offences. We tabled new clause 21 to increase the maximum amount that a landlord may have to pay under a rent repayment order from 12 months to two years of the rent paid by tenants. New clause 57 would therefore mean that, for example, a landlord who failed to be a member of a redress scheme could be ordered to pay up to two years-worth of rent. We think that would be disproportionate. We will debate new clause 21 fully when we reach clause 67. I therefore ask the hon. Member not to press his new clause.

Matthew Pennycook: I will speak to new clause 57. I will state up front that we welcome the Government amendments to clause 27 and in this area to toughen the sanctions on landlords who display the types of behaviour the Minister has just set out. As I indicated last week when we debated amendments 163 and 164 and the financial penalties that local authorities could levy for breaches and offences under clauses 9 and 10, we believe that rent repayment orders should be a more significant feature of the Bill as a means to aid enforcement of the new tenancy system; to ensure compliance with the requirements to be a member of the ombudsman and maintain an active landlord database entry; and to fairly compensate tenants for losses incurred due to a failure on the part of landlords to comply with the duties and obligations provided for in the Bill.

As the Committee will know, rent repayment orders were introduced by the Housing Act 2004, and were hugely expanded via section 40 of the Housing and Planning Act 2016. They allow the occupier of a property—usually a tenant—and local authorities to apply to the first-tier tribunal for an order that a landlord or his or her agent should repay rent of up to a maximum of 12 months—although the Minister has just made it clear that, in certain circumstances, the Government propose to lengthen that period to 24 months. Rent repayment orders are an accessible, informal and relatively straightforward means by which tenants can obtain redress in the form of financial compensation without having to rely on another body in instances where a landlord or his or her agent has committed, beyond reasonable doubt, an offence that relates to the occupation or letting of a property.

As Simon Mullings, the co-chair of the Housing Law Practitioners Association, argued in the evidence he gave to the Committee on 16 November:

"Rent repayment orders create, as I have said before to officials in DLUHC, an army of motivated enforcers, because you have tenants who are motivated to enforce housing standards to do with houses in multiple occupancy, conditions and all sorts of things."—[*Official Report, Renters (Reform) Public Bill Committee,* 16 November 2023; c. 114, Q146.]

We know that rent repayment orders are already being utilised on a scale the dwarfs the use of other enforcement tools. In London, for example, the available data suggests that more properties were subject to a rent repayment order in the years 2020, 2021 and 2022 than civil penalties and criminal convictions relating to licensing in the same period.

The Bill as originally drafted allowed for rent repayment orders to be made only where a landlord had committed an offence under clause 27(9) relating to continuing or repeat breaches after a penalty had been imposed. As the Minister has made clear, Government new clause 19 adds a series of offences under clause 48 concerning the provision of false or misleading information to the private rented sector database and continuing or repeat breaches. We welcome that.

Separately, Government new clause 21 provides that a rent repayment order can be made against a superior landlord, thereby overriding the judgment made in the recent case of Rakusen *v.* Jepsen and others, which was heard by the Supreme Court. We welcome its incorporation into the Bill. We take the Government's decision to table it as a clear indication that they view rent repayment orders as a practical and accessible means of enforcement by tenants or occupiers.

However, we want the Government to go further and extend the tribunal's ability to make rent repayment orders for the following: first, a breach of new sections 16D and 16E of the Housing Act 1988, relating to the duty on landlords and contractors to give a statement of terms and other information, and the no-let prohibition in respect of grounds 1 and 1A; secondly, a failure to register with the ombudsman, as required by clause 24 of the Bill; and thirdly, a failure to keep an entry on the database up to date and to comply with all the relevant requirements of clause 39.

Lloyd Russell-Moyle: Despite my reservations about having three different deposit schemes, one of the reasons that the deposit scheme compliance is so high is because it comes with an element of rent repayment orders. The likelihood of local authorities being able to chase that up is next to zero. The likelihood of tenants being able to do that is extremely high.

Matthew Pennycook: My hon. Friend makes a very good point, which pre-empts one that I am about to make. We think that rent repayment orders can and do provide an incentive for landlords in these areas.

We believe, specifically when it comes to new clause 57, that allowing the tribunal to make rent repayment orders for these additional specific breaches would provide an additional incentive for landlords to comply with the relevant duties, requirements and prohibitions, and enable wronged tenants to be compensated for any losses incurred. Extending rent repayment orders to the relevant requirements of clause 39, for example, would be a powerful stimulus for landlord portal registration, because it would become the norm for tenants to check whether their landlord or prospective landlord was compliant.

Conversely, if the entitlement to apply for a rent repayment order were to apply to the relevant requirements of clause 39, it would provide tenants with a compelling reason to visit the portal, to learn about their rights and access information and resources they might not otherwise come across until the point they had a serious complaint or were engaged in a dispute with a landlord. This example also illustrates how an extension of rent repayment orders could alleviate some of the burdens that would otherwise fall on local authorities as the only mechanism to enforce, by means of financial penalties and criminal offences, a number of the breaches in the Bill to which they currently do not apply.

In the scenario I have outlined, tenants incentivised by the potential to apply an RRO to a landlord who was not compliant would act as an intelligence-gathering mechanism for local authorities, helping them to identify unregistered properties that they might otherwise struggle to locate and register. Put simply, as Dr Henry Dawson said to the Committee in the evidence session on 14 November:

"Using rent repayment orders incentivises tenants to keep an eye on landlords."—[*Official Report, Renters (Reform) Public Bill Committee,* 14 November 2023; c. 60, Q74.]

The Minister may assure me that the regulations to come may provide for rent repayment orders in relation to clauses 24 and 39(3). If that is the case, we would welcome it, but I would much prefer him to accept the new clause and expand the use of rent repayment orders in the Bill to encourage compliance and give tenants the means to secure, for themselves, redress for poorly behaving landlords. I look forward to the Minister's response.

Jacob Young: The purpose of rent repayment orders is to provide an effective means through which tenants can hold criminal landlords to account and receive due remedy. Extending rent repayment orders to cover non-criminal civil breaches would mean landlords could be ordered to pay up to two years' worth of rent for a relatively minor non-compliance. We think that this would be disproportionate. We think that scarce court time should be focused on dealing with serious offences rather than more minor breaches. For first and minor non-compliance, with provisions in the Bill there will be several means of redress and enforcement, including the ombudsman and civil penalties of up to £5,000, but I am happy to continue this conversation with the hon. Member for Greenwich and Woolwich further.

Matthew Pennycook: I welcome the Minister's response. There may be a difference of principle here, in that we feel quite strongly, actually, that rent repayment orders should be extended to non-criminal civil breaches of requirements set out in the Bill. I take the Minister's point about this being an excessive response to landlord non-compliance for first or minor breaches. I say to him that perhaps the Government could explore a grace period as the schemes are being introduced, where landlords are not caught within an extended rent repayment order scheme, or some sort of get-out from first or minor offences.

We are trying to address a way, once the scheme is bedded in and landlords—without committing a criminal offence—are regularly not complying with mandatory membership of the ombudsman or registering with a portal, for landlords to be further incentivised, so that tenants are aware of their rights and hold their landlords to account. This may be an issue that we will come back to, but I very much welcome the Minister's assurance that we will continue the dialogue on this point.

Amendment 65 agreed to.

Clause 27, as amended, ordered to stand part of the Bill.

Clause 28 ordered to stand part of the Bill.

Clause 29

Guidance for scheme administrator and local housing authority

Amendment made: 66, in clause 29, page 39, line 4, leave out "in England".—*(Jacob Young.)*

This amendment leaves out words which have no legal effect because a "local housing authority" as defined by clause 57(1) could not be situated outside of England.

