Housing and Planning Bill: Report on Committee Stage

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image cropped.
Extension of help to buy
Summary

The Housing and Planning Bill 2015-16 was considered during seventeen sittings of the Public Bill Committee between 10 November and 10 December 2015. Report Stage is scheduled to take place on 5 January 2015. Full background on the Bill, and its provisions as originally presented, can be found in Library Briefing Paper 7331, Housing and Planning Bill 2015-16.

The purpose of the Bill

On publication of the Bill, the Government said it would kick-start a “national crusade to get 1 million homes built by 2020” and transform “generation rent into generation buy.” The supply-side measures in the Bill are primarily focused on speeding up the planning system with the aim of delivering more housing. There is also a clear focus on home ownership, with measures to facilitate the building of Starter Homes; self/custom build housing; and the extension of the Right to Buy to housing association tenants following a voluntary agreement with the National Housing Federation (NHF). Other measures in the Bill are aimed at tackling “rogue” landlords.

Government amendments

A number of Government amendments to Part 2 of the Bill (Rogue landlords and letting agents in England) were agreed without Division, the most significant of which will make breach of a banning order a criminal offence. A number of technical Government amendments were made to parts 6 (Planning in England) and 7 of the Bill (compulsory purchase), and a new clause and schedule were added to enable the Mayor of London or a combined authority to prepare a development plan document where a local authority had failed to make progress on such a document.

The Government added controversial new clauses to the Bill during the Committee’s final day of consideration to prevent local authorities in England from offering secure tenancies for life in most circumstances. Instead, they will be able to offer fixed term tenancies for a minimum of two years. Existing secure tenants will not lose their security of tenure. The Government also added new provisions to amend the rights of certain family members to succeed to secure, introductory and demoted tenancies. The Minister, Marcus Jones, said an impact assessment on these measures would be published before the Bill goes to the House of Lords. Dr Roberta Blackman-Woods, Shadow Housing Minister, criticised the decision to bring these clauses before the Committee on its last day of deliberations.

Government Ministers agreed to consider various points raised during the Bill's consideration, including: the definition of affordable housing; the limits on financial penalties which will apply to private landlords in certain circumstances; and the question of legislating to introduce mandatory electrical checks in rented housing. Further consultation is expected on some of the provisions related to starter homes.

Opposition amendments

Opposition amendments were moved on most aspects of the Bill, none of which were successful although; as noted above, Government Ministers did agree to consider some of the points made and return to them on Report. Throughout the Bill’s consideration the Opposition made the point that detailed scrutiny was hampered by a lack of information, such as how high-value council housing will be defined in different areas and how much money the Government expects to raise from sales of this vacant high-value housing. The Opposition called for early sight of regulations in which many of the detailed provisions will be contained.
Housing and Planning Bill and English votes for English laws (EVEL)

On 22 October 2015, the House of Commons agreed to changes to its Standing Orders to allow members from England or England and Wales to give their consent to Government legislation that affected only England, or England and Wales and that was within devolved legislative competence (English votes for English laws – EVEL).

Under the procedures, the Speaker is required to certify provisions in Government Bills that affect either England-only or England and Wales-only and are within devolved legislative competence. The Housing and Planning Bill 2015-16 was the first bill to have any provisions certified. On 28 October 2015, the Speaker issued the following certificate:

The Speaker has certified, in respect of the Housing and Planning Bill [Bill 75], that Clauses 1 to 58, 60 to 70, 72 to 76, 78 to 84, 86 to 88 and 92 to 110 and Schedules 1 to 4 and 6 relate exclusively to England and are within devolved legislative competence; and that Clauses 59, 71, 85, 90, 91, 111 to 139 and Schedules 5 and 7 to 11 relate exclusively to England and Wales and are within devolved legislative competence (Standing Order No. 83J.).[1]

The Bill was amended in Public Bill Committee and has been reprinted as Bill 108. It proceeds to Report Stage as before but once Report Stage is complete, it is reconsidered for certification by the Speaker. He will have to certify any clause or schedule which passes the two tests (above), and any changes made in Committee and on Report to provisions that had previously been certified which remove certified material from the Bill, or change the countries within the UK affected and any new provisions that are certifiable. Such certified provisions and changes would require consent by means of agreement to a Consent Motion in a Legislative Grand Committee (LGC). The Speaker has announced that he would expect a brief suspension of the House following Report Stage to take decisions relating to certification.[2]

Members representing seats in England and England and Wales vote in LGCs on motions to accept and/or reject the certified provisions, or to accept some and reject others. As the Speaker has already issued English and English and Welsh certificates, it seems likely that decisions of both the LGC (England and Wales) and the LGC (England) will be required. The two LGCs are required take place successively: if consent motions are to be considered, the House will resolve into a LGC (England and Wales) to debate any consent motions and then, if necessary, vote on the consent motion(s) relating to England and Wales; then the House will resolve into the LGC (England) and, if necessary, vote on the consent motion(s) relating to England. If the consent motions are agreed to, the Bill will proceed to Third Reading.

For more information on the EVEL procedures adopted on 22 October 2015 see the Library Briefing Paper English votes for English laws (CBP 7339).

[2] HC Deb 26 October 2015 c23
1. Public Bill Committee

The Housing and Planning Bill 2015-16 was introduced to the House of Commons on 13 October 2015 and its second reading took place on 2 November 2015. The Bill and its Explanatory Notes are available on the Parliament website.

The Bill was originally announced in the May 2015 Queen’s Speech, which said Government would provide legislation to support home ownership and give housing association tenants the chance to own their own home.¹ On publication of the Housing and Planning Bill the Government said it would kick-start a “national crusade to get 1 million homes built by 2020” and transform “generation rent into generation buy.” The supply-side measures in the Bill are primarily focused on speeding up the planning system with the aim of delivering more housing. There is also a clear focus on home ownership, with measures to facilitate the building of Starter Homes and self/custom build housing.

Since publication of the Bill the Government has issued the following related documents:

- *Housing and Planning Bill 2015-16 Impact Assessment*, 19 October 2015;
- *Nationally significant infrastructure projects and housing: briefing note*, 28 October 2015;
- *Technical consultation on improvements to compulsory purchase processes: Government response to consultation*, 29 October 2015; and
- *National Planning Policy: consultation on proposed changes*, 7 December 2015

The Public Bill Committee stage began on 10 November 2015 and concluded on 10 December 2015. The membership of the committee was as follows:

Chairs: Mr James Gray, Sir Alan Meale
- Bacon, Mr Richard (South Norfolk) (Con)
- Blackman-Woods, Dr Roberta (City of Durham) (Lab)
- Caulfield, Maria (Lewes) (Con)
- Dowd, Peter (Bootle) (Lab)
- Griffiths, Andrew (Burton) (Con)
- Hammond, Stephen (Wimbledon) (Con)
- Hayes, Helen (Dulwich and West Norwood) (Lab)
- Hollinrake, Kevin (Thirsk and Malton) (Con)
- Jackson, Mr Stewart (Peterborough) (Con)

¹ HL Deb 27 May 2015 cc5
The Public Bill Committee (PBC) received a number of written submissions and took oral evidence in its first three sittings before going on to conduct its clause by clause examination of the Bill. The written evidence and transcripts of the Committee’s sittings are available on the Housing and Planning Bill 2015-16 page of the Parliament website. A tracked changes version of the Bill showing how the Bill was amended in Committee is also available on the website.

The clauses of the Bill not mentioned in this paper were those that were generally accepted and supported by all Parties and which did not generate a large amount of discussion or debate. The clause numbers refer to those from the Bill as first introduced in the House of Commons, Bill 75 of 2015-16.

The Report stage of the Bill is scheduled for 5 January 2016.
2. Committee Stage: detailed consideration of the Bill

2.1 Starter Homes (clauses 1-7)

Part 1 of the Bill (clauses 1-7) puts a general duty on all planning authorities to promote the supply of Starter Homes. It also provides a specific duty, which will be set out in regulations, to require a certain number or proportion of Starter Homes on site. Many of the powers in this part of the Bill are to be set out in regulations to be published at a later date. A number of probing amendments were tabled by the Opposition designed to tease out the potential content of some of these regulations. Further consultation, on the proportion of starter homes to be required on each new housing site and on the types of development which would be exempt from having to provide starter homes, was promised by the Minister.

Supply of housing

Dr Roberta Blackman-Woods, Shadow Minister for Housing, moved an amendment designed to change the purpose of the Bill in clause 1 to relate to the supply of more housing across all tenures, rather than just Starter Homes. She explained the amendment sought to ascertain why Starter Homes had been prioritised in housing delivery over other measures that would seek to raise housing supply to the level needed across all tenures.2

The Minister for Housing and Planning, Brandon Lewis, replied that while the Government was “totally committed” to increasing housing supply across all tenures, it did not want to use legislation to increase housing supply where it was unnecessary to do so. That the Government were doing other things on housing supply, not all of which needed legislation.3 The amendment was withdrawn, although Dr Blackman-Woods indicated that she may return to this issue at a later point.4

Associated infrastructure

Dr Blackman-Woods then moved another amendment to clause 1 to provide that Starter Homes should be supported with adequate infrastructure. She argued this reflected some of the concerns which came out in the evidence sessions and written submissions. That homes needed to be built in communities where people want to live, with the right infrastructure, so that those who rent or purchase them had access to good-quality healthcare, schools, further and higher education, transport links and employment.5 She also asked for an update from the Minister on whether section 106 obligations would apply to Starter Homes.6

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2 PBC Deb 19 November 2015 (morning) c135
3 PBC Deb 19 November 2015 (morning) c146
4 PBC Deb 19 November 2015 (morning) c147
5 PBC Deb 19 November 2015 (morning) c148
6 PBC Deb 19 November 2015 (morning) c151
In response the Minister said that infrastructure considerations would still be an important part of consideration for any substantive development. In particular, local planning authorities would still be able to secure section 106 contributions for site-specific infrastructure improvements required for the development, “including new roads or financial contributions to local schools.” He also emphasised that existing affordable homes do not currently attract the community infrastructure levy, so that this would not be a big change for Starter Homes. Dr Blackman-Woods disagreed that Starter Homes were the same as affordable homes, because they would be available on the open market within five years. The amendment was withdrawn.

**Discount from market value**

Clause 2 of the Bill defines what is meant by a Starter Home. Part of this definition refers to it being made available at a price which is 20% less than market value. Dr Blackman-Woods moved a probing amendment to ascertain why a discount of 20% below market value was set, rather than a multiplier of median household income in the area concerned, which she argued would be a more effective way of making these homes affordable. The Minister replied that he expected a Starter Home to be an entry-level property, valued at below the average first-time buyer price for the local area. He based this on the following:

We have examined affordability of homes for those who are currently in the private rented sector. If they were to buy in the lower quartile of the first-time buyer market, outside of London, up to 64% of households currently renting privately would be able to secure a mortgage on a typical Starter Home, compared with just 50% who could buy a similar property now at full market value.

Within London, up to 55% of households currently renting privately would be able to secure a mortgage on a Starter Home in the lower quartile of the first-time buyer market, compared with 43% who could buy a similar property now priced at full market value.

Dr Blackman-Woods pressed this amendment to a vote, where it was defeated. Ayes 6, Noes 10.

**Resale at market value**

Dr Blackman-Woods also moved another amendment which sought to change the Government’s planned provision in regulations which would allow a Starter Home to be sold at full market value after five years, to providing that it must be sold at a discount in perpetuity. She questioned whether it was right that individuals would get the planning gain obtained from being able to later sell the property at its open market value.

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7 PBC Deb 19 November 2015 (morning) c152
8 PBC Deb 19 November 2015 (morning) c154
9 PBC Deb 19 November 2015 (morning) c154
10 PBC Deb 19 November 2015 (afternoon) c157
11 PBC Deb 19 November 2015 (afternoon) c166
12 PBC Deb 19 November 2015 (afternoon) c168
market value. The Minister responded that he did not think that first time buyers would be attracted to homes where there was no opportunity for resale at full market value. He said that giving them the opportunity to sell their property after five years would enable them to move up the housing ladder and give them the same rights in their property as any other homeowner.

**Inclusion within definition of affordable housing**

Conservative Member Chris Philp asked whether the Minister would consider defining Starter Homes formally as affordable homes for planning purposes. The Minister replied that he would consider it and that:

> We will consult on changing the definition of affordable housing in planning policy, along with other changes to embed Starter Homes delivery in national policy. Building on the comments and queries from my hon. Friends the Members for Croydon South and for Thirsk and Malton, I will reflect further and consider the definition of “affordable housing” and return to the matter on Report.