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

Jacob Young: Clause 29 allows the Secretary of State to issue or approve guidance on effective working between local councils and the ombudsman, who will run the only approved or designated landlord redress scheme. Both must have regard to any guidance published under provisions in this clause. We have designed the guidance

[Jacob Young]

alongside local councils and the ombudsman. Local councils and the ombudsman will have different but complementary roles and responsibilities in the private rented sector. We intend for the guidance to provide clarity on a range of situations where communication and co-operation between councils and the ombudsman would be advantageous or necessary. We also want it to set out roles and responsibilities for when a tenant complains about a problem that both the ombudsman and local councils can help to resolve.

Matthew Pennycook: We agree that the new or expanded ombudsman, with responsibility for dealing with complaints from tenants in the private rented sector, will have to work effectively with local authorities given the latter's enforcement role. When the new ombudsman has been established, a complaint from a tenant concerning the breach of a regulatory threshold will be able to be made either directly to the ombudsman or to the local authority that would have the power to take enforcement action to bring the landlord in question into compliance with the said regulations, and if they fail to do so, to sanction them. There is therefore a clear risk not only that the role of the ombudsman vis-à-vis local authorities is not clearly delineated, but that tenants themselves will be confused about which body it is appropriate to approach in any given circumstance.

This issue was raised during the progress of the Social Housing (Regulation) Act 2023 because there is a general issue about how the ombudsman relates to local authorities. Given the Minister's indication that the Government's preferred approach is to have that ombudsman take on a responsibility for the private rented sector, I think—if anything—this point becomes more pertinent. The Government acknowledge, as is clearly stated in the explanatory notes accompanying the Bill, that the new ombudsman and local authorities must have "complementary but separate roles." I put this point to the housing ombudsman, Richard Blakeway, in one of our evidence sessions two weeks ago. He replied that

"that is a really important point, because there is a risk of duplication between the role of a council and the role of an ombudsman. Again, there is a lack of clarity for residents—tenants—about which route to take. An ombudsman does not operate in isolation—it will not operate in a bubble—so the relationship between the ombudsman and the courts will be critical, as well as the ombudsman discharging its own functions."—[*Official Report, Renters (Reform) Public Bill Committee,* 14 November 2023; c. 28, Q28.]

It is crucial that guidance on how local authorities and the ombudsman will work together to resolve complaints, including how they share information and how each signpost to the other where appropriate, is fit for purpose. The clause allows for such guidance to be published, and I would be grateful if the Minister, either now or in writing, could perhaps give us a little more insight into how the Government will ensure that the roles of the two are separate but complementary, as the Government have indicated they must be.

Jacob Young: Redress and enforcement achieve different but complementary outcomes. Local councils enforce regulatory standards. Ombudsman schemes are not enforcement or regulatory bodies but instead protect consumer rights by providing redress, in this case where a landlord has failed to adequately deal with a legitimate complaint. Where the complaint from a tenant concerns the breach of a regulatory threshold, local councils may take enforcement actions to bring the landlord or property into compliance with the regulations and use their discretion to sanction landlords. In such circumstances, tenants will be able to complain to both the council and the ombudsman. The local council will address the regulatory breach and the ombudsman will provide redress for the tenant. I hope that that reassures the hon. Gentleman.

Question put and agreed to.

Clause 29, as amended, accordingly ordered to stand part of the Bill.

Clause 30

Interpretation of Chapter 2

10.15 am

Amendment made: 67, in clause 30, page 39, leave out lines 16 and 17.—*(Jacob Young.)*

This amendment removes a definition which is redundant because the term that it defines is not used in Chapter 2 of Part 2 of the Bill.

Clause 30, as amended, ordered to stand part of the Bill.

Clause 31

Housing activities under social rented sector scheme

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

Matthew Pennycook: The clause removes the jurisdiction of the housing ombudsman service over private residential landlords and the private rented sector housing activities of social housing providers. I simply want to ask the Minister, given his announcement today about the housing ombudsman being the Government's preferred provider of private rented sector redress, whether the provisions of this clause are still necessary, as the Government have made it clear that they intend the existing ombudsman to extend its remit to cover the private rented sector. Will the Government review the clause in the light of that announcement?

Jacob Young: Any social housing redress scheme approved under the Housing Act 1996 provides redress services for the private rented tenancies of social landlords. An approved social redress scheme can also provide redress to tenants of private landlords who choose to join voluntarily. Currently, only one approved social housing redress scheme is administered by the housing ombudsman service.

Once brought into force, the clause will remove the private rented sector activities from the general jurisdiction of any approved social housing scheme. The clause will also stop any social housing redress scheme accepting relevant private landlords as voluntary members in relation to their private sector interests. However, the clause allows a social housing redress scheme to retain some jurisdiction over private rented sector activities if agreed with the Secretary of State. It does not prevent one organisation, such as the housing ombudsman,

from administering both social and private redress schemes through a single, joined-up service. The clause will ensure that tenants who complain under the joined-up service are treated in exactly the same way as others who rent in the same sector.

The Bill provides a mechanism to bring the clause into force, but only once the new private rented sector ombudsman scheme is established. That will prevent disruption to members of existing schemes and avoid gaps in redress for tenants. If the hon. Member for Greenwich and Woolwich has further questions, I am happy to write to him.

Question put and agreed to.

Clause 31 accordingly ordered to stand part of the Bill.

Clause 32

The database

Matthew Pennycook: I beg to move amendment 175, in clause 32, page 40, line 18, at end insert—

"(ba) details, which may include copies, of all notices seeking possession served by the residential landlord in respect of each dwelling of which he is the landlord, and".

This amendment would require the database to record details of notices of possession served by a landlord in respect of each dwelling of which they are the landlord.

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

Clause stand part.

Clause 33 stand part.

Matthew Pennycook: In the debate on our amendment 173 to clause 23, I remarked on the concern among Opposition members of the Committee that, in contrast to chapter 2 of part 2 concerning the ombudsman, chapter 3 of part 2 concerning the private rented sector database is not nearly prescriptive enough.

To be clear, when it comes to establishing a private rented sector database and developing the new digital property portal service that it will support, we do not wish to tie the Government's hands too tightly. We believe it is right that much of the detail is put in regulation at a later date: how the database will be operated and overseen; how entries are verified, corrected and removed; what the registration fees are and how they will be collected; and how information on the database is shared with third parties. However, we also believe that certain requirements of the functioning of the portal should be placed on the face of the Bill.

In our view, such requirements should include one for landlords to submit key information on their history and for that information to be publicly available so that tenants may make informed decisions when entering into a tenancy agreement and hold their landlord to account. Key information might include details of past enforcement action taken against a landlord or an agent representing them; any rent repayment, banning or management orders made against them; rent levels for the property over time in the form of past section 13 notices; and details of notices of possession served to previous tenants.

Amendment 175 would add to the Bill a requirement for

"the database to record details of notices of possession"

—as one example—

"served by a landlord in respect of each"

of their dwellings let. As I said, we feel strongly that the Bill should be amended to guarantee a minimum set of expectations for the database and the new digital property portal service; the amendment would go some way to ensuring that is the case. I look forward to hearing the Minister's thoughts on it.

Jacob Young: Clause 32 provides for the establishment and operation of the portal, as we have been discussing. With access to a comprehensive and standardised dataset on private rented sectors across England, local authorities will be best equipped to develop and implement their enforcement strategies. By requiring landlords to undertake a registration process, as provided by clause 34—which I will turn to in due course—the portal will help them to meet standards within the private rented sector by making them aware of their legal requirements.

With legislative backing and clear duties on users, a portal with entries for private landlords and dwellings will support a much richer understanding of the private rented sector and assist the Government in developing targeted policy. As such, the portal will be key to the successful implementation and enforcement of the wider reforms legislated for in the Bill.

Clause 33 sets out who can be the portal operator; a role required to create and maintain a working database of private landlords and their properties. The operator can appointed by the Secretary of State or a person arranged by the Secretary of State. The Government envisage the portal will be centrally co-ordinated by a single operator. Our legislation allows for the portal to be operated by the Department or to arrange for an alternative, such as a public body, to take on that responsibility.

I thank the hon. Gentleman for his Amendment 175. This would require landlords to record their use of possession grounds, under section 8 of the Housing Act 1988, on the property portal. To ensure the portal maintains the flexibility to meet the future needs of the sector, it is necessary that we use regulations to prescribe the information it collects, rather than including these in the Bill.

We intend for the portal to be a source of basic information about properties and their health and safety compliance. This legislation also allows for the ability to record tenancy-related issues, such as details of possession notices. We will consider the matter of recorded possession notices on the portal ahead of passing regulations, and carefully consider the balance of benefits and burden on landlords and local authorities when deciding what information to record. We will continue to work with stakeholders to assess the merits of information requirements, ahead of introducing any regulations. I therefore ask the hon. Gentleman to withdraw his amendment.

Matthew Pennycook: That is a helpful response. I took from it that the Government are considering including a history of past possession notices granted to a landlord. That is very welcome.

[Matthew Pennycook]

We tabled this amendment because it gets to the heart of how the new portal will operate. It could be a source of very basic information about a property, and whether it is strictly compliant with health and safety standards. We would hope the Government—the noises the Minister has made indicate they might—will take a more expansive view of how the property portal might work. Namely, that it will give tenants, as consumers, real power, because of the transparency and the amount of information recorded, to be able to know whether the tenancy agreement they are prospectively entering into is good for them, and whether the landlord is a good-faith landlord—as we know the majority are—or potentially an unscrupulous landlord. I welcome the indications the Minister has given, and look forward to debating—whether between us, or with other Ministers—the regulations in due course. I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Clause 32 ordered to stand part of the Bill.

Clause 33 ordered to stand part of the Bill.

Clause 34

MAKING ENTRIES IN THE DATABASE

Lloyd Russell-Moyle: I beg to move amendment 202, in clause 34, page 41, line 33, at end insert—

"(2A) The regulations must provide for information or documents to be provided relating to disputes and their resolution under deposit protection schemes under Chapter 4 of Part 6 of the Housing Act 2004 (tenancy deposit schemes)."

This amendment would require regulations made by the Secretary of State to require the provision of information relating to dispute resolution for deposit protection schemes.

Amendments 202 and 176 both seek to ensure that certain things are included in this property portal. We have just heard from the Minister that he intends to set out in regulations the lists of what needs to be included. I think it is important that we have confirmation that these are the things that the Minister is considering.

My amendment 202 proposes that disputes and outcomes of the deposit protection scheme be included in the property portal. It is so important that tenants know whether their landlord is routinely in dispute over the deposit. I am not talking about situations in which the tenant agrees that there was damage, and there is no dispute about the deposit deduction; I mean those in which a tenant disputes the damage. The tenant should be able to see whether there are regular disputes and whether the outcome is in the landlord's favour—the landlord might actually be pretty good—or in the tenant's. The recording of disputes would also allow us to start to develop case law on deposit disputes and their outcomes.

I also support amendment 176—

The Chair: Order. That amendment is in the next group.

Lloyd Russell-Moyle: In that case, I will leave it there.

Jacob Young: I thank the hon. Member for moving amendment 202. As I have said in response to earlier amendments, we will consider these points and others ahead of the regulations on what information is to be recorded on the portal. Our aim is to create a database that is future-proofed and responsive to the needs of the sector now and in future. Tenancy deposit schemes already provide free alternative dispute resolution with respect to deposit deductions. As I say, we will take all the hon. Member's points and others into consideration when developing the portal and the regulations.

Lloyd Russell-Moyle: As I take it, the Minister has agreed that he will consider including disputes. That is a separate point from whether they are part of the ombudsperson; it is about whether their own processes and outcomes are being recorded properly. I will not push the amendment to a vote, but I do hope that the Minister will keep us in touch with his thinking as matters progress.

I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Matthew Pennycook: I beg to move amendment 176, in clause 34, page 41, line 33, at end insert—

"(3A) The regulations must provide for the following information or documents to be provided to the database operator as part of the process of creating entries on the database—

(a) an address, telephone number and email address for the residential landlord;

(b) an address, telephone number and email address for all managing agents engaged by the residential landlord;

(c) details of every dwelling that is being let by the residential landlord;

(d) evidence that the residential landlord has supplied a copy of the 'How To Rent' booklet to each relevant tenant;

(e) the rent that is currently being charged in respect of every dwelling that is being let by the residential landlord;

(f) details of any enforcement action that a local housing authority in England has taken against the residential landlord;

(g) details of any banning orders that have been made against the residential landlord pursuant to Chapter 2 of Part 2 of the Housing and Planning Act 2016;

(h) in respect of every dwelling that is being let by the residential landlord, copies of the documents required by:

(i) Regulation 6(5) of the Energy Performance of Buildings (England and Wales) Regulations 2012;

(ii) Paragraph(s) 6 and/or 7 of Regulation 36 of the Gas Safety (Installation and Use) Regulations 1998;

(iii) Regulation 3 of the Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020;

(iv) Regulation 4 of the Smoke and Carbon Monoxide Alarm (England) Regulations 2015;

(i) details of whether the dwelling house is required to be licenced under Part 2 (Houses in Multiple Occupation) or Part 3 (Selective Licensing) of the Housing Act 2004"

This amendment would ensure that a number of the regulatory obligations that built up around section 21 notices are maintained by means of the database following the removal of section 21 of the Housing Act 1988.

We discussed, in relation to amendment 175, the fact that we believe that certain requirements relating to the functioning of the portal should be placed in the Bill. In speaking to amendments 170 to 172 to clause 19 in relation to deposit protection, I briefly touched on the fact that a number of regulatory obligations that have developed around section 21 notices over the 35 years for which the present system has been in place will fall away when it is abolished at the point at which chapter 1 of part 1 of the Bill comes into force.

The preconditions and requirements that have built up around section 21 notices, which presently prevent landlords from using the no-fault eviction process unless they can show compliance, include providing copies of gas safety certificates; providing copies of energy performance certificates; providing copies to each tenant of the ever-evolving how-to-rent booklet; and showing evidence of complying with the licensing requirements for houses in multiple occupation. There are no provisions in the Bill to ensure that landlords will have to continue to meet these and other regulatory obligations as a precondition of operating under the new tenancy system.

We fear that that will leave under-resourced local authorities—or tenants themselves, through the pursuit of civil claims—as the only means of enforcing these important statutory duties. We believe that compliance should instead be achieved by making it mandatory for landlords to submit the relevant information and proof of compliance to the database operator as part of the process of creating entries on the database. Amendment 176 would ensure that that is the case in respect of a wide range of existing regulatory obligations. We urge the Minister to accept it.

Jacob Young: I thank the hon. Member for moving amendment 176, which would require certain information to be recorded on the property portal. I very much agree with the sentiment of it; we already intend to record much of that information on the portal. Alongside basic personal and property details, we intend to require landlords to supply evidence that health and safety standards are being met within their rental property. This is likely to include the selected information that landlords are currently legally obliged to provide to tenants, such as gas safety certificates.