The Government’s consultation published after this Committee session, *National Planning Policy: consultation on proposed changes*, 7 December 2015, proposed a new definition of affordable housing, to amend planning policy as follows:

9. We propose to amend the national planning policy definition of affordable housing so that it encompasses a fuller range of products that can support people to access home ownership. We propose that the definition will continue to include a range of affordable products for rent and for ownership for households whose needs are not met by the market, but without being unnecessarily constrained by the parameters of products that have been used in the past which risk stifling innovation. This would include products that are analogous to low cost market housing or intermediate rent, such as discount market sales or innovative rent to buy housing. Some of these products may not be subject to ‘in perpetuity’ restrictions or have recycled subsidy. We also propose to make clearer in policy the requirement to plan for the housing needs of those who aspire to home ownership alongside those whose needs are best met through rented homes, subject as now to the overall viability of individual sites.

10. By adopting the approach proposed, we are broadening the range of housing types that are taken into account by local authorities in addressing local housing needs to increase affordable home ownership opportunities. This includes allowing local planning authorities to secure starter homes as part of their negotiations on sites.

**Exclusion of buy-to-let investors**

Another Labour amendment probed whether the Government would, in regulations, restrict buy-to-let investors from being able to purchase

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13 PBC Deb 19 November 2015 (afternoon) c161
14 PBC Deb 19 November 2015 (afternoon) c166
15 PBC Deb 19 November 2015 (afternoon) c166
16 PBC Deb 19 November 2015 (afternoon) c181
Starter Homes. The Minister replied that it would and that Government was working “with developers, builders, lenders and local government to secure the best possible mechanism to ensure that Starter Homes are for owner-occupiers only.”

**Exception sites**

Dr Blackman-Woods moved an amendment which would limit Starter Homes to being built on brownfield exception sites only, so that homes could be built on land that would not otherwise be used. She was keen to probe why the Government had changed its mind on this position from a consultation proposal from March 2015. The Minister replied that the Government’s manifesto commitment was to provide 200,000 Starter Homes by 2020. He explained that meeting this commitment would require Starter Homes to be delivered on both exception sites and on more conventional housing sites. He said this would enable people to choose from a range of sites in their area. He clarified the Government’s intention to set out in regulations the proportion of Starter Homes that it expects to be delivered on each conventional housing site. These proposals will first be consulted on “shortly.” This would also examine the proportion of Starter Homes required on conventional housing sites and also at any exemptions from the requirement.

**Relationship with affordable housing**

A number of Opposition amendments sought to prevent Starter Homes being delivered unless they were in addition to existing affordable housing requirements. Dr Blackman-Woods expressed concern that the Starter Homes policy would override the existing policy in the National Planning Policy Framework (NPPF) for local authorities to assess housing need and then plan for a mix of home types and tenures based on that assessment. She was concerned that Starter Homes could take precedence over a need for socially rented home provision. She said that it was difficult to see how a centrally defined target for Starter Homes fitted with the NPPF. The Minister replied that Government would set out plans for the future direction of the Government’s affordable housing programme following the outcome of the spending review. He said that whilst Government would set required levels of Starter Homes to be provided with new developments, there would be “a degree of flexibility to reflect the different nature of residential developments and viability pressures across the country.”

**Local connection test**

Another Opposition amendment sought to ensure that a proportion of Starter Homes could be made available for local people only.

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17  PBC Deb 19 November 2015 (afternoon) c168
18  PBC Deb 19 November 2015 (afternoon) c180
19  PBC Deb 19 November 2015 (afternoon) c171
20  PBC Deb 19 November 2015 (afternoon) c180
21  PBC Deb 19 November 2015 (afternoon) c181
22  PBC Deb 19 November 2015 (afternoon) c178
23  PBC Deb 19 November 2015 (afternoon) c182
24  PBC Deb 19 November 2015 (afternoon) c182
Dr Blackman-Woods said the amendment would ensure that where there is high demand for Starter Homes, it would ensure that priority could be given to people who live and work locally in the area. The Minister made clear that in general, Starter Homes would not be restricted by a locality test, in order to ensure mobility across the country. He recognised, however, that “there may be exceptional circumstances where a local connection test could be warranted.” He said the Government will consult on whether local planning authorities should have the flexibility to introduce a local connection test for Starter Homes being developed through a rural exception sites policy.

This was reflected in the Government’s later published consultation, *National Planning Policy: consultation on proposed changes*, 7 December 2015, which proposed that local planning authorities should “exceptionally” have the flexibility to require a local connection test:

47. We propose that starter homes on rural exception sites should be subject to the same minimum time limits on resale (5 years) as other starter homes to ensure local people are able to maximise the value of the home and secure a long term place in the local housing market. However, we also propose that local planning authorities would, exceptionally, have the flexibility to require a local connection test. This would reflect the particular needs of some rural areas where local connections are important and access to the housing market for working people can be difficult and would be consistent with existing policy on rural exception sites.

**Making changes to the price cap**

Further Opposition amendments sought to ensure that the relevant local authorities were consulted whenever the Government planned to make changes to the price caps for Starter Home set by the Bill. Dr Blackman-Woods said that it was “dangerous for the Bill to give the Secretary of State the power to amend the price cap in regulations, without any parliamentary discussion if it is done in a negative instrument.” The Minister disagreed, saying a statutory requirement to consult local government on the regulations would not be necessary. That statutory consultation requirements could create unnecessary delays and undue bureaucracy and undermine delivery. The Minister clarified that the regulations would be subject to the affirmative procedure and that there would be discussions with local authorities:

> I can assure hon. Members that we understand the need to have a cap that works fairly and clearly and we will want to engage with developers, lenders and local planning authorities if we decide to change the price caps in future. I am sympathetic to the points raised by the hon. Lady on working with local government to ensure that the proposals are responsive and reflective. I will look at that in the weeks ahead, before Report. In response to a

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25 PBC Deb 19 November 2015 (afternoon) c183
26 PBC Deb 19 November 2015 (afternoon) c184
27 PBC Deb 19 November 2015 (afternoon) c184
28 PBC Deb 19 November 2015 (afternoon) c185
29 PBC Deb 19 November 2015 (afternoon) c186
direct question from the hon. Lady, the regulations for the price cap will be affirmative regulations.30

Exemptions for certain types of development

Clause 4 of the Bill allows regulations to be made which would grant planning permission for certain residential developments, only if certain requirements relating to Starter Homes were met. Dr Blackman-Woods tabled an amendment to remove a list of specified developments from the requirement to provide Starter Homes. She explained that this related to concerns about whether the Starter Homes requirement will crowd out other forms of housing that might be needed in a local area.31 The Minister replied that a key part of a forthcoming consultation will seek views on what sorts of exemption to the requirement should be allowed.32

Reporting duties

Clause 5 will require local planning authorities to produce reports about their duties in relation to Starter Homes. Dr Blackman-Woods tabled an amendment which would require local planning authorities to report on their functions in respect of Starter Homes annually and to publish the report.33 A further amendment would also require a report to be produced on affordable housing provision. She explained she wanted to ensure that information about the effectiveness of the Starter Homes policy will be available in a particular form for public scrutiny. The Minister replied that the Bill already required the reports to be made public and that regulations would allow it to be combined with the local authority’s annual monitoring report. He emphasised how the monitoring report already contained a specific requirement for a local planning authority to report on its affordable housing delivery performance against adopted planning policies. While Dr Blackman-Woods withdrew her amendments, she emphasised her concern about the lack of detail in the Bill:

We tabled the amendments largely as probing amendments because there is so little information in the Bill about how the monitoring will be carried out. Although it says that reports will be available to the public, it does not say how they will be made available, how often they will be available, in what form they will be published and whether they will be on authorities’ websites. The Bill gives the Secretary of State powers to outline the reports’ form, content, timing and so on.

Presumably, at some point we are going to see a set of regulations. Perhaps we will have to postpone some of the detail of this discussion until we see that. Our plea to the Minister is that he makes the information readily available to people. It should probably be made available on an authority’s website because that is how most people access information these days—not everyone, but most people. It needs to be available in other ways too, and it needs to be put in context.34

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30 PBC Deb 19 November 2015 (afternoon) c187
31 PBC Deb 19 November 2015 (afternoon) c190
32 PBC Deb 19 November 2015 (afternoon) c192
33 PBC Deb 19 November 2015 (afternoon) c193
34 PBC Deb 19 November 2015 (afternoon) c196
Compliance directions

**Clause 6** deals with what happens if a local authority’s planning policies are incompatible with the Bill’s Starter Homes provision. It allows the Secretary of State to issue a compliance direction to direct that the incompatible policy should not be taken into account when taking planning decisions. Labour Member Helen Hayes moved an amendment to require that the Secretary of State should take account of any planning needs assessment documents before issuing a compliance direction. This was to “give local authorities a necessary safeguard by requiring the Secretary of State to take account of local need before issuing a compliance direction.” In response, the Minister said it was the Government’s “firm intention” that the compliance direction is a backstop provision which would be used rarely:

> I want to reassure hon. Members that a compliance direction would be issued only after very careful consideration of the evidence by the Secretary of State. Councils must report on their actions to support Starter Home delivery under the requirements in clause 5. This will be core evidence, but there will be the opportunity for councils to submit further evidence to the Secretary of State. Any exceptional circumstances could be considered at this point.

Helen Hayes withdrew the amendment but said that she would return to it at a later stage of the Bill because of concerns about ensuring housing decisions are taken by a local democratic process.

The committee divided on whether the clause should stand part of the Bill: Ayes 11, Noes 5. It was agreed-to and ordered to stand part.

2.2 Self-Build and Custom Housebuilding (clauses 8-11)

**Clauses 8-11** of the Bill add to and amend the *Self-build and Custom Housebuilding Act 2015*, which requires local authorities to keep a register of people seeking to acquire land to build or commission their own home. The Bill specifically requires local authorities to grant “sufficient suitable development permission” of serviced plots of land to meet the demand based on this register.

**Application to co-operatives and community-led housing schemes**

Labour Member, Mr Gareth Thomas, tabled a probing amendment in relation to **clause 8** on definitions to gather Minister’s view on whether the Bill’s provisions would apply to housing co-operatives and community-led housing schemes. The Minister clarified that to qualify for self-build and custom build, individuals who are going to own and live in the property need to be part of the design and production of that
property. If the organisation was commissioning properties for people who were not part of the design panel, they would “not by definition be self-build and custom-build.”

**Ability to finance development of a plot**

Matthew Pennycook for Labour tabled a series of amendments in relation to clause 9 designed to ensure that those people seeking to acquire land through the register would actually have the financial means to develop a plot of land. The Minister agreed that the “the only demand on the register should be effective demand”, and clarified that this could already be achieved through regulations made under clause 11:

Clause 11 provides for regulations that enable relevant authorities to determine their own eligibility criteria and it is intended that one part of the locally determined criteria will be a financial solvency test. I suggest that enabling local authorities to apply such a test before acceptance on the register is a more effective means of achieving effective demand than the amendment, not least because that will enable each authority to specify in detail what reassurance it thinks it needs about the financial position of people seeking to join its register in its area.

**2.3 Rogue landlords and letting agents (England) (clauses 12-48)**

Part 2 of the Bill takes forward some of the issues raised as part of the Review of property conditions in the private rented sector which was launched in February 2014. The Government response followed in March 2015: Review of property conditions in the private rented sector: government response. Part 2 introduces new financial sanctions for use against rogue landlords who break the law; enables local authorities to identify rogue landlords within their areas and place them on a database; and provides a regime for removing the worst offenders from the sector through banning orders.

The clauses in Part 2 were considered during the seventh and eighth sittings of the committee.

A series of Government amendments to clause 12 (introduction to this part) and other clauses (see below) were agreed, and also the insertion of new clauses concerning banning orders, without division:

- **New clause 8** extends the coverage of Part 2 of the Bill to property managers whether or not they are landlords or letting agents. The clause explains what property management work is.
- Amendment 48 has added a definition of property managers to clause 48 (General interpretation of Part).
- Amendments 45-47 and 49 disengage property management from letting agency work “so that both are defined as separate and distinct activities.”

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41 PBC Deb 24 November 2015 (morning) c214
42 PBC Deb 24 November 2015 (morning) c229-230
43 PBC Deb 24 November 2015 (morning) c232
44 PBC Deb 24 November 2015 (afternoon) c243
• Amendments 2, 3, 4, 9, 19 and 22 are consequential on amendment 48 – each replaces references in Part 2 of the Bill to “letting agents” with “property agents.”

• **New clause 3** provides that breach of a banning order will be a criminal offence enabling the prosecution of a landlord. Courts will be able to impose an unlimited fine on a person convicted of a breach. Alternatively, or in addition, the court will be able to sentence the person to a term of up to six months. The Minister, Marcus Jones, described this new provision as a deterrent to breaches of a banning order.45

• Amendment 5 to clause 12 is consequential on new clause 3.