To ensure that the portal maintains the flexibility to meet the future needs of the sector, it is necessary that the information it collects be specified in regulations, rather than in the Bill. I therefore ask the hon. Member to withdraw his amendment.

10.30 am

Matthew Pennycook: I very much welcome the Minister's response and his statement that "much of" that information will be included on the portal. However, I want to press home why we think this is important. These are not add-ons that we might seek to include in the portal; they are existing preconditions and regulatory obligations that have developed around section 21, and surely they cannot fall away under the new tenancy regime. I welcome what the Minister said, but I urge him to ensure that all the preconditions and obligations that exist around section 21 are a mandatory requirement as part of the portal process.

Lloyd Russell-Moyle: It is also important that everything be recorded in one place, not only for tenants but for landlords, who will not have to fill in a plethora of information in different places about the EPC, gas safety and so on. It will make it easier for everyone if the Government get it right. It is so important that they be clear early on, so that we are not in a rush at the last moment.

Matthew Pennycook: My hon. Friend's point is well made. There is the potential—hopefully the Government recognise it—to reduce the burden on landlords by ensuring that there is a clear set of requirements associated with registration on the portal that do not exist around the serving of a notice, as they do currently. We hope that the Government will take our points on board and bring all these preconditions within the scope of the portal in due course. I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Clause 34 ordered to stand part of the Bill.

Clause 35

Requirement to keep active entries up-to-date

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

The Chair: With this it will be convenient to discuss clauses 36 to 38 stand part.

Jacob Young: I commend the clauses to the Committee. I am interested to hear the thoughts of the hon. Member for Greenwich and Woolwich.

Matthew Pennycook: I have two brief questions for the Minister in relation to this group of clauses. I am more than happy for him to write to me on these points, as they are quite niche.

First, the powers under clause 38 will be used to set fees in relation to registration on the database. Clause 38(5) allows for all or part of the amount received in fees to be paid to local housing authorities or into the Consolidated Fund. Is the implication of the inclusion of this provision in the Bill that the Government expect there to be a surplus from fees collected by the database? If so, why do the Government not believe, given that they are the relevant enforcement body, that any available funds should be allocated to local authorities alone rather than central Government?

Secondly, we take it from the nature of the charging regime that the Government hope the database will be financially self-sufficient. However, the work needed to maintain and verify entries on the database will be onerous, and the start-up costs could be significant. Can the Minister provide any detail at this stage as to what the Government expect the resourcing requirements of the database to be? Can he provide assurances as to how its implementation and running costs will be met?

Jacob Young: In answer to the hon. Member's question about landlords having to pay to join the service, we intend to fund the service through fees charged to private landlords when they register on the portal. We

[Jacob Young]

will take steps to ensure that these costs remain reasonable, proportionate and sustainable. The new service will bring substantial benefits to landlords as well as tenants, providing a single source of information about their legal responsibilities and helping them to showcase their compliance. It will also support local councils to enforce against unscrupulous landlords, who undercut the responsible majority.

On resourcing for local authorities, the information recorded on the portal will save local authorities time when enforcing health and safety standards in the PRS. Our research has shown that locating landlords and properties takes up a significant proportion of local authorities' resources. Additionally, we are undertaking a new burdens assessment and will ensure that additional burdens created by the new system are fully funded.

Question agreed to.

Clause 35 accordingly ordered to stand part of the Bill.

Clauses 36 to 42 ordered to stand part of the Bill.

Clause 43

ACCESS TO THE DATABASE

Lloyd Russell-Moyle: I beg to move amendment 195, in clause 43, page 48, line 32, at end insert—

> "(f) tenants and prospective tenants of a relevant property and all other properties linked to the unique identifier of the landlord with whom they are proposing to or have signed a tenancy agreement."

This amendment would ensure that tenants and prospective tenants have access to information held in the database relating to the landlord of the relevant property.

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

Clause stand part.

Clauses 44 and 45 stand part.

Lloyd Russell-Moyle: The Bill contains a list of organisations and agencies that will have access to the portal. Tenants are not included in that list. I hope that that is because they have access through some other means, or that the Minister will stand up and say, "Don't worry, you've missed it—it's in x, y and z." But my reading is that there is no presumption that tenants and presumptive tenants will have full access to all the information about the house they are moving into and its landlord.

We have heard in evidence that it is important that tenants have the information before they sign a contract. Any effective free market has to be based on the knowledge of the person who is making a choice to purchase something. The tenant is clearly one such person, so the tenant needs to know the background of the person and the quality of the house before they sign.

It might be that the Government plan for such information to be public—that would mitigate the need for the amendment—but I worry that some information will be public and some redacted, particularly information on house prices, former house prices and rental prices. That kind of information should be made available to the tenant. Tenants and prospective tenants should have full, unredacted information about the house and the landlord of the property that they are in or want to be in. I seek reassurances from the Minister on the matter.

Jacob Young: I thank the hon. Gentleman for his amendment, which relates to the publicly available information on the property portal. One of our core objectives is to enhance the information available to tenants so that they can make more informed choices and have a better renting experience. As I have said, we are carefully considering what information will be available to tenants via the portal, but it is likely to include information about property standards. We also intend to publish information about certain relevant offences committed by landlords. As I have set out, we believe that outlining what information is available to tenants through regulations will allow us to respond to changes in the market and to remain sensitive to landlords' privacy rights. We have the power to amend what information is accessible by tenants in the future if doing so would benefit the operation of the sector.

Lloyd Russell-Moyle: The Minister is talking about what he expects will be available to tenants. Could he outline what he expects might not be available to tenants, so that I can understand his thinking on the other side?

Jacob Young: Specifically on the question of a landlord's privacy, there will be some information that is relevant for a local authority to know about a landlord but not necessarily relevant for a tenant to know about a landlord. As I say, such things are best set out in regulations.

Lloyd Russell-Moyle: Can the Minister give examples of what that information would be? That would help to flesh out what we are talking about.

Jacob Young: I am not in a position to give an example today. If an example comes to mind, I shall write to the hon. Gentleman with it.

Ms Karen Buck (Westminster North) (Lab): I just want to press the Minister on this point. It is right that there is an issue about balance, but by asking the Committee to accept that the detail will be brought forward in regulations—without our having any idea of where the balance might lie and what kind of exceptions we are talking about—the Minister is asking us to approve the clause rather in the dark.

Jacob Young: I reject the suggestion that the Committee is being asked to approve the clause in the dark. Obviously, any regulations will come before the House will be debated at that time. These things could breach someone's human rights or affect their ability to protect their own data, therefore it is right that we properly consider them once we know what the portal actually looks like, and we have information recorded on it and so on.

I encourage the hon. Member for Brighton, Kemptown to withdraw his amendment. A landlord's national insurance number or date of birth, for example, is key information that should remain private to a landlord and is not necessarily for tenants' viewing. I respect the hon. Member's

points and the issues that he raised; as I say, we will consider them fully when we come to make regulations after Royal Assent.

Lloyd Russell-Moyle: It might be understandable if, for example, the landlord's day of birth was redacted on Companies House but the month and year were shown. If we had no national insurance numbers, but we had a contactable address where that person could be found—not necessarily their home address, but a non-PO box address—that might, again, be acceptable.

The Government need to be clear in their intention that this is about privacy grounds only where necessary for the safety and functioning of a landlord, and not about withholding information that would be useful for the tenant in reaching out to the landlord. I will withdraw the amendment, but I expect the Minister to provide some more details in writing about what will be excluded.

I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Clause 43 ordered to stand part of the Bill.

Clauses 44 to 46 ordered to stand part of the Bill.

Clause 47

Financial penalties

Matthew Pennycook: I beg to move amendment 167, in clause 47, page 50, line 36, leave out "£5,000" and insert "£30,000".

This amendment would increase the maximum financial penalty that local authorities could impose on a person for breach of a requirement imposed by clause 39.

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

Amendment 168, in clause 47, page 51, line 1, leave out "£30,000" and insert "£60,000".

This amendment would increase the maximum financial penalty that local authorities could impose on a person for committing an offence under section 48.

Clause stand part.

Matthew Pennycook: Amendments 167 and 168 would raise the maximum financial penalty that local authorities can levy when there has been a breach of a requirement imposed by clause 39 for private landlords to be registered on the database before they can market, advertise or let associated dwellings, or an offence has been committed under clause 48.

I intend to speak to the amendments only briefly, as we have already debated the issue of maximum financial penalties on two occasions. Suffice it to say that the Opposition remain of the view that the Government should reconsider the proposed maximum limits of £5,000 and £30,000 respectively, on the grounds that fines of up to those levels are unlikely to act as an effective deterrent. I come back to this point briefly because it has a direct bearing on the ability of local authorities to finance enforcement activity, an issue that we will debate shortly in relation to clauses 58 to 61. That is why the Local Government Association supports the amendments.

I remind the Minister that the amendments would bring the maximum financial penalties in line with others that can be issued by enforcement authorities against landlords who breach the legislation, for example in respect of the Leasehold Reform (Ground Rent) Act 2022.

I do not want to press the point, and I do not necessarily expect a response from the Minister, but we urge the Government to reconsider.

Jacob Young: I thank the hon. Gentleman for tabling the amendments. As he says, we have discussed these points a few times.

Our proposed fines regime is fair and proportionate. Fines of up to £30,000 are possible if non-compliance continues. The legislation allows fines to be imposed repeatedly every 28 days; and for repeat offences, local housing authorities can pursue prosecution through the courts, which carries an unlimited fine. This escalating procedure will give local authorities the ability to effectively enforce the requirements of the new property portal, without fines being excessive. The Department will issue guidance to local authorities to help them to make use of the new fine-setting powers. I therefore ask the hon. Gentleman to withdraw his amendment.

Matthew Pennycook: On that basis, I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Clause 47 ordered to stand part of the Bill.

Clause 48

Offences

10.45 am

Amendment made: 68, in clause 48, page 53, line 7, leave out subsection (10)—*(Jacob Young.)*

This amendment removes provision that is no longer needed as a result of NC19.

Clause 48, as amended, ordered to stand part of the Bill.

Clauses 49 to 51 ordered to stand part of the Bill.

Clause 53 ordered to stand part of the Bill.

Clause 57

Interpretation

Amendments made: 69, in clause 57, page 56, leave out lines 39 to 41.

This amendment removes the definition of "local housing authority" for the purposes of Part 2 of the Bill. It is consequent Amendment 107 which inserts a definition of "local housing authority" for the purposes of the Bill as a whole.

Amendment 70, in clause 57, page 57, leave out line 1 and insert—

"(1A) For the meanings of "residential landlord", "residential tenancy" and "residential tenant" in this Part, see section 23."—*(Jacob Young.)*

This amendment makes clearer that in Part 2 references to a "residential landlord", "residential tenancy" and "residential tenant" are to be read in accordance with clause 23.

Clause 57, as amended, ordered to stand part of the Bill.

Clause 52

FINANCIAL PENALTIES UNDER SECTIONS 26 AND 47

Jacob Young: I beg to move amendment 71, in clause 52, page 55, line 5, after "section" insert "(Financial penalties),"

This amendment provides for the provisions about financial penalties in Schedule 3 of the Bill to apply in relation to penalties under NC10, which relates to discriminatory practices in relation to the grant of tenancies, as well as in relation to penalties under Part 2 of the Bill.

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

Clause stand part.

Government motion to transfer clause 52.

Government amendments 72 to 75.

Schedule 3.

Government amendments 80, 104 and 106.

Government motion to transfer clause 56.

Government amendments 113 and 125 to 129.

Government new clause 8—*Prohibition of discrimination relating to children.*

Government new clause 9—*Prohibition of discrimination relating to benefits status.*

Government new clause 10—*Financial penalties.*

Government new clause 11—*Discriminatory terms in a tenancy relating to children or benefits status.*

Government new clause 12—*Terms in superior leases relating to children or benefits status.*

Government new clause 13—*Terms in mortgages relating to children or benefits status.*

Government new clause 14—*Terms in insurance contracts relating to children or benefits status.*

Government new clause 15—*Power of the Secretary of State to amend Chapter 2A to protect persons of other descriptions.*

Government new clause 16—*No prohibition on taking income into account.*

Government new clause 17—*Interpretation of Chapter 2A.*

Government new clause 47—*Power of Welsh Ministers to make consequential provision.*

Government new clause 48—*Prohibition of discrimination relating to children or benefits status: Welsh language text.*

Government new clause 49—*Prohibition of discrimination relating to children or benefits status: English language text.*

Government new clause 50—*Amendment of short title of the Renting Homes (Fees etc.) (Wales) Act 2019.*

Government new clause 51—*Regulations under sections 8C and 8J of the Renting Homes (Fees, Discrimination etc.) (Wales) Act 2019.*

Government new clause 52—*Amendments of the Renting Homes (Wales) Act 2016 regarding discrimination.*

New clause 61—*Ending blanket bans on renting to families with children or those in receipt of benefits*—

"The Secretary of State may, by regulation, specify behaviour which, for the purposes of Part 4, Equality Act 2010, shall be considered unlawful discrimination unless the contrary is shown."

This new clause would ensure that blanket bans on renting to families with children or those in receipt of benefits are presumed to be unlawful discrimination unless proved otherwise.

Jacob Young: Blanket bans on letting to families with children or people who receive benefits have no place in our modern housing market. We agree that landlords and agents must not discriminate on that basis, and should fairly consider individual prospective tenants. Our package of amendments and new clauses prohibits landlords from discriminating against families with children or people who receive benefits in England and Wales. The blanket ban measures respond to calls for additional safeguards for some of the most vulnerable renters, while confirming that landlords can ensure that a tenancy is affordable, and that they retain the final say on whom they let to.

Matthew Pennycook: Clause 52 simply provides local authorities with the power to impose financial penalties on those who do not meet the requirements of the private rented sector database, as set out in clause 39, or an offence relating to it, as set out in clause 48.

The large group of Government amendments and new clauses that we are considering with this clause add proposed new chapter 2A to part 1 of the Bill. It includes several new clauses, commenced by regulations made by the Secretary of State, that seek to prohibit discriminatory practices associated with children and benefits status in relation to the grant of tenancies, as the Minister made clear. Incidentally, proposed new chapter 2B will provide for the same clauses to apply in Wales, pending commencement by order of Welsh Ministers.

Without question, we welcome the intent behind the amendments and new clauses. As I am sure the Minister can see, we have consistently expressed concern since the Bill's publication that the commitment in the White Paper to ban so-called "No DSS" or "No kids" practices was not on the face of the Bill. The Government deserve credit, as they do for deciding to extend a decent homes standard to the private rented sector and for seeking to make these important changes through this Bill rather than separate future legislation.