• Local authorities will also be able to impose a civil financial penalty for breach of a banning order under **clause 17** (amended by amendments 15 and 16).

• **New clause 4** is intended to prevent persons escaping personal liability if the company they operate breaches a banning order. Prosecution will be possible where the offence was committed with the consent or connivance of an officer of a company, or due to that person’s negligence.

• Amendments 34 to 39 and 42 to 44 have amended the rent repayment order scheme in the Bill to take account of the fact that breach of a banning order will be a criminal offence. As a result, original clauses 35 and 36 are no longer required and have been removed from the Bill.

During the stand part debate on clause 12 Teresa Pearce, Shadow Housing Minister, expressed support for initiatives in the Bill to tackle rogue landlords and asked whether the Government had information on the size of the problem.46 Marcus Jones responded:

> We have looked at that very carefully and consider that about 10,500 rogue landlords may be operating. This Government is firmly on the side of good landlords and tenants and we want to drive those rogue landlords out of the system. That is what the proposed clauses in this part do.

> On banning orders, which I shall come to in clause 13, we expect that about 600 will be applied for to the tribunal as a result of the measures that this Bill brings.47

**Clause 13** ("Banning order" and "banning order offence") was agreed without amendment.48

The following Government amendments to clause 14 (Application and notice of intended proceedings), clause 15 (Making a banning order) and clause 21 (Prohibition on certain disposals) were agreed without division:

• Amendment 6 to ensure that when a local authority applies for a banning order against a company convicted of an offence, it must also apply for a banning order against any officer who has been convicted of the same offence. This will prevent these individuals from continuing to trade in a personal capacity.49

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45 PBC Deb 24 November 2015 (afternoon) c244
46 PBC Deb 24 November 2015 (afternoon) c245
47 PBC Deb 24 November 2015 (afternoon) c245
48 PBC Deb 24 November 2015 (afternoon) c246
49 PBC Deb 24 November 2015 (afternoon) c247
• Amendment 7 provides that no notice of intended proceedings need be served on an individual in these circumstances as the authority will be under a duty to apply for an order.
• Amendment 8 to ensure that an authority must tell a person how long it intends to ask the tribunal to make a banning order for. The minimum will be six months and there is no maximum. This will enable the person to make representations about the length of the order; the local authority will be required to take any representations into account before making an application. 50
• Amendments 10 and 11 to clause 15 (related to amendment 6) to provide that a banning order can be made against the officer of a company despite the fact that were not a residential landlord or property agent.
• A technical amendment to clause 17 and amendment 18 to close a loophole in clause 21 to prevent a company subject to a banning order from transferring property to another company where both have officers in common. 51

Gareth Thomas (Labour) asked why tenants would not be able to apply for banning orders. Marcus Jones provided the following explanation:

The reason why local authorities are the only bodies that can apply for a banning order is that they are responsible for enforcing housing standards under the Housing Act 2004. Tenants will be able to make complaints to their local authority and ask them to apply for a banning order where the landlord has relevant convictions. Tenants will also be interested parties before the first-tier tribunal. 52

Teresa Pearce moved an Opposition amendment (104) to clause 14 which would have required local authorities to make “all reasonable effort” to consult directly with affected tenants when seeking a banning order against a landlord/property agent.53 The Minister pointed out that tribunals would have consider the likely effect of a banning order when deciding whether or not to issue one under clause 15(3)(d). He went on:

Clause 20 introduces schedule 3, which provides that a management order may be made in cases where a banning order has been made. That will allow the local authority to take over management of a property and could allow a tenant to continue living in a property while a banning order is in place. The local authority may, for example, wish to use that power in situations where there is a vulnerable tenant whom it does not wish to see displaced. That further protects the tenant in the event of a banning order being made and ensures that they do not suffer for further offences committed by their landlord. It is also worth noting that the tribunal can include exceptions when making a banning order, such as to allow time for a tenant to find alternative accommodation. 54

The Opposition amendment was withdrawn. 55

50 PBC Deb 24 November 2015 (afternoon) c247
51 PBC Deb 24 November 2015 (afternoon) c247
52 PBC Deb 24 November 2015 (afternoon) c247
53 PBC Deb 24 November 2015 (afternoon) c248
54 PBC Deb 24 November 2015 (afternoon) c251
55 PBC Deb 24 November 2015 (afternoon) c251
Teresa Pearce moved Opposition amendment 112 to clause 16 (Duration and effect of banning order) which was discussed alongside amendment 105:

- Amendment 112 to ensure a banning order lasts for at least 12 months. She argued that this would act as a greater deterrent and “provide the sector with a longer period without the rogue landlord.”
- Amendment 105 to require those subject to a banning order to undergo accredited training before being able to let property again. She argued that this would “drive up standards in the sector.”

In response, Marcus Jones argued that tribunals should have discretion over the length of a banning order “so as to take account of all of the relevant circumstances.” He committed to look at the matter “very carefully on Report” but stressed that a banning order could be for life. The Minister said he did not believe that accredited training would help with landlords/property agents who had failed to meet their responsibilities. Amendment 112 was withdrawn.

Teresa Pearce moved a further amendment (103) to clause 16 to allow a court to issue a rent repayment order while prosecution for a banning order or housing related offence is underway. She explained the thinking behind the amendment:

The current alternative, as proposed in the Bill, will be for one court case for the criminal conviction and then for the local housing authority to apply for a rent repayment order, requiring a whole new court case. That would lead to greater pressure not only on court time but on the time of local authorities that would have to complete the processes necessary to bring it to court. The court could have the power to provide for a rent repayment order when prosecuting a landlord or letting agent for a banning order offence and a housing-related offence.

The Minister advised that the giving the courts these powers would presuppose guilt and pose logistical challenges “in particular the involvement of two distinct sentencing bodies.” He provided reassurance that the additional burden on the court system had been addressed in a justice impact assessment. Teresa Pearce withdrew the amendment but asked the Minister to “keep a close eye on the issue” to ensure that pressure on the court system would not result in a denial of justice.

The Government’s new clause 2 (Revocation or variation of banning orders) to ensure that, in certain circumstances, a person...
subject to a banning order can have it revoked or varied, was agreed without division.64

Government amendment 14 to clause 17 (Financial penalty for breach of banning order) was agreed without division. The amendment:

… changes which local housing authority may impose a financial penalty where a person breaches a banning order. At the moment the authority that originally applied for the banning order is responsible for imposing a penalty; the amendment will make the authority where the breach occurs responsible.65

The Minister said that local authorities will be able to retain the fines they receive as income – regulations may specify how this income may be used. It is envisaged that it will be used “in connection with the authority’s private sector housing functions.”66 There is an intention to discuss the details of how the income will be applied with “key interested bodies” before regulations are made.67

Teresa Pearce moved an amendment (101) to clause 17 to provide for an unlimited financial penalty for breach of a banning order. This was discussed alongside amendment 102 to increase the financial penalty for a breach from a maximum of £5,000 to £20,000.68 She questioned whether the proposed maximum would act as a sufficient deterrent.69 The Minister said “we are considering the issue carefully” and agreed that penalties needed to be set high enough to “make a real difference.” He went on to say “we are willing to look at what the hon. Lady has put forward and consider it on Report.”70 Teresa Pearce agreed to withdraw the amendment.

A further Government amendment to clause 17 was agreed to prevent a person facing a financial penalty as well as a conviction for a criminal offence under new clause 3.71

Schedule 1 to the Bill, which sets out procedures for imposing a financial penalty, was agreed to (without division) with some Government amendments consequential on new clause 3.72

Schedule 3 to the Bill governs management orders issued following a banning order. Government amendment 58 was agreed to (without division) to provide for a final management order to continue in force until an appeal against a second management order is decided. Related drafting amendments 56 and 57 were also agreed.73

The Minister moved amendment 20 to clause 23 (Duty to include person with a banning order) to clarify that a person may not be

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64 PBC Deb 24 November 2015 (afternoon) cc259-60
65 PBC Deb 24 November 2015 (afternoon) cc260
66 PBC Deb 24 November 2015 (afternoon) cc260-61
67 PBC Deb 24 November 2015 (afternoon) cc261
68 PBC Deb 24 November 2015 (afternoon) cc265
69 PBC Deb 24 November 2015 (afternoon) cc261
70 PBC Deb 24 November 2015 (afternoon) cc262
71 PBC Deb 24 November 2015 (afternoon) cc263
72 PBC Deb 24 November 2015 (afternoon) cc264
73 PBC Deb 24 November 2015 (afternoon) cc266-7
74 PBC Deb 24 November 2015 (afternoon) cc268
entered onto the rogue landlord database under clause 23 if they are already on it in relation to the same offence under clause 24 (power to include person convicted of banning order offence). Government amendments 21, 23 to 33 to clause 24, clause 25 (Procedure for inclusion under section 24), clause 26 (Appeals), clause 29 (Power to require information) and new clauses 6 and 7 were considered alongside amendment 20. Amendment 21 (to clause 24) clarifies that one person can account for more than one entry on the database; amendments 23-33 were consequential on amendment 21.

New clause 6 (Removal or variation of entries made under section 24) sets up a process whereby a person may, in certain circumstances, have their entry on the database removed or the length of time they are on the database shortened. New clause 7 (Request for exercise of powers under section 24 and appeals) provides that someone on the database may write to a local authority to have their name removed. An appeal process will operate where the local authority refuses a request. Amendments 20, 21, 23 to 33 were agreed without division.

During the stand part debate on clause 29, Gareth Thomas (Labour) probed whether local authorities would be able to seek information from organisations such as HMRC or banks in regard to potential rogue landlords. The Minister said he would reflect on this before Report.

Stephen Hammond (Conservative) moved amendment 79 to clause 30 (Access to database) to allow the Mayor of London access to the database to inform work on the London Rental Standard. This was discussed alongside amendment 80 to clause 31 (Use of information in database) to allow the Mayor to use information in the database for statistical or research purposes. The Government also moved new clause 5 (Power to require information).

Marcus Jones said the Government had no objection to the GLA using the database but access would have to be on an anonymised basis as the data held falls under the definition of “sensitive personal data” under the Data Protection Act 1998. He agreed to give the matter further thought. Stephen Hammond withdrew his amendments.

Teresa Pearce moved an amendment (106) to give tenants and prospective tenants the ability to check the database. She said:

We are asking not for a fully open database, but tenants should be able to approach the local authority and ask whether someone they are about to rent a property from is on that database. The answer could be a no or a yes, in which case the local authority

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74  PBC Deb 24 November 2015 (afternoon) cc269-70
75  PBC Deb 24 November 2015 (afternoon) c270
76  PBC Deb 24 November 2015 (afternoon) cc270-74
77  PBC Deb 24 November 2015 (afternoon) c276
78  PBC Deb 24 November 2015 (afternoon) c276
79  PBC Deb 24 November 2015 (afternoon) c278
80  PBC Deb 24 November 2015 (afternoon) c279
would know that that person was breaching their banning order.\(^{81}\)

The Minister responded:

The amendment would allow tenants and prospective tenants to access the database of rogue landlords and agents via their local authority. While this access is mediated by the local authority there are data protection issues which would have to be carefully considered before allowing such access. The database is not a list of banned landlords and agents, instead it is an enforcement tool for local authorities, enabling them to share information across boundaries efficiently and target enforcement activity. The offences that could lead to inclusion on the database vary considerably in their seriousness and in some cases may be spent before the minimum two-year period on the database has ended.

Inclusion on the database should mean that local authorities keep a close eye on a landlord’s activities, but it is not intended as a ban, and opening access to the database in that way might prevent a landlord included on the database from operating their landlord business. That would be a ban in practical terms, but without proper scrutiny provided by the tribunal, which will consider all the facts and take a decision on whether to issue a banning order. It is right that banned landlords are unable to operate a landlord business, but it is not right that anyone included on the database should be prevented from operating their business. On that basis, I hope that the hon. Lady will agree to withdraw her amendment.\(^{82}\)

Teresa Pearce pressed her amendment to a vote where it was defeated - Ayes 11 Noes 6.\(^{83}\)

During consideration of clause 32 (Introduction and key definitions) Gareth Thomas asked whether tenants seeking a rent repayment order would have access to legal aid. Brandon Lewis, Minister for Housing, said he would consider the point.\(^{84}\)

Government amendments to clauses 33, 34, 35, 36, 37, 38, 39 and 40 were agreed without a Division.\(^{85}\)

Teresa Pearce moved amendment 111 to clause 41 (Enforcement of rent repayment orders) to probe how local authorities will fund investigations and enforcement action against landlords.\(^{86}\) The Minister responded:

…other measures proposed in the Bill will allow local authorities to retain civil penalties and to receive moneys from rent repayment orders where the rent has been paid from housing benefit or universal credit. Local authorities can also recover their costs from prosecutions; we have to get the balance right so that we do not make the system disproportionate by imposing a levy on top of those other financial penalties that can be levied and held by a local authority. With that explanation, and although I

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81 PBC Deb 24 November 2015 (afternoon) c280
82 PBC Deb 24 November 2015 (afternoon) c289
83 PBC Deb 24 November 2015 (afternoon) c290
84 PBC Deb 24 November 2015 (afternoon) c295
85 PBC Deb 24 November 2015 (afternoon) c295-8
86 PBC Deb 24 November 2015 (afternoon) c299
have great sympathy for her ethos, I hope she will be able to withdraw her amendment.87

The amendment was withdrawn. Government amendments (45 and 46) to clause 47 (Meaning of “letting agent” and related expressions) were agreed without a vote.