The case for prohibiting "No DSS" and "No kids" practices is indisputable. All renters should be treated fairly in their search for a safe, secure, decent, and affordable place to call home, regardless of whether they are in receipt of benefits or their family circumstances. Yet in addition to the various informal barriers to renting privately that we know exist, some of which we debated when considering advanced rent payments in relation to clause 5, there is incontrovertible evidence that some landlords and agents acting on behalf of landlords actively discourage, or even prevent, people in receipt of benefits or with children from renting their properties.

We know that some landlords refuse to allow benefit claimants to even view an affordable property or to consider them as a potential tenant, and prospective renters across the country will be familiar with messages in property adverts such as "No DSS", "No benefits", "Working households preferred" or "Professional tenants only". The scale of this discrimination is almost certainly significant. Successive YouGov surveys of private landlords in England have made clear not only that a comfortable majority of them prefer not to rent to people in receipt of benefits but that a significant minority operate an outright ban. Outright bans on renters with children may be less prevalent, but they are still extremely

commonplace. The result is that hundreds of thousands of families have been unable to rent a home that they wanted and could afford, simply due to their benefit status or because they have children.

As we have touched on numerous times during the Committee's proceedings, the number of such families in the PRS has increased markedly over recent decades, with woefully inadequate social housing supply and rising house prices making private renting the only option for many families, including working families with children. Of course, such discrimination does not affect all people equally. The reality, particularly in hot, competitive rental markets, is that women, disabled households and people of colour will be disproportionately affected by it. For example, we know that the overwhelming majority of single parents receiving housing benefit are female. I grew up in one of those households; the challenges they face daily are considerable enough without having to navigate discriminatory and potentially unlawful policies in the private letting industry.

Whether they are the result of landlords' misperceptions, of frustrations with the workings of the benefit system or of ill-informed advice from letting agents, blanket bans of the kind in question are simply unacceptable. They are not only unacceptable but almost certainly already unlawful by virtue of the premises provisions in the Equality Act 2010, which provide for a prohibition against discrimination in letting, managing or disposing of premises. However, although a number of court rulings have confirmed that rejecting tenancy applications because of an applicant's benefit status or family circumstances is a breach of the 2010 Act, proving discrimination is incredibly difficult. As a result, despite the growing body of case law, "No DSS" and "No kids" practices remain widespread.

The Government amendments in this group perfectly demonstrate the nature of the problem. They specify discriminatory practices that are already unlawful under part 4 of the Equality Act 2010. Indeed, Government new clauses 8 and 9 even mirror the language of the Equality Act—"provision, criterion or practice"—in relation to discriminatory practices, yet they do nothing to clarify that the various practices are henceforth always to be deemed discriminatory. As such, although we welcome the motivation behind the Government amendments in attempting to provide for a strict prohibition of such practices, we are concerned that they will not achieve that objective, because, although they will have the effect of removing terms discriminating against benefit claimants and families with children from contracts, they will not prevent the underlying discrimination from occurring in practice.

What we propose, by way of our new clause 61, is that the weaknesses of the various Government amendments in question are resolved by ensuring that the underlying conduct is clearly unlawful by making it a breach of the Equality Act 2010. Our new clause is aimed at prohibiting indirect discrimination and discrimination arising from disability, by giving the Secretary of State the power to define, by regulation, what behaviour is, for the purposes of part 4 of the 2010 Act, considered to be unlawful discrimination unless the person accused of discriminating can prove the contrary. It would remove, for example, the need for a female prospective private renter to prove that a "No DSS" blanket ban had a disproportionate impact on her as a woman. It would mean that, in any court proceedings, the first threshold stage would always be passed unless the landlord in question could convince the court that the ban had no discriminatory impact—which, of course, would never happen.

By forcing landlords to prove that some objective justification exists for refusing to rent to people in receipt of benefits or with children in order to advertise or market a property on the basis of a "No DSS" or "No kids" ban, our amendment would have the effect of ensuring that such discriminatory practices were finally banned in practice, because the number of privately rented properties where there could be such an objective justification is tiny.

I hope the Minister will respond to this amendment in the spirit in which it is intended—namely, as a constructive means of compelling the Government to consider whether their proposed new chapter 2A to part 1 of the Act may fall short in practice. I look forward to the Minister's response.

Jacob Young: I am grateful to the hon. Member for tabling new clause 61. As I set out earlier, we agree that blanket bans against letting to families with children or to people who receive benefits have no place in our modern housing market. That is why our amendments to the Renters (Reform) Bill make express provisions to ensure that landlords and agents cannot discriminate on that basis.

Our measures take direct action to address blanket ban practices in the private rented sector, and our targeted approach tackles both overt and indirect practices. We have designed our enforcement approach with the tenants that are most vulnerable to this type of discriminatory practice in mind, and we understand that their priority is finding a safe and secure home in the private rented sector. Unlike the provisions in the Equality Act 2010, we are giving local councils investigatory and enforcement powers to tackle unlawful blanket ban practices. Tenants will not have to shoulder the burden of taking their complaint to court; local councils will be enabled to take swift and effective enforcement action. We think that it is right that prohibitions on blanket bans in the private rented sector are part of the Renters (Reform) Bill and that they are incorporated into the enforcement framework, rather than the Equality Act 2010.

I say to the hon. Gentleman that we are of one mind when trying to stop these blanket bans, so I am happy to have further conversations with him to that effect. I therefore ask him to withdraw his amendment.

Matthew Pennycook: I absolutely agree with the Minister that we are of one mind in wanting to ensure that these blanket bans are prohibited: he is right that they have no place in our modern housing market. However, we remain concerned—I do not think that the Minister addressed the specifics of our new clause—that the Government's amendments will not achieve that objective. As I said, although they will have the effect of removing, from contracts, terms discriminating against benefits claimants and families with children, they will not, in practice, prevent that underlying discrimination from occurring.

We feel very strongly about this issue. If the Government do not get this right and these practices are not abandoned, we will have to return with a future piece of legislation

[Matthew Pennycook]

to ensure that they are prohibited in practice. For that reason, we will seek to press the new clause to a Division at the appropriate time.

Amendment 71 agreed to.

Clause 52, as amended, ordered to stand part of the Bill.

Ordered,

That clause 52 be transferred to the end of line 30 on page 57.—*(Jacob Young.)*

This amendment is consequential on Amendment 71 which expands clause 52 so that it is no longer limited to penalties under Part 2 of the Bill. This amendment moves clause 52 into Part 3 of the Bill (enforcement authorities). Part 3 is expected to be added to so as to include other provision about enforcement generally. Clause 52 is expected to form its first Chapter.

Schedule 3

Financial Penalties

Amendments made: 72, in schedule 3, page 78, line 8, after "section" insert "(Financial penalties),".

This amendment is consequential on Amendment 71.

Amendment 73, in schedule 3, page 80, line 20, after "section" insert "(Financial penalties),".

This amendment is consequential on Amendment 71.

Amendment 74, in schedule 3, page 80, line 25, after "section" insert "(Financial penalties),".

This amendment is consequential on Amendment 71.

Amendment 75, in schedule 3, page 80, line 33, at end insert—

"(ca) the activities of a superior landlord in relation to such a tenancy,".—*(Jacob Young.)*

This amendment ensures that the proceeds of financial penalties imposed under clauses 26 and 47 can be applied towards meeting enforcement costs relating to superior landlords as well as immediate landlords.

Schedule 3, as amended, agreed to.

Clause 58

Enforcement by local housing authorities: general duty

Jacob Young: I beg to move amendment 76, in clause 58, page 57, line 35, after second "of" insert ", or an offence under,".