2.4 Recovering abandoned premises in England (clauses 49-55)

Part 3 of the Bill makes provision for private landlords to recover abandoned premises. The clauses were considered during the Committee’s eighth and ninth sittings.

Teresa Pearce, Shadow Housing Minister, moved an amendment (110) to clause 49 (Recovering abandoned premises). She expressed concern that the Bill’s provisions would give landlords the power to repossess properties without applying for a court order, and cited briefings prepared by Shelter and Crisis concerning the potential impact on vulnerable tenants.88 Representations had also been made on whether the extent of abandonment justifies a legislative response.89 The amendment would have required a local authority “as an extra layer of protection” to confirm that it also suspects the property is abandoned before a landlord could recover it.90

Responding, Marcus Jones said that the new procedure would help landlords where the tenant suddenly disappears and stops paying rent “by providing a process for landlords to confirm whether the property has actually been abandoned.”91 He emphasised that the Protection from Eviction Act 1977 would apply if landlords failed to give proper warning and tried to repossess properties knowing they were not abandoned.92

Teresa Pearce pressed her amendment to a vote – it was defeated Ayes 11 Noes 7.93

Government amendments to clause 50 (The unpaid rent condition) were agreed without a Division. Amendments 116 and 117 ensure that a landlord cannot rely on old rent arrears as a basis for claiming abandonment where the tenant has made a subsequent payment. A further provision was added to ensure that this condition will only be met if arrears continue to accrue after the landlord serves the first warning notice under clause 51.94

Government amendments (118, 119-126) to strengthen the warning process under clause 51 (Warning notices) and clause 53 (Methods

87  PBC Deb 24 November 2015 (afternoon) c300
88  PBC Deb 26 November 2015 (morning) cc307-8
89  PBC Deb 26 November 2015 (morning) c318
90  PBC Deb 26 November 2015 (morning) c311
91  PBC Deb 26 November 2015 (morning) c322
92  PBC Deb 26 November 2015 (morning) c322
93  PBC Deb 26 November 2015 (morning) c323
94  PBC Deb 26 November 2015 (morning) c324
for giving notices under sections 49 and 51) were agreed without a vote. The key change was the introduction of a third warning notice to be served before a tenancy can be ended.\textsuperscript{95} Notices will also have to be sent to a tenant’s guarantors in certain circumstances.

Teresa Pearce moved some probing amendments (108 and 109). Speaking to the amendments she expressed concern that “this whole part of the Bill is open to abuse.” The amendments would have extended the minimum period needed to pass before a landlord could recover abandoned premises and extended the period between the service of warning letters.\textsuperscript{96}

Marcus Jones said the amendments were unnecessary and that the newly introduced safeguards would ensure a landlord could use the process only if a tenant had genuinely abandoned the property. He said the Department would be issuing guidance for landlords to help them understand the process.\textsuperscript{97} Teresa Pearce withdrew her amendments but moved a further amendment (107) to remove subsections from the clause allowing the landlord to serve notice before a tenant had failed to make a rent payment. This amendment was also withdrawn in response to reassurances provided by the Minister.\textsuperscript{98}

2.5 Social housing in England (clauses 56-83)

Part 4 of the Bill was considered in the tenth, eleventh (Parts 1 and II), and twelfth and thirteenth sittings of the Committee.

Implementing the Right to Buy on a voluntary basis

The Bill does not, as originally intended, provide for the extension of a statutory Right to Buy to housing association tenants. A voluntary deal agreed between the National Housing Federation and the Government means that the RTB will be extended to these tenants on a non-statutory basis. However, the Bill does make provision for grants to be paid to housing associations to cover the cost of selling their housing assets at a discount.

Clause 56 (Grants by Secretary of State) was debated during the tenth sitting of the Committee. This clause enables the Secretary of State to pay grant to private registered providers to cover the cost of a discount awarded to the tenant of a provider when they exercise the voluntary Right to Buy their home.

Exempting supported and other housing

Gareth Thomas (Labour) moved amendment 89 to exempt Right to buy discounts from being paid in respect of high value sheltered housing provided or adapted for the use of elderly or disabled people. This was considered alongside amendment 146 tabled by Dr Blackman-Woods, Shadow Housing Minister, to exempt:

- housing in rural areas;

\textsuperscript{95} PBC Deb 26 November 2015 (morning) cc325-6
\textsuperscript{96} PBC Deb 26 November 2015 (morning) c226
\textsuperscript{97} PBC Deb 26 November 2015 (morning) c327-30
\textsuperscript{98} PBC Deb 26 November 2015 (afternoon) cc333-5
• homes built for charitable purposes;
• key worker housing;
• cooperative housing;
• almshouses;
• units forming part of a major regeneration scheme;
• arm’s length management organisations (ALMOs); and
• supported housing.  

Dr Blackman-woods described amendment 146 as a probing amendment designed to “tease out from the Minister” exactly what he thinks should be covered under the right to buy, and what the exemptions should be.  

The Minister, Brandon Lewis, advised that almshouses will be exempt from the voluntary Right to Buy “because the tenancies available in those properties are not eligible for the existing right to buy.” He rejected the other suggested exemptions:

Turning to other exemptions sought in the amendments, we recognise the vital role that housing associations play in providing housing for vulnerable people in society and in areas where housing is scarce, such as rural communities. Equally, we should not rule out the possibility of home ownership for people who live in those properties, with an absolute exemption if individual circumstances allow. That has been made clear in the deal itself. We have negotiated with the sector, and housing associations have discretion about whether to sell those types of properties. I think that that is a reasonable and proportionate response to concerns about the loss of such properties, and it ensures that it is housing associations themselves that make decisions about what is better for their organisation and, most importantly, for the communities and tenants they work with and support.

Gareth Thomas asked about the position of associations that voted against implementation of the National Housing Federation’s voluntary Right to Buy deal. The Minister responded:

Brandon Lewis: The deal was signed and, as I understand from the comments of David Orr, all the housing associations that took part in that vote understood that it was a deal for the entire sector. Some 96% of stock is now signed up, and of those that did not have time to sign up or did not otherwise sign up, there is a fair proportion of that 4% that benefit from the right to buy for the transfer of stock anyway. It would be an extraordinarily controlling move if we were to include in the Bill restrictions on housing association decision making powers, especially as we have worked closely with housing associations to reach a voluntary agreement in the first place, particularly in the light of recent decisions by the Office for National Statistics.

Gareth Thomas pressed amendment 89 to a vote – it was defeated Ayes 11 Noes 7.
Reimbursement of discount under the voluntary Right to Buy

Dr Blackman-Woods moved amendment 147 to clause 56 to require grants paid by the Secretary of State to cover the full reimbursement of discounts paid under the Right to Buy. This was considered alongside amendment 150 to clause 57 to provide that associations in London would receive full reimbursement for properties sold under the Right to Buy in order to ensure their ‘like for like’ replacement. Speaking to the amendments she said “we want to understand completely how replacement for right to buy will happen and whether it will be adequately funded,” she made reference to the impact of rent reductions required by measures included in the Welfare Reform and Work Bill currently before Parliament.

Brandon Lewis responded, saying “we will compensate housing associations for the cost of the discount based on full market value as determined by the open market.” Dr Blackman-Woods withdrew her amendment.

Replacement of homes sold

Dr Blackman-Woods moved further amendments to clauses 56 and 57 (148 and 151) to ensure that grant for discounts would only be paid to replace stock sold under the Right to Buy “of the same tenure as the original stock, located in the same local authority area and in line with assessed local housing need.” She said that that the concern underpinning the amendments was that “there will be further depletion of the social housing stock” and emphasised the need to protect against the loss of social rented homes in London.

Brandon Lewis described the amendments as “the worst kind of command and control.” He went on:

We have ensured through the deal with the sector that decisions are made at the most appropriate level by professional organisations that we trust. Nationally, we have ensured that for every home sold under the deal, one extra new home will be built, thereby doubling housing supply. What type of home and where it should be are decisions that will and should be taken by housing associations in the light of local conditions and need, which are covered in local plans. That is what true localism means, and I hope the hon. Member for City of Durham will withdraw the amendment.

Dr Blackman-Woods said she would reflect on the Minister’s response and withdrew the amendments.

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105 PBC Deb 1 December 2015 (morning) c380
106 PBC Deb 1 December 2015 (morning) c380
107 PBC Deb 1 December 2015 (morning) c382
108 PBC Deb 1 December 2015 (morning) c384
109 PBC Deb 1 December 2015 (morning) c384
110 PBC Deb 1 December 2015 (morning) c389
111 PBC Deb 1 December 2015 (afternoon) c400
112 PBC Deb 1 December 2015 (afternoon) c404
Monitoring: restricting re-sales
Gareth Thomas moved probing amendment 188 to clause 58 (Monitoring) to restrict the sale of homes bought under the Right to Buy to people fulfilling certain “local occupancy clauses.” He emphasised how such restrictions, usually applied in rural areas, might be helpful in London.113 The Minister rejected the amendment:

We appreciate that various measures are in place under the existing right to buy, such as properties, if sold within a certain period, being offered back to the landlord they were originally bought from. We are working closely with the sector on the detailed implementation of the scheme, including such issues. I appreciate the spirit with which the hon. Gentleman moved the amendment, but it would mean that homeowners who had bought their property under a voluntary right to- buy arrangement will be restricted with regard to whom they can sell their property. It would make it a requirement that they can only sell on to someone who has lived or worked locally for three or more years before purchase.

Apart from being extremely difficult in practice to design and police such a requirement—who would be responsible for checking work histories or living arrangements and ensuring that everything was correct?—such a situation would be wholly unfair to housing association tenants, who would be discriminated against in a way that existing right-to-buy tenants simply are not.114

Mr Thomas withdrew the amendment.

Monitoring: community led housing and tenant management organisations (TMOs)
Mr Thomas moved amendment 92 to clause 58 to require the Regulator to report on cases where a housing association had disregarded the provisions of new clause 11 and operated the voluntary Right to Buy in properties where a TMO existed.115 The Minister made it clear that the Right to Buy will not be exercisable against TMOs as they are not landlords. Mr Thomas withdrew his amendments.

Monitoring: reporting on the numbers of homes sold and impact on homelessness in Greater London
Gareth Thomas moved amendment 187 to clause 58 to place a duty on the Secretary of State and Mayor of London to report on sales of housing association properties and the impact on homelessness in Greater London.116 Brandon Lewis said, in response, that the importance of monitoring and reporting on the effectiveness of the voluntary agreement is recognised and provided for in clause 58. On homelessness, he said that detailed statistics are already collected which

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113 PBC Deb 1 December 2015 (afternoon) c406
114 PBC Deb 1 December 2015 (afternoon) c407
115 PBC Deb 1 December 2015 (afternoon) c408
116 PBC Deb 1 December 2015 (afternoon) c410
allow for monitoring changes to levels of homelessness. Mr Thomas pressed his amendment to a vote – it was defeated - Ayes 10 Noes 7.

**Disposal consents and portable discounts**

Minor and technical Government amendments (178 and 179) to clause 59 (Disposal consents) were agreed. Dr Blackman-Woods moved amendment 152 to clause 59; amendment 153 was considered alongside. These probing amendments concerned the issue of portable discounts to ensure that they would only apply where practicable (i.e. where an association has suitable available properties to offer for sale) and to provide that a property offered in respect of a portable discount must meet certain criteria. She posed a number of questions:

- Will there be exemptions from the portability policy?
- Will housing associations always have to offer full portability?
- How many offers of portability will housing associations have to make, and in what circumstances?
- What is the timescale?
- Are there any restrictions that will enable the scheme to be more workable for housing associations with limited stock?
- For example, will the scheme expire after a certain period?
- Is there a different test of the reasonableness of an offer if a housing association has very limited stock?

Brandon Lewis, in response, referred Dr Blackman-Woods to the voluntary agreement with the National Housing Federation and said that “where a housing association exercises its discretion not to sell a home, the housing association will provide an alternative from its own stock.” An appeal mechanism will be operated by the Regulator. Amendments 152 and 153 were withdrawn.

**Monitoring: discounts in perpetuity**

Dr Blackman-Woods moved probing amendment 54 to clause 59 with the aim of ensuring that homes sold under the voluntary Right to Buy would remain discounted housing in perpetuity. Brandon Lewis said the amendment would “be either deeply unfair or deeply profligate, depending on the way it is read.” Dr Blackman-Woods withdrew the amendment emphasising that it would have been helpful to deliberations to have had more information on the voluntary Right to Buy and how it might work in practice.

**Monitoring: fraudulent activity**

A final Opposition amendment (155) was moved to clause 59 with the aim of requiring associations not to sell properties unless they have conducted relevant checks against fraudulent activity (e.g. money laundering).

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117 PBC Deb 1 December 2015 (afternoon) c412
118 PBC Deb 1 December 2015 (afternoon) c412
119 PBC Deb 1 December 2015 (afternoon) c413
120 PBC Deb 1 December 2015 (afternoon) cc414-15
121 PBC Deb 1 December 2015 (afternoon) c419
122 PBC Deb 1 December 2015 (afternoon) c420
123 PBC Deb 1 December 2015 (afternoon) c421
124 PBC Deb 1 December 2015 (afternoon) c421
125 PBC Deb 1 December 2015 (afternoon) c421
The Minister said that work was ongoing to develop an efficient implementation process, including measures to limit fraudulent purchases:

Brandon Lewis: All these checks and balances will be developed as part of the detailed design of the scheme currently under way and will indeed be informed by the pilot schemes announced by the Chancellor in the spending review. It is not necessary or appropriate to include them in the Bill. The clauses in the Bill are those that are necessary to make the deal work, they are not needed to duplicate the deal. I hope that the hon. Lady will withdraw the amendment.126

Dr Blackman-Woods withdrew the amendment.

Vacant high value local authority housing
The Conservative Party’s 2015 Manifesto advised that the extension of the RTB to housing association tenants would be funded by “requiring local authorities to manage their housing assets more efficiently, with the most expensive properties sold off and replaced as they fall vacant.”127

Part 4 of the Bill sets out the payments which local authorities will be required to make to the Secretary of State, based on the value of high-value social housing which is expected to become vacant that year.

Sale of council housing in London
Gareth Thomas moved amendment 186 to clause 62 (Payments to the Secretary of State). This was considered alongside amendment 144. Amendment 186 sought to devolve to the London Mayor and London Assembly the decision over whether to require authorities to sell their high value homes. Amendment 144 would have required the Secretary of State to obtain the consent of the Mayor and London Assembly before requiring a London authority to make a payment to the Secretary of State in respect of high value housing.128 Mr Thomas said:

The concern is that the Government have given up on trying to help those on low and middle incomes who cannot yet afford their aspiration to buy a home and we should ensure that they have the prospect of renting decent housing in London.129

The Minister said that amendment 186 would amount to a London ring-fence and went on:

We have also been clear from the start that our manifesto commitment on extending right-to-buy discounts to housing association tenants will apply across England. To enable that to happen, we will need to ensure that all receipts generated from the sale of high-value assets are used across the country.130

He described amendment 144 as “effectively a right of veto over the Government’s implementation of policy that was contained in our

126 PBC Deb 1 December 2015 (afternoon) c426
127 Conservative Party’s 2015 Manifesto, p54
128 PBC Deb 1 December 2015 (afternoon) c426
129 PBC Deb 1 December 2015 (afternoon) c428
130 PBC Deb 1 December 2015 (afternoon) c429
manifesto.” He said that information is being collected on the stock held by local authorities to inform decisions on the housing which will be excluded from the ‘forced sale’ measures. Mr Thomas pressed amendment 186 to a vote – it was defeated - Ayes 11 Noes 7.

**Limiting the amount local authorities will be obliged to pay**

Dr Blackman-Woods moved amendment 157 to clause 62 to limit the payment required from local authorities within a financial year to the grant paid to associations in respect of Right to Buy discounts. This was considered alongside amendment 158 to make provision for one-for-one replacement of the sold council housing stock. Speaking to the amendments, Dr Blackman-Woods expressed doubt over the number of high value housing units that would become vacant over a financial year, meaning that authorities could face a levy to make up the shortfall in the cost of Right to Buy discounts. She said:

> Amendment 157 is designed to ensure that local authorities do not lose out and, ultimately, to ensure that the powers given to the Secretary of State in clause 62 are not used as a power of general taxation. We feel that that might be the case if the estimate bears no relation to reality—a levy might simply be placed on local authorities that have council housing stock.

Responding, Brandon Lewis said that there was no intention to use the funding raised from the sale of council stock for other purposes. On amendment 158 he said:

> Amendment 158 would require funding for a property with the same number of bedrooms as the vacant high-value house that was being sold to be included in a calculation of the payment from local authorities. We are committed to using a proportion of the receipts from the sale of high-value homes to fund new housing.

> Clause 67 provides that by agreement we will allow councils to retain a proportion of their receipts to fund new homes. However, where an agreement is entered into, I want local authorities to have discretion about how they use their portion of the receipts to fund new housing, to meet the needs of their community. I hope for those reasons that the hon. Member for City of Durham will withdraw the amendment.

Dr Blackman-Woods said she would reflect further on the Minister’s comments. She withdrew the amendment, noting that concerns around the forced sale of high-value council stock had not been alleviated.

**Definition of high-value**

Dr Blackman-Woods went on to move amendment 159 to provide that dwellings could not be defined as high-value if the cost of rebuilding and providing a replacement with the same number of bedrooms in the

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131 PBC Deb 1 December 2015 (afternoon) cc429-30
132 PBC Deb 1 December 2015 (afternoon) c431
133 PBC Deb 1 December 2015 (afternoon) c431
134 PBC Deb 1 December 2015 (afternoon) c434
135 PBC Deb 1 December 2015 (afternoon Part II) c437
136 PBC Deb 1 December 2015 (afternoon Part II) c438
137 PBC Deb 1 December 2015 (afternoon Part II) c438
same area would exceed the value on sale. Amendment 160, to base
the definition of high-value housing on the housing market within the
local area, was considered alongside.\footnote{PBC Deb 1 December 2015 (afternoon Part II) \textit{c438}} Dr Blackman-Woods described
the nub of amendment 159 in the following terms: “if these homes are
really expensive to replace, why would the council sell them off? That is
simply not a good use of resources.”\footnote{PBC Deb 1 December 2015 (afternoon Part II) \textit{c439}} During the debate on the
amendments she referred to a lack of information on what high-value is
in different areas and how much money the Government expected to
raise from sales.\footnote{PBC Deb 1 December 2015 (afternoon Part II) \textit{c440}}

The Minister responded:

> The thresholds that determine which dwellings are high value will
be set in due course and informed by the data currently being
collected through a market value survey. That is assessing values
of both market and social homes at open market value. We are
also collecting data from local authorities about their current
stock. We will look at the data carefully, and it would be wrong of
me to anticipate at this stage what the data may show and to
make uninformed decisions about exactly where to set those
thresholds.

> I am not sure exactly what is meant by the phrase “housing
markets”. It could be argued that those will be much wider than
just a local authority area. Indeed, it could be argued that there
are housing markets within local authority areas that are also very
variable. As I have explained, the threshold for high value will be
set while having regard to the outcome of the current data
collection. I do not want to pre-empt that outcome and I do not
want to be tied into a complex way of assessing high value. That
is why I ask the hon. Lady to withdraw the amendment.\footnote{PBC Deb 1 December 2015 (afternoon Part II) \textit{c441}}

Dr Blackman-Woods withdrew the amendment saying she was “not
convinced” by the Minister’s response but would look at the detail
underpinning these clauses.\footnote{PBC Deb 1 December 2015 (afternoon Part II) \textit{c442}}

**Stock transfers**

Amendment 162 to \textit{clause 63 (Housing to be taken into account)}
was moved by Dr Blackman-Woods to place a limit of five years on the
period during which the Secretary of State could take account of council
stock transferred into different ownership (stock transfers) when making
the annual determination. She said she was seeking information on how
stock transfers would be treated as part of this process.\footnote{PBC Deb 1 December 2015 (afternoon Part II) \textit{c443}}

The Minister said there was a need to ensure that local authorities could
not seek to avoid selling their vacant high value stock by selling to a
new provider and that he would “consider, on a case-by-case basis, the
implications that this chapter will have for possible stock transfers.”\footnote{PBC Deb 1 December 2015 (afternoon Part II) \textit{c444}}

Dr Blackman-Woods withdrew her amendment.

\begin{itemize}
\item \footnote{PBC Deb 1 December 2015 (afternoon Part II) \textit{c438}}
\item \footnote{PBC Deb 1 December 2015 (afternoon Part II) \textit{c439}}
\item \footnote{PBC Deb 1 December 2015 (afternoon Part II) \textit{c440}}
\item \footnote{PBC Deb 1 December 2015 (afternoon Part II) \textit{c441}}
\item \footnote{PBC Deb 1 December 2015 (afternoon Part II) \textit{c442}}
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\item \footnote{PBC Deb 1 December 2015 (afternoon Part II) \textit{c444}}
\end{itemize}
Exemptions from requirement to sell
Dr Blackman-Woods moved amendment 163 to exempt high value vacant properties from the requirement to sell where the vacancy arises as a result of the tenant being moved to alternative social rented housing. This was considered alongside amendment 164, to exempt properties where the former tenant has been evicted for anti-social behaviour. She said there were concerns that councils would not take action to evict anti-social tenants or provide transfers if, as a result, a high value property would become vacant and liable to sale.\textsuperscript{145}

The Minister stressed that, provided local authorities make the payment specified in the determination, “they will be able to retain individual vacant properties if they choose to do so.” He said that no decisions had been made on what categories of housing will be excluded from the payment.\textsuperscript{146} Dr Blackman-Woods withdrew her amendment but moved amendment 165 with a view to excluding more properties from the definition of high value, including housing as part of a regeneration scheme or specialist or recently improved housing.\textsuperscript{147} Brandon Lewis gave a similar response to that provided on amendment 163. Dr Blackman-Woods withdrew her amendment saying she would look at what happens during later stages of the Bill’s consideration.\textsuperscript{148}

Securing replacement housing
Stephen Hammond (Conservative) moved amendment 1 to clause 67 (Reduction of payment by agreement) which was considered alongside new clause 1 (Target for new affordable housing provision in Greater London). Mr Hammond explained the purpose of the amendment and new clause:

Amendment 1 should be seen alongside new clause 1 as together they require the Secretary of State and housing authorities in Greater London to enter into agreements to reduce the amount due to be paid under section 62 and to have regard to the “duty to achieve the provision of at least two new units of affordable housing…for the disposal of each unit of high value housing in Greater London”.\textsuperscript{149}

Brandon Lewis, responding, said he was engaging widely with colleagues across London on implementation of the high-value sales policy. He said the meetings were looking at “how we can all work together to ensure that the outcome absolutely meets London’s needs.”\textsuperscript{150} Mr Hammond withdrew his amendment.

Dr Blackman-Woods returned to the issue of replacement housing with amendment 170 to clause 67:

Amendment 170 seeks to establish that housing should not be taken into account under clause 62(2) unless the proceeds of sale of every relevant property are applied to fund the construction of

\textsuperscript{145} PBC Deb 1 December 2015 (afternoon Part II) c446
\textsuperscript{146} PBC Deb 1 December 2015 (afternoon Part II) c449
\textsuperscript{147} PBC Deb 1 December 2015 (afternoon Part II) c450
\textsuperscript{148} PBC Deb 1 December 2015 (afternoon Part II) c451
\textsuperscript{149} PBC Deb 1 December 2015 (afternoon Part II) c452
\textsuperscript{150} PBC Deb 1 December 2015 (afternoon Part II) c453
a new property in the same locality, which is to be let as social housing on terms—such as rent, security of tenure and more generally—that are substantially the same as those on which the original dwelling was let.151

The Minister rejected the amendment:

Clause 67 sets out that, by agreement, we will allow councils to retain a proportion of their receipts to fund new homes. However, where an agreement is entered into, I want local authorities to have discretion about how they use their portion of the receipt to fund new housing in order to meet the needs of their local community. I do not see a need for local authorities to be constrained in primary legislation to replacing the homes they sell with a home of the same tenure, in the same location.

[...]