This amendment ensures that the duty in clause 58(1) does not prevent a local housing authority from taking enforcement action in respect of an offence under the landlord legislation which occurs outside of its area.

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

Government amendments 77, 78, 81 and 82.

Clause stand part.

Government amendments 83 to 85.

Clauses 59 and 60 stand part.

Government amendments 86 to 91.

Clause 61 stand part.

Government amendments 92, 93 and 95.

Government new clause 22—*Enforcement by county councils which are not local housing authorities: duty to notify.*

Government new clause 23—*Duty to report.*

Jacob Young: I am interested to hear the thoughts of the hon. Member for Greenwich and Woolwich.

Matthew Pennycook: Part 3 of the Bill concerns the enforcement authorities, and clause 58 is the key clause. It imposes a new duty on local authorities to enforce, by means of financial penalties or by instituting offence proceedings, prohibitions of the landlord legislation in their areas. Subsection (4) sets out the definition of "landlord legislation", referring to sections 1 and 1A of the Protection from Eviction Act 1977 and chapter 1 of part 1 of the Housing Act 1988. Neither of those are new, obviously, but local authorities have never had a duty to enforce them before, and the 1977 Act will require a different approach from the police to unlawful evictions. It also refers to the whole of part 2 of the Bill—all the prohibitions relating to the ombudsman and the property portal. By any definition, that constitutes a significant array of new regulatory and enforcement responsibilities for local authorities to meet.

Various proposals in the Bill could, if they work well, make local authority enforcement of prohibitions of the landlord legislation in their areas easier. The new ombudsman has the potential, for example, to provide an alternative route for dispute resolution and a distinct and effective route to redress when it comes to breaches of prohibitions relating to the misuse of possession grounds and for not providing a written statement of terms, thus ensuring that local authorities are not the only enforcement body for such contraventions. Similarly, the new private rented sector database has the potential, for example, to allow local authorities to far more easily identify poor-quality and non-compliant properties and who owns them, thus addressing a key barrier for local authorities when it comes to enforcing standards.

11 am

However, there is a circular reasoning fallacy at work here, because the new ombudsman and the new private rented sector database will work effectively only if all landlords, including the more unscrupulous, feel compelled to become members of the former and register with the latter. Yet the only means of compulsion that the Bill provides for are discretionary financial penalties that we believe—as we have already debated at great length—are not only capped at levels that many unscrupulous landlords will judge are sufficiently low to make a breach worth the risk, but are enforced by local authorities themselves. As a result, the extent to which the totality of provisions in this legislation will be effectively enforced ultimately depends on whether local authorities can, in practice, meet the array of new regulatory and enforcement responsibilities the Bill has conferred upon them. There is very good reason to believe that, as things stand, they may struggle to do so.

I want therefore to take the opportunity to raise two distinct issues of concern with the Minister, and the first concerns oversight. Current levels of local authority enforcement are generally far too low, and within that there are huge disparities in activity levels between

different local authorities. Local authorities are also making little use of their power to issue civil penalties, with a small number of proactive councils responsible for the bulk of those issued. Yet there are no provisions in the Bill to ensure that the Government will be able to monitor which councils are prioritising enforcement and using the full range of tools and legal powers at their disposal, and which are not.

I will be grateful if the Minister can tell the Committee why the commitment made in the White Paper to

"bolster national oversight of local councils' enforcement, including by exploring requirements for councils to report on their housing enforcement activity",

seemingly has not been taken forward in the Bill, and whether the Government plan to take any non-legislative steps to boost oversight of local authority enforcement strategies. I would also be grateful if he could let us know whether we can expect the Department to issue future guidance to local authorities on how the relevant provisions in the Bill can be most effectively enforced.

Ms Buck: My hon. Friend is absolutely right to talk about the variation in performance between local authorities. Enforcement in some of them definitely reflects a variation in interest and concern. Does he also recognise that there is also a fundamental issue of resource capacity for enforcement in local government? As this largely discretionary service is being squeezed by the pressures on local authorities, requiring extra duties from local authorities without resources is a recipe for inaction.

Matthew Pennycook: My hon. Friend's point is extremely well made. As I have commented already, there is an issue about which local authorities prioritise these services, but precisely because they are a discretionary service, there is an issue of resources and funding. That is the second of the points I wish to put to the Minister.

In assessing why the approach of so many local authorities to enforcement is inherently reactive, one cannot escape the issue of capacity and capabilities. Not only are councils across the country under huge financial pressure at present but many are struggling, and indeed have struggled for some time, to recruit experienced officers to carry out enforcement activity. Yet the White Paper was entirely silent on the challenge of local authority resourcing and staffing. The provisions in the Bill that enable local authorities to keep the proceeds of financial penalties to reinvest in enforcement activity are welcome. However, the funds that will raise—not least because the Government have chosen to cap financial penalties at £5,000 and £30,000 respectively—are unlikely to provide the initial funding required to implement the new system, and even in the medium to long term will almost certainly not cover the costs of all the new regulatory and enforcement responsibilities that clause 58 will require local authorities to meet.

The White Paper committed the Government to conducting a new burdens assessment into the reform proposals it set out, assessing their impact on local government, and, where necessary, fully funding the net additional cost of all new burdens placed on local councils. I would be grateful, therefore, if the Minister can give us today a clear commitment on resources. Specifically, can he tell us whether the commitment to a new burdens assessment will be honoured and, if so, when it will be published?

Jacob Young: It is under way now.

Matthew Pennycook: Can the Minister also give us a clearer view of the Government's view of the future of selective licensing following the Bill's enactment, given that such schemes are crucial sources of local authority funding in a number of areas? I look forward to the Minister's response to those points.

Jacob Young: I am grateful to the hon. Member for Greenwich and Woolwich for speaking to his amendments, and to the hon. Member for Westminster North for her comments. We expect the vast majority of landlords to do the right thing and meet their new legal responsibilities but, as ever, a minority will fail to do so. The Government are committed to supporting local authorities and taking proactive enforcement against this minority of landlords.

Clause 58 will place a new duty on every local housing authority in England to enforce the new measures in their area. When considering enforcement, local authorities will be able to use a civil penalty as an alternative to a criminal prosecution for an offence, allowing them to decide the most effective method of enforcement in each case.

Government amendments 78, 81 and 82 will extend the power in clause 58, though not the duty, to enforce the landlord legislation to county councils in two-tier areas in England. While local housing authorities have a duty to enforce the landlord legislation in their areas under clause 58, there may be some instances where breaches and offences are better pursued by the authority responsible for trading standards. For example, in relation to advertising a property to rent, county councils also have this responsibility. In this Bill, we make a distinction between less serious breaches of the legislation and more serious offences. Government amendments 76, 83, 84 and 85 strengthen clause 58 to ensure that the ability of a local housing authority to take enforcement action outside its local area extends to offences as well as breaches.

Clause 59 will further support effective enforcement by ensuring that the local authorities are fully aware of the enforcement action in their areas that is going to be taken by a different authority, and of the final results of such action. This will facilitate local authorities to take cross-border enforcement action, and deliver greater efficiency and enable local authorities to provide the most complete case to the courts.

Clause 60 will allow the Secretary of State to appoint a lead enforcement authority for the purpose of provisions in the landlord legislation, which includes many of the provisions in this Bill. We plan to carefully consider whether having a lead enforcement authority for any of the provisions in the landlord legislation will be beneficial. We plan to engage with local authorities and other stakeholders to establish this.