Clause 67 is framed to allow the Secretary of State some flexibility to consider the amount of funding an authority will retain under an agreement, precisely because we need to balance demand for the extended right to buy against the need to deliver additional homes efficiently and effectively. I hope that, with these assurances, the hon. Lady will be able to withdraw her amendment.152

Amendment 170 was withdrawn but Dr Blackman-Woods said she expected to return to the matter.153

Dr Blackman-Woods moved amendment 173 to clause 69 (Duty to consider selling vacant high value housing). Amendments 174 and 175 were considered alongside. These amendments sought to place limitations on the requirement for local authorities to consider selling any vacant high-value housing. Dr Blackman-Woods raised the lack of a definition of high-value and the lack of a guarantee of like-for-like replacement of the homes sold.154 Brandon Lewis said the amendments could not be supported and again stressed the need for flexibility:

We believe that it is important that Ministers have flexibility to relieve local authorities of the duty to consider selling high-value vacant housing assets in respect of certain categories of housing, just as they will have the power to exclude certain categories when calculating the amount that local authorities have to pay. I ask the hon. Lady to withdraw the amendment.155

Dr Blackman-Woods withdrew amendment 173 but pressed 174 to a vote “because of the importance to us of ensuring that there is like-for-like replacement and that it does not lead to a reduction in socially rented homes.”156 The amendment was defeated – Ayes 9 Noes 5.

Treatment of newly developed housing

Dr Blackman-Woods moved a further amendment (176) to clause 69 to exclude newly developed vacant housing from the duty to consider sale:

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151 PBC Deb 1 December 2015 (afternoon Part II) c455
152 PBC Deb 1 December 2015 (afternoon Part II) c456
153 PBC Deb 1 December 2015 (afternoon Part II) c456
154 PBC Deb 1 December 2015 (afternoon Part II) cc457-8
155 PBC Deb 1 December 2015 (afternoon Part II) c459
156 PBC Deb 1 December 2015 (afternoon Part II) c459
I am aware that a number of local authorities have already written to the Minister to ask whether housing that is now being built by councils to rent will automatically, once it is constructed but before tenants move in, be deemed to be vacant housing that should be sold off. A number of London authorities that are building additional council housing are very concerned about this. It is important that we get an answer on new construction from the Minister this evening.157

The Minister advised that housing would only be treated as vacant if had been occupied “brand new vacant housing will not fall within the definition of vacant.”158 Dr Blackman-Woods withdrew her amendment.

Technical Government amendments (180 and 181) to clause 71 (Set off under section 11 of the Local Government Act 2003) were agreed without debate.159

Reducing regulation

Clause 73 of the Bill provides for the Secretary of State to make regulations to amend regulatory provisions in the Housing and Regeneration Act 2008.

Dr Blackman-Woods moved amendment 194 to clause 73 (Reducing social housing regulation). It was considered alongside amendment 196. She also moved amendment 197. The purpose of the amendments was to test where deregulation might apply and to require the Secretary of State to consult local authorities as part of the deregulation process.160 In response, the Minister said that a package of measures would be introduced on Report – the Opposition amendments were withdrawn.161 Subsequently, Brandon Lewis outlined the intended deregulation package when giving evidence to the Communities and Local Government Select Committee on 15 December 2015:

I am pleased to say in front of the committee this morning that we will be laying a package of amendments to the Housing and Planning Bill to deregulate the social housing sector. In developing this package, we have sought to balance two key aims.

Firstly to enable the Office for National Statistics to return the sector entirely to private and the need to maintain that a proportionate regulatory system for the sector, which gives tenants comfort.

This package consists of a number of measures which I will outline. Removal of the constitutional consensus regime; housing associations will therefore no longer need permission from the regulator before they undertake certain changes to their organisations such as mergers, change of status, restructuring, winding up or dissolution.

Removal of disposals regime, housing associations will therefore no longer need permission from the regulator for sales, charging for security and changes of ownership and social housing stock. To enable the regulator to maintain the register of the social

157 PBC Deb 1 December 2015 (afternoon Part II) c460
158 PBC Deb 1 December 2015 (afternoon Part II) c461
159 PBC Deb 1 December 2015 (afternoon Part II) cc461-2
160 PBC Deb 1 December 2015 (afternoon Part II) c464-6
161 PBC Deb 1 December 2015 (afternoon Part II) c466
housing providers in England, they will still however need to notify the regulator when they make these changes rather than seeking consent, an important distinction there.

Abolishing the disposals proceeds fund, which means housing associations will no longer need to spend receipts from sales from Right to Buy and Right to Acquire according to rules set by the regulator. This will give them more flexibility to manage their funds, to build more affordable homes and help more people into home ownership, whilst ensuring that the historic grant is reinvested in housing as it was intended.

Tightening the regulators powers to appoint managers to housing associations to apply so they can do this where there are breaches of legal requirements. A change to the approach on high income social tenants, this will now be voluntary for housing associations and this is to make the approach consistent as part of the deregulation of the sector. Housing associations will also be able to operate policy that sets higher levels of rents for those with high income tenants and they will be able to set the level of rents for these households.

We expect that the majority of housing associations will consider operating a policy and we will continue to engage with the sector and the National Housing Federation on this. As far as possible we will encourage parity between the housing and local authority sectors to ensure fairness and tenures. As I say, it will be voluntary for housing associations.

Finally, we are introducing a special administration regime for the sector. This is to be used in the unlikely event of a housing association becoming insolvent. Now there has never been an insolvency to date but this will help the service to tenants and £45 billion worth of government grants invested in the sector and also to ensure that creditors can recover their security if necessary and that is an important fact in terms of their borrowing opportunity with lenders.162

High income social tenants: mandatory rents
The Bill will place a mandatory requirement on social landlords to charge certain ‘high income’ tenants a higher rent level.

Subsequent to the Committee’s deliberations on this part of the Bill, Brandon Lewis announced, as part of the deregulation package outlined in the previous section, that the application of higher rents for high income tenants in housing association properties will be voluntary.163

Exemptions
Dr Blackman-Woods moved amendment 199 to clause 74 (Mandatory rents for high income social tenants). Amendment 200 was considered alongside.164 These amendments sought to introduce exemptions from the higher rent provisions, e.g. for people aged over 65 and those on zero hour contracts.

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162 Brandon Lewis announces deregulation package for sector, 15 December 2015 [accessed on 18 December 2015]
163 Ibid
164 PBC Deb 3 December 2015 (morning) c471
Marcus Jones responded for the Government. He said that regulations would provide for detailed provisions in relation to this clause and went on:

…we are giving careful thought to how the policy should treat certain benefits, including the state pension, housing benefit, and employment and support allowance. With regard to carers, as I said before, exemptions can be made and we will consider carers carefully. We recognise that, in certain circumstances, exemptions may well be needed, and we are thinking through that process carefully. We will provide more detail as we approach the making of the regulations and will continue to engage with the sector as we develop the policy.165

The amendments were withdrawn but Dr Blackman-Woods asked for speedy publication of the regulations “to outline who might be exempted.”166

Defining income and setting rents

Dr Blackman-Woods moved amendment 198 to clause 74 which was considered with Opposition amendments 201, 202, 203, 204, 205 and 206.167 She said they were probing amendments “to elicit more information about how the Government think rents should be set and what degree of prescription the Secretary of State will exercise through regulations on how rents should apply in practice.”168 Dr Blackman-Woods said she had received a letter from the Minister advising that the regulations setting out the detail would not be provided before the Bill completed its committee stage.169

Marcus Jones responded:

Mr Jones: Amendments 198 and 201 would lead to wide variation in the treatment of high-income social tenants, depending on where they lived and who their landlord was. That would be complex and confusing for tenants. In contrast, our approach is clear, consistent and based on a set of simple principles. We will bring forward further detail of how the policy will work in practice at later stages of the Bill.

Amendment 201 seeks to add a further requirement to consult tenants and have the local policy agreed with them. It is very unlikely that tenants will ever agree to rent rises but we will ensure that the final design of the policy is subject to engagement with landlord and tenant groups.

The remaining amendments seek to introduce a further range of considerations that should be applied by landlords in the setting of rent. Amendment 202 seeks to allow rents to be determined based on the condition of the property. That is simply not workable. We expect social landlords to meet their obligations to keep properties in a state of good repair and that should have no bearing on the rent levels to be set under this policy.

Amendment 203 seeks to introduce a taper. Again, as the hon. Member for City of Durham knows, we have consulted on that. Amendments 204 and 205 are laudable in aim, but are being

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165 PBC Deb 3 December 2015 (morning) c482
166 PBC Deb 3 December 2015 (morning) c483
167 PBC Deb 3 December 2015 (morning) cc483-4
168 PBC Deb 3 December 2015 (morning) c484
169 PBC Deb 3 December 2015 (morning) c485
delivered through the policies. Affordable housing should, wherever possible, be provided alongside market housing. However, where that affordable housing is occupied by households on higher incomes, it is not in the interest of cohesive communities that they should continue to benefit from reduced rents. Amendment 206 seeks to ensure that rents are set at an affordable level. For that reason, we have consulted on graduated and tapered approaches. I hope that, on that basis, the hon. Lady will withdraw her amendment.170

Dr Blackman-Woods expressed disappointment with the Minister’s response but withdrew the amendment.171

Further Opposition amendments to clause 74 were considered:

- to probe the scope for flexibility in relation to local incomes and rent levels (amendment 207, withdrawn);
- to provide that the policy would only apply where the costs of implementation are deemed to be reasonable by social landlords (amendment 211, withdrawn). Marcus Jones said local authorities would be able to off-set administration costs from additional income;172
- to give affected tenants a notice period of one year in order to allow them to find alternative accommodation (amendment 208). Marcus Jones said the policy would be communicated effectively and would not be implemented until 1 April 2017.173 The amendment was pressed to a vote and defeated – Ayes 9 Noes 6;174
- to require the application of a higher income rent to be subject to external valuation (amendment 210, withdrawn);
- to apply the new high income rent regime only to new tenancies or where a tenant has been given a new tenancy agreement (amendments 212 and 213, withdrawn).175

A further amendment (209) to give high income tenants transitional protection was pressed to a vote and defeated – Ayes 9 Noes 6.176

**Defining high incomes**

Dr Blackman-Woods moved amendment 214 to clause 75 (Meaning of high income). Amendments 215, 216 and 217 were considered alongside. She noted that few people “outside a section of Parliament” believe that “the new minimum income level set by the Chancellor is in fact a high income” and said that amendments were an attempt to “put some sense into the definition of high income.”177 The amendments sought to link the definition to median incomes within a locality; limit the definition to three times the average income in an area; and provide that only tenants’ income should be taken into account.
Marcus Jones rejected the amendments which were subsequently withdrawn:

**Mr Jones:** As I said earlier, we were clear at the last Budget that the household income thresholds for the policy will be £30,000 nationally and £40,000 in London. We have also been clear that we will base household income on the income of the two highest earners in the household.  

**Information about tenants’ income**

Dr Blackman-Woods moved amendment 218 to **clause 76 (Information about income)** to limit the scope of regulations which will set out what information tenants will be required to provide in relation to their income. The amendment was withdrawn.

She also moved amendment 219 to **clause 77 (HMRC information)** to give tenants the right to agree information before it is disclosed by HMRC. Dr Blackman-Woods referred to the sensitivity of this information. Marcus Jones rejected the amendment:

**Mr Jones:** The amendment would go too far by requiring tenants to approve the procedure for information sharing. We do not believe that tenants are well placed to give a view on the security of such a procedure, nor are we clear how such approval could be obtained without a huge and unnecessary burden being placed on landlords. On that basis, I hope that the hon. Lady will seek to withdraw the amendment.

Amendment 219 was withdrawn. Dr Blackman-Woods moved amendment 220 which was considered with amendments 221 and 222. This group of amendments sought to elicit more information about the body which will transfer information from HMRC to social landlords. Marcus Jones advised that the Government is “continuing to develop our thinking following the consultation.” The amendment was withdrawn.

Dr Blackman-Woods moved amendment 223 to **clause 78 (Power to increase rents and procedure for changing rents).** She said she was seeking to question the Minister about what oversight would be in place to ensure proper regulation of the transfer of information between social landlords and HMRC. The amendment sought to introduce external review of the regime to ensure safeguards for the parties are in place.

Marcus Jones said there was no place for an external review of regulations made under clause 78. The amendment was withdrawn.

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178 PBC Deb 3 December 2015 (afternoon) c509
179 PBC Deb 3 December 2015 (afternoon) c510
180 PBC Deb 3 December 2015 (afternoon) c512
181 PBC Deb 3 December 2015 (afternoon) c513
182 PBC Deb 3 December 2015 (afternoon) c515
183 PBC Deb 3 December 2015 (afternoon) c516
184 PBC Deb 3 December 2015 (afternoon) c517
Paying increased income to Secretary of State

Dr Blackman-Woods moved amendment 225 to clause 79 (Payment by local authority of increased income to Secretary of State).185

This amendment would have removed the requirement on local authorities to make payments to the Secretary of State in respect of an increase in rental income. She described the effect of clause 79 as “the arbitrary application of a levy based on an estimate of increased rental income, whether they [local authorities] receive that income or not.”186

Dr Blackman-Woods also spoke to the following amendments:

- 224 to establish that payments to the Secretary of State should not be based on an estimate;
- 227 to provide that payments to the Secretary of State could not be based on assumptions; and
- 228 to provide that no payment to the Secretary of State could be made without first deducting the cost of providing a similar type of dwelling in the local area of the same tenure, had been deducted.187

Marcus Jones, responding, said that he was aware of the view that increased rental income should be retained locally but said “that is not the approach that we will take, as the money has been clearly identified as a contribution towards the national deficit reduction programme.”188

He provided more reassurance on the calculation of the sum authorities would be expected to pay:

I recognise that both amendments seek to ensure that local authorities are only passing on actual increases in income, rather than an estimated or notional amount. I am also well aware of local authorities’ strong preference for an approach based on actual increases in rental income. I hope that I can reassure Opposition Members that the preference of Government is also to base payments on actual increases. However, we are still considering the approach for determining the amount to be payable to Government. On that basis, I would not want at this time to restrict the flexibility provided by the provision. However, we will of course take into account the case made by Opposition Members for an approach based on actual payments.189

The Minister said there was no need for amendment 228 as, under this policy, there would be no reduction in the number of council properties.190

Dr Blackman-Woods welcomed the Minister’s response to amendments 224 and 227, but said that although the housing unit would not be removed from a council’s stock, “it is one less property available locally for social rent.”191 She withdrew amendment 225 but pressed amendment 228 to a Division – it was defeated by 9 votes to 7.

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185 PBC Deb 3 December 2015 (afternoon) c517
186 PBC Deb 3 December 2015 (afternoon) c519
187 PBC Deb 3 December 2015 (afternoon) c527-8
188 PBC Deb 3 December 2015 (afternoon) c523
189 PBC Deb 3 December 2015 (afternoon) c523
190 PBC Deb 3 December 2015 (afternoon) c523
191 PBC Deb 3 December 2015 (afternoon) c524
Dr Blackman-Woods also moved amendment 226 to clause 79 to provide that local authorities would be able to make late payments to the Secretary of State in certain circumstances. She talked of concerns raised by local authorities over the possibility of interest being charged for late payments. She asked for reassurance that regulations would “make clear the circumstances in which late payment will be acceptable.”

Marcus Jones said that the Government was “minded to follow principles in existing receipts programmes and in wider dealings between local authorities and other public bodies.” The amendment was withdrawn.

### 2.6 Housing, Estate Agents and Rentcharges (clauses 84-91)

**Part 5** of the Bill was considered during the **ninth** sitting of the Committee. This part covers a range of measures including:

- changes to the ‘fit and proper person’ test applied to landlords who let out licensable properties; and
- allowing arrangements to be put in place to give authorities in England access to information held by approved Tenancy Deposit Schemes with a view to assisting with their private sector enforcement work.

**Assessment of accommodation needs (gypsies and travellers)**

Teresa Pearce, Shadow Housing Minister, moved amendment 136 to **clause 84 (Assessment of accommodation needs)** to retain sections 225 and 226 of the **Housing Act 2004** which require local authorities to take account of the needs of Gypsies and Travellers when assessing accommodation needs within their areas.

Brandon Lewis, Minister for Housing and Planning, responded, saying that the clause does not remove the duty to assess the needs of Gypsies and Travellers:

> We want local authorities to assess the needs of everyone in their communities. Our clause emphasises that Gypsies and Travellers are not separate members of our communities, and it takes on board the points made by my hon. Friend the Member for Peterborough and the hon. Member for Easington: that local authorities must properly assess the needs of all in their community, with reference to their community. Local housing authorities will be able to consider how best to assess that need, whether as a whole or to provide individual assessments for specific groups of people. I hope that that deals with the point that was made. However, we do wish to assist local authorities in meeting their duties and will therefore be happy to consider...
incorporating any necessary elements of the current “Gypsy and Traveller Accommodation Needs Assessments Guidance” in wider planning guidance, to which local authorities must have regard.196

Teresa Pearce withdrew her amendment.

Housing regulation in England

Minor and technical Government amendments (127 and 128) to clause 85 (Licences for HMO and other rented accommodation: additional tests) were agreed to ensure that the additional criteria to be applied as part of the landlords’ fitness test will only apply in England.197

Teresa Pearce moved amendment 137 to clause 85 to prevent anyone listed on the database of rogue landlords and letting agents from being granted a licence to operate an HMO.198 In response, Brandon Lewis explained that local authorities have to take account of a range of factors when deciding whether to grant a licence, including contraventions of landlord and tenant law, some of which would result in a landlord being included on the database. The Minister said he had heard the strength of feeling in the Committee and “would look further at whether local authorities have access to the right information, beyond convictions, to enable them to make the right judgements about who is a fit and proper person to hold a licence.”199 Teresa Pearce withdrew her amendment.

In response to a point raised by Gareth Thomas about cooperation between local authorities in Wales, Scotland and Northern Ireland in respect of the rogue landlord database, the Minister said the matter was under consideration.200

Teresa Pearce moved a probing amendment (138) to clause 86 (Financial penalty as alternative to prosecution under Housing Act 2004). The aim of the amendment was to ensure that financial penalties could be sought in addition to prosecution, rather than as an alternative.201 Brandon Lewis argued that it would be “disproportionate to use both regimes in relation to the same conduct.”202 The amendment was withdrawn.

She moved further probing amendments (139-142) to Schedule 4 to the Bill to remove the limits on the financial penalties which can be applied to landlords in certain circumstances, e.g. failure to comply with licence conditions.203 The Minister said he would like to consider the points raised and return on Report. The amendment was withdrawn.204

196 PBC Deb 26 November 2015 (afternoon) c345
197 PBC Deb 26 November 2015 (afternoon) cc345-6
198 PBC Deb 26 November 2015 (afternoon) c346
199 PBC Deb 26 November 2015 (afternoon) c348
200 PBC Deb 26 November 2015 (afternoon) c351
201 PBC Deb 26 November 2015 (afternoon) c349
202 PBC Deb 26 November 2015 (afternoon) c351
203 PBC Deb 26 November 2015 (afternoon) c352
204 PBC Deb 26 November 2015 (afternoon) c353
Enfranchisement and extension of long leaseholds

Government amendments 129-135 to Schedule 5 to the Bill were agreed without debate. The amendments ensure that new regulation making powers can be exercised in respect of residential leasehold land by Welsh Ministers in relation to Wales, as well as by the Secretary of State in England.\(^{205}\)

2.7 Planning in England (clauses 92-110)

Part 6 of the Bill contains a number of different reforms to the planning system, with the aim of speeding it up and to enable it to deliver more housing.

A number of Government technical amendments were made to this part. A new clause 17 and a new schedule 2 were added which enable the Secretary of State to direct the Mayor of London or a combined authority to prepare a development plan when a local authority is failing to make progress with such a document.

The Government promised further consultation on a number of issues, including on the duration of the new concept permission in principle and on the criteria for assessing whether a site was suitable for inclusion in the brownfield register.

Local plans

With the aim of encouraging more local authorities to have a local plan in place, clauses 96-100 of the Bill gives the Secretary of State greater powers to intervene in the local plan making process. Specifically it would allow the Secretary of State to intervene if a local authority was failing or omitting to do anything it is necessary for them to do in connection with the preparation, revision or adoption of a local plan.

During a clause stand part debate on clause 96, Dr Blackman-Woods discussed new clauses 14, 15 and 16, which would set out the purpose of planning in legislation, highlighting its role in supporting public interest and ensure that local and neighbourhood plans were officially the prime considerations in decision making. The shadow-Minister explained that new clause 15 aimed to test the Minister on whether the local plan will have primacy in local planning, or whether clause 96 will give primacy to another body or document.\(^{206}\) The Parliamentary-under-Secretary, Mr Jones, replied that the planning system was already “plan-led”.\(^{207}\)

Clause 99 gives the Secretary of State additional powers to require the local planning authority to prepare or revise a local plan, submit it for examination and consider adoption of it. As part of the discussion on this clause the Government moved new clause 17 and new schedule 2, which would enable the Secretary of State to ask the Mayor of London or a combined authority to prepare or revise a development plan document for a local planning authority in its area that is failing to

\(^{205}\) PBC Deb 26 November 2015 (afternoon) cc356-7
\(^{206}\) PBC Deb 3 December 2015 (afternoon) c534
\(^{207}\) Ibid
make progress with such a document. The Housing and Planning Minister explained that the new clause and new schedule, together with clause 99, aimed to “enable more targeted and appropriate intervention where a local planning authority has failed to take action to get a plan in place, despite having every opportunity to do so.” The shadow-Minister expressed some concern that clause 99 would allow for greater intervention by the Secretary of State in local plan making. The Minister replied this was not the intention of the clause and the aim was to allow more targeted intervention:

As I said, the clause retains existing powers, but it also allows for more targeted intervention by enabling the Secretary of State to direct a local planning authority to prepare or revise a document and take other steps necessary for that to become part of the development plan in its area. That will be more targeted than the current heavy-handed approach. The existing requirement on the Secretary of State to give reasons for exercising those powers will be retained. The hon. Lady is quite right that those powers are used rarely—in fact, they have been used twice this year. The requirement in terms of local planning authorities reimbursing the Secretary of State will also be retained. He will have to give reasons.

Should the Secretary of State need to step in, the measures give him options that enable more decisions to be made locally, which is hopefully a beneficial change. For instance, if an authority is not making progress with its local plan, the Secretary of State could direct the authority to take steps to progress it. The authority would remain accountable for the plan and could determine with its community—quite rightly—how it will address the Secretary of State’s concerns most appropriately to get a plan in place.

The new clause and new schedule were agreed.

**Permission in principle and local registers of land**

**Clauses 102-103** of the Bill provide a local planning authority with a new duty to keep a register of brownfield land within its area, which would then tie-in with a new system of allowing the Secretary of State to grant permission in principle for new development identified on these registers. A developer then wanting to build on an area with permission in principle would then only need to apply for a technical details consent, rather than full planning permission.

**Type of development to be granted permission in principle**

Dr Blackman-Woods asked the Minister for clarification of whether permission in principle could apply to any form of development in England, including for example waste and energy sites. The Minister, Brandon Lewis replied that while the Bill gave clause gives the power to prescribe in secondary legislation which classes of development should be granted permission in principle, the Government’s intention was to limit its use to “housing-led” development. He expanded further on this to say:

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208 PBC Deb 3 December 2015 (afternoon) c541
209 PBC Deb 3 December 2015 (afternoon) c542
210 PBC Deb 3 December 2015 (afternoon) c544
211 PBC Deb 3 December 2015 (afternoon) c545
as long as a site allocation includes residential development, local authorities will be able to grant permission in principle for other uses. For example, in a mixed-use development, developers may wish to have some retail premises, community buildings and other things that are compatible with residential properties but ultimately that will be a decision for the local authority.212

The shadow-Minister replied that she was “still a little anxious about the total scope of developments that could be given permission in principle”, but she would take away the Minister’s comments and think about them.213

Role of the Mayor of London

Conservative Member Stephen Hammond tabled a number of amendments designed to transfer the power to grant permission in principle from the Secretary of State to the Mayor of London, within the Greater London area. Mr Hammond said these amendments would acknowledge the Mayor’s strategic role.214 The Minister replied that it was “crucial” that the Secretary of State retained oversight for how this new power was being used across England. He said the amendments would result in the Mayor being consulted on applications for minor developments, which would not fit with his role of strategic oversight. The Minister also highlighted how the Bill would allow the Mayor use his powers to call-in applications for technical details consent, in the same way that he can already for planning applications.215 The amendments were withdrawn.216

Duration of permission in principle

In response to probing amendments from the Opposition about the duration of permission in principle, the Minister replied that the Government has “no intention of allowing a permission in principle to exist in perpetuity.” He said the Government would set out a duration in secondary legislation, which would first be consulted on “shortly”.217

Technical Government amendments

Two Government amendments (238 and 239) were made to Schedule 6 (permission in principle for development of land: minor and consequential amendments). These amendments were to ensure that the introduction of permission in principle does not change the existing reference to the Secretary of State in the legislation, which is a reference to Welsh Ministers when the matter relates to Wales.218