Clause 61 sets out the various duties and powers of a lead enforcement authority. The principal duty is to oversee the operation and effective enforcement. This includes the duty to provide advice to local authorities about the operation of the legislation and may include information relevant to the enforcement of specific cases.

Government amendments 86 to 91 will ensure that a lead enforcement authority's duties and powers provided in the Bill to help local housing authorities are extended

[Jacob Young]

to county councils in England that are not local housing authorities. Government amendments 92, 93 and 95 ensure that county councils in England that are not local housing authorities are required, when requested, to report to a lead enforcement authority, in the same way that a local housing authority is on the exercise of its functions. New clause 22 will ensure that enforcement action is not duplicated when those county councils that are not also local housing authorities take enforcement action in relation to landlord legislation. Government amendment 77 ensures that new provisions of the new clause 22 are referenced in clause 58, which is the clause that encloses the duty to enforce on local housing authorities.

Finally, new clause 23 will place a duty on local authorities to supply data to the Secretary of State in relation to the exercise of their functions—I believe that point was mentioned by the hon. Member for Greenwich and Woolwich—under part 2 of this Bill, and other relevant legislation as and when it is requested. In order to evaluate the impact of our reforms and understand the action that local authorities are taking against the minority of landlords who flout the rules, it is vital that the Secretary of State is able to seek regular and robust data from local authorities. My officials will work with local authorities to agree a data reporting framework that is rational, proportionate and helpful to both local and central Government, and in line with other similar data collections. With their input, we will undertake a new burdens assessment and fully fund any additional costs generated to fulfil this duty. I hope that addresses the points raised in Committee.

Amendment 76 agreed to.

Amendments made: 77, in clause 58, page 57, line 38, after first "authority)" insert—

", (Enforcement by county councils which are not local housing authorities: duty to notify)(3) (enforcement by county council in England which is not a local housing authority)".

This amendment is consequential on NC22.

Amendment 78, in clause 58, page 57, line 38, at end insert—

"(3A) A county council in England which is not a local housing authority may—

(a) enforce the landlord legislation;

(b) for that purpose, exercise any powers that a local housing authority may exercise for the purposes of enforcing that legislation."

This amendment confers a power to enforce the landlord legislation on county councils in England which are not local housing authorities and for that purpose enables such councils to exercise powers equivalent to local housing authorities.

Amendment 79, in clause 58, page 58, leave out lines 1 to 3.

This amendment removes the definition of "local housing authority" for the purposes of Part 3 of the Bill. It is consequential on Amendment 107 which inserts a definition of "local housing authority" for the purposes of the Bill as a whole.

Amendment 80, in clause 58, page 58, line 4, at end insert—

"(za) Chapter 2A of Part 1 of this Act,".

This amendment adds the new Chapter expected to be formed of new clauses relating to discriminatory practices in relation to the grant of tenancies to the definition of "the landlord legislation" in clause 58.

Amendment 81, in clause 58, page 58, line 9, leave out "a local housing authority".

This amendment is consequential on Amendment 78.

Amendment 82, in clause 58, page 58, line 10, leave out "that authority".—*(Jacob Young.)*

This amendment is consequential on Amendment 78.

Clause 58, as amended, ordered to stand part of the Bill.

Clause 59

ENFORCEMENT BY LOCAL HOUSING AUTHORITIES: DUTY TO NOTIFY

Amendments made: 83, in clause 59, page 58, line 16, after second "of" insert ", or an offence under,".

This amendment ensures that a local housing authority notifies another local housing authority if it proposes to take enforcement action in respect of an offence under the landlord legislation which occurs in the area of that other authority.

Amendment 84, in clause 59, page 58, line 23, after "breach" insert "or offence".

This amendment is consequential on Amendment 83.

Amendment 85, in clause 59, page 58, line 27, after "breach" insert "or offence".—*(Jacob Young.)*

This amendment clarifies that a financial penalty imposed under the landlord legislation may also relate to an offence under that legislation.

Clause 59, as amended, ordered to stand part of the Bill.

Clause 60 ordered to stand part of the Bill.

Clause 61

GENERAL DUTIES AND POWERS OF LEAD ENFORCEMENT AUTHORITY

Amendments made: 86, in clause 61, page 59, line 30, leave out "local housing" and insert "relevant local".

This amendment requires a lead enforcement authority to provide information and advice to county councils in England which are not local housing authorities.

Amendment 87, in clause 61, page 59, line 35, leave out "local housing" and insert "relevant local".

This amendment provides for a lead enforcement authority to disclose information to county councils in England which are not local housing authorities for certain purposes.

Amendment 88, in clause 61, page 60, line 1, leave out "local housing" and insert "relevant local".

This amendment provides for a lead enforcement authority to issue guidance to county councils in England which are not local housing authorities.

Amendment 89, in clause 61, page 60, line 4, leave out "Local housing" and insert "Relevant local".

This amendment requires county councils in England which are not local housing authorities to have regard to guidance issued by a lead enforcement authority under subsection (4) of clause 61.

Amendment 90, in clause 61, page 60, line 14, leave out "local housing" and insert "relevant local".

The amendment provides for a direction given under subsection (7) of clause 61 to relate to county councils in England which are not local housing authorities.

Amendment 91, in clause 61, page 60, line 16, at end insert—

"'relevant local authority' means—

(a) a local housing authority, or

(b) a county council in England which is not a local housing authority;".—*(Jacob Young.)*

The amendment defines "relevant local authority" for the purposes of clause 61.

Clause 61, as amended, ordered to stand part of the Bill.

Clause 62

ENFORCEMENT BY THE LEAD ENFORCEMENT AUTHORITY

Amendments made: 92, in clause 62, page 61, line 1, leave out "local housing" and insert "relevant local".

This amendment requires a county council in England which is not a local housing authority to report at the request of a lead enforcement authority on the exercise of the county council's functions under the provisions for which the lead enforcement authority is responsible.

Amendment 93, in clause 62, page 61, line 3, leave out "local housing" and insert "relevant local".

This amendment is consequential on Amendment 92.

Amendment 94, in clause 62, page 61, line 5, at end insert—

"(7) The powers of a local housing authority referred to in subsection (1)(b) include the power to authorise persons to exercise powers of officers under sections (Power of local housing authority to require information from relevant person) to (Investigatory powers: interpretation) (see section (Investigatory powers: interpretation)(2)).

(8) Section (Suspected residential tenancy: entry without warrant)(7) is to be read, in relation to an officer of a lead enforcement authority, as if—

(a) the reference to a deputy chief officer whose duties relate to a purpose within subsection (1)(b) of that section were a reference to—

(i) a person who is employed by, or acts on the instructions of, the body which is the lead enforcement authority and has overall responsibility for the exercise of the functions of that body in that capacity ('the head of the lead enforcement authority'), or

(ii) a person who is employed by, or acts on the instructions of, the lead enforcement authority, and has been authorised by the head of the lead enforcement authority to give special authorisations within the meaning of section (Suspected residential tenancy: entry without warrant), and

(b) paragraph (b)(ii) were omitted."

This amendment is consequential on other new clauses which provide for investigatory powers of local housing authorities. It deals with how the references to officers of a local housing authority are to apply in the case where the powers of a local housing authority are to be exercised by a lead enforcement authority.

Amendment 95, in clause 62, page 61, line 5, at end insert—

"(9) In this section 'relevant local authority' has the same meaning as in section 61."—*(Jacob Young.)*

This amendment defines "relevant local authority" for the purposes of clause 62.

Ordered, That further consideration be now adjourned. —*(Mr Mohindra.)*

11.11 am

Adjourned till this day at Two o'clock.