Safeguards associated with permission in principle

A number of Opposition amendments were moved in relation to clause 104 (about development orders), to probe for more information about how permission in principle would operate. Explaining her amendments, Labour Member Helen Hayes said there was “considerable confusion”

212 PBC Deb 3 December 2015 (afternoon) c545
213 PBC Deb 3 December 2015 (afternoon) c546
214 PBC Deb 3 December 2015 (afternoon) c546-7
215 PBC Deb 3 December 2015 (afternoon) c548
216 PBC Deb 3 December 2015 (afternoon) c551
217 PBC Deb 3 December 2015 (afternoon) c552-3
218 PBC Deb 3 December 2015 (afternoon) c556
regarding permission in principle and what it will mean for the English planning system and local communities.\textsuperscript{219} Specifically, that it was not clear what was needed to be known about a site or who needed to have commented on its suitability for permission in principle to be granted. She was concerned that while a site that has been identified through the local planning process will have been consulted on, the consultation arrangements for brownfield registers were not yet clear, and an application made by a landowner or developer direct to a local authority might have had no consultation at all on the principle of development.\textsuperscript{220}

Helen Hayes also asked about whether permission in principle would set any parameters for development other than land use. For example, whether it would set out how much housing could be built on a site, of how much, what size or type or what the design and quality standards must be. She also asked whether developers would need to do their own investigations related to issues such as archaeology or flood risk.\textsuperscript{221}

Following on from these comments Dr Blackman-Woods asked for clarification about how many different ways it would be possible to get full planning permission via the permission in principle route. She asked for clarification about how local people would be given a say in this process and about how it would be known whether development was considered to be locally acceptable.\textsuperscript{222} She also expressed her concern that matters related to permission in principle were only to be consulted on now. She said that it was not clear whether significant elements of the Bill will be able to be changed as a result of that consultation exercise or whether the Bill will have completed its passage through Parliament before the consultation response was published.\textsuperscript{223}

The Minister, Brandon Lewis, clarified that matters such as affordable housing contribution and community infrastructure provision will be agreed and negotiated at the later technical details stage, in line with local and national policy. On the point about how suitable sites would be identified for the brownfield register, the Government will require local planning authorities to assess the sites that they propose for this register against criteria to be specified in regulations, which will be consulted on “shortly”.\textsuperscript{224}

Helen Hayes withdrew her amendments but said she would like to return to this issue on Report, “when we may have seen further detail from the Government.”\textsuperscript{225}

\textsuperscript{219} PBC Deb 8 December 2015 (morning) c568
\textsuperscript{220} PBC Deb 8 December 2015 (morning) c568
\textsuperscript{221} PBC Deb 8 December 2015 (morning) c568
\textsuperscript{222} PBC Deb 8 December 2015 (morning) c574
\textsuperscript{223} PBC Deb 8 December 2015 (morning) c575
\textsuperscript{224} PBC Deb 8 December 2015 (morning) c585
\textsuperscript{225} PBC Deb 8 December 2015 (morning) c586
Urban development corporations

**Clauses 108-110** make permanent some temporary changes made to the Parliamentary process used to establish an urban development corporation (UDC).

The Minster moved technical amendments 183 and 184 to clauses 108 and 109 respectively, to make clear that the duty to consult when designating land as an urban development area or establishing an urban development corporation will apply in England only, as planning policy in this respect is devolved.\(^226\)

Dr Blackman-Woods moved amendment 236 with the aim of inserting place-making objectives for UDCs in their work, to ensure that they confirm with a set of garden city related principles.\(^227\) She summarised:

> The amendment specifically asks the Minister to ensure that:
> urban development corporations have land value capture attached to them; there is community ownership of land and long-term stewardship of assets; there are mixed tenure homes affordable for ordinary people; there is a strong local jobs offer in the garden city; and there is high quality, imaginative design and generous green space, linked to a wider natural environment, including a mix of public and private networks of well-managed, high-quality gardens, tree-lined streets and open spaces.\(^228\)

The Minister replied that place-making was “secured not through detailed central prescription, but through good, strong, clear and transparent local leadership.” He set out that the NPPF already embedded a principle of sustainable development in planning and that Government should not limit local flexibility.\(^229\)

The amendment was pushed to a vote and was defeated: Ayes 7, Noes 11.\(^230\)

2.8 Compulsory purchase (clauses 111-139)

Part 7 of the Bill relates to compulsory purchase and implements many of the changes proposed in the March 2015 *Technical consultation on improvements to compulsory purchase processes*.

**Clauses 111-139** makes changes aimed at streamlining the compulsory purchase of land process. A series of technical Government amendments made changes to the terminology in this part so that it was consistent with existing legislation. **Clause 137** was split into two, to prevent it from becoming “unwieldy” after a series of technical amendments were made to it. A **new clause 18** and **new schedule 3** were added which aim to clarify how new powers of entry to survey land for compulsory purchase purposes would interact with existing rights in this area.

\(^{226}\) PBC Deb 8 December 2015 (afternoon) c598
\(^{227}\) PBC Deb 8 December 2015 (afternoon) c607
\(^{228}\) PBC Deb 8 December 2015 (afternoon) c609
\(^{229}\) PBC Deb 8 December 2015 (afternoon) c614
\(^{230}\) PBC Deb 8 December 2015 (afternoon) c615
Right to enter and survey land

Clauses 111-117 relate to the right to enter and survey land. They introduce a new right to enter land for survey purposes for any acquiring authority considering using these powers, rather than just selected authorities.

Government amendments 246, 248 and 249 to 256 were moved to ensure that the right of entry in clause 111 may be exercised to value land as well as to survey it. The Parliamentary Under-Secretary of State for Communities and Local Government (Marcus Jones), explained the provisions were to put all authorities on a level playing field when undertaking or exercising the right to compulsory purchase. Government amendment 247 aimed to ensure the right of entry in clause 111 may be exercised prior to acquiring land by agreement as well as compulsorily. These amendments were all made.

Dr Blackman-Woods moved amendments 281, 282 and 283 which aimed to strengthen compulsory purchase powers in relation to when planning permission has expired on a site, where development has failed to commence and in relation to empty homes. She highlighted that the Local Government Association had called for the legislation to be strengthened in this way. She explained:

If we want to overcome the housing crisis through a more efficient and effective planning process, one way for that to happen is to ensure that, in the circumstances I have outlined, compulsory purchase orders can not only be made but be made fairly easily. We have part 7 of the Bill because there is agreement on both sides of the Committee that the process needs to be streamlined. The view of councils and local authorities, which are often at the hard end of needing to get land developed, is that the proposals need to go a bit further.

The Minister, Marcus Jones replied that local authorities already have the powers to acquire land by compulsion in the circumstances set out in the amendments, provided there is a compelling case in the public interest and they have a deliverable scheme. The amendment was withdrawn.

Government amendment 257, new clause 18 and new schedule 3 aim to clarify how the new right of entry would interact with a number of existing powers of entry. Marcus Jones explained further:

…the intention is that all acquiring authorities should, when possible, use the new general power of entry, so when the new general power covers all the purposes of an existing power of entry, that existing power will be repealed in its entirety. If the scope of the existing power is wider than that of the new general power, we will amend the existing power so that it no longer applies to the specific purposes for which the general power can be used.

231 PBC Deb 8 December 2015 (afternoon) c616
232 PBC Deb 8 December 2015 (afternoon) c618
233 PBC Deb 8 December 2015 (afternoon) c623
234 PBC Deb 8 December 2015 (afternoon) c627
The amendment, new clause and schedule were agreed.

**Confirmation and time limits**

**Clause 119** allows a confirming authority (usually the relevant Minister) to appoint a planning inspector to act in its place in respect of confirming a compulsory purchase order. The aim of the clause is to speed up the decision-making process by removing the two-stage handling of the confirmation of an order, where an inspector makes a recommendation to the Secretary of State, who then makes the final decision.

Marcus Jones explained that government amendment 258 would mean that an inspector’s decision whether or not to confirm the whole or part of a compulsory purchase order would be treated as a decision of the confirming authority. The previous wording had meant only a decision to confirm the whole compulsory purchase order would be treated as the authority’s decision.\(^{235}\) The amendment was agreed.

Dr Blackman-Woods moved amendment 280 which aimed further to include the local authority in planning decisions and asked for local authorities to be engaged with the compulsory purchase order decisions. She said that local authorities often have a “much better knowledge of and insight into the needs and realities of a local area than central Government or, in this particular instance, a planning inspector.”\(^{236}\) Mr Jones said that the amendment was “unnecessary and inappropriate because the compulsory purchase order will have been made by the acquiring authority and submitted to the confirming authority.” There was therefore no need or purpose for the order to be submitted back to the acquiring authority. The amendment was withdrawn.\(^{237}\)

**Clause 120** clarifies the time limit for compulsory purchase, providing that notices to treat and general vesting declarations may not be served more than three years after confirmation of the compulsory purchase order.\(^{238}\) Government amendments 259, 260, 261, 272, 273, 274, 275, 276 and 277, to **clause 120**, amend references to a general vesting declaration so that they are consistent with the terminology of section 4 of the *Compulsory Purchase (Vesting Declarations) Act 1981*. The amendments were all agreed. Similarly, a series of Government technical amendments in relation to **Schedule 7** were all agreed.\(^{239}\)

**Compensation**

Clauses 130-133 deal with advance payment of compensation to claimants to help them reorganise their affairs with the minimum of disruption. **Clause 131** provides acquiring authorities with the power to

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\(^{235}\) PBC Deb 8 December 2015 (afternoon) c628

\(^{236}\) PBC Deb 8 December 2015 (afternoon) c628

\(^{237}\) PBC Deb 8 December 2015 (afternoon) c631

\(^{238}\) For further information about notices to treat and general vesting declarations, see page 83 of House of Commons Library briefing paper, *Housing and Planning Bill 2015-16*, 22 October 2015

\(^{239}\) PBC Deb 8 December 2015 (afternoon) c631
make advance payments and addresses the timing of advance payments. A technical Government amendment was made to change “made” to “executed” in reference to a general vesting declaration.240

Disputes

Clause 134, along with schedules 9 and 10 introduces a dispute resolution for where only part of a claimant’s land is required for compulsory purchase and there is material detriment. Technical Government amendments were made to schedules 9 and 10 changing “made” to “executed” in reference to a general vesting declaration.241

Power to override easements and other rights

Clause 137 introduces a new power for all acquiring authorities, rather than just some, to override easement and restricted covenants on land. Government technical amendments 262 and 264 were moved so that the power to override easements and other rights in clause 137 applied to land which a local authority already held prior to the coming into force of clause 137 but which had only been appropriated for planning purposes after the coming into force of that clause. Government amendments 263 to 271 were also discussed.242

Marcus Jones said the amendments were mainly transitional provisions and drafting improvements. He provided the Committee with an overview of what they would all do:

It may help the Committee if I describe the amendments in subgroups. Amendments 262 and 264 are transitional provisions to enable local planning authorities to do in the future what they can do now. At the moment, land not held for planning purposes may be appropriated for planning purposes to benefit from the power to override easements in section 237 of the Town and Country Planning Act 1990. Clause 137(2)(b) does not provide for appropriation of land, so without the amendments, land already held for other purposes could never benefit from clause 137, even though land newly acquired for the same purpose after commencement could do so. That is clearly not a desired outcome, so amendments 262 and 264 take us to the right place.

Amendments 263, 266 and 269 are the main transitional provisions. Amendments 263 and 266 extend the provisions to other qualifying land, which is defined in amendment 269 as land that is or has been owned by those bodies that already have the power to override easements and other rights. The effect is that those bodies will be able to exercise the new power in clause 137 on that land instead of their existing powers, which will be removed by schedule 11 to the Bill.243

Marcus Jones described amendment 265 as a substantive amendment:

Amendment 265 is a substantive amendment. Clause 137(4)(c) states that the power to override easements and so on applies to the use of land where the authority could have purchased the

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240 PBC Deb 8 December 2015 (afternoon) c632
241 PBC Deb 8 December 2015 (afternoon) c633
242 PBC Deb 8 December 2015 (afternoon) c633
243 PBC Deb 8 December 2015 (afternoon) c635
Amendments 267 and 271 would **split clause 137 into two clauses**:  
Amendments 267 and 271 are consequential to the motion to split clause 137 into two clauses. Clause 137 will be unwieldy once the definitions in subsection (7) have been extended by the definition of “other qualifying land” in amendment 269. The motion will therefore split clause 137, with its substantive provisions in subsections (1) to (6) and the new clause containing the definitions in subsections (7) and (8).

Amendments 268 and 270 regularise the definition of local authority in the provisions. Amendments 262, 264 and 269 introduce references to a local authority’s planning purposes. The list of authorities that are local authorities for those purposes is not the same as the general definition of “local authority” in subsection (7). In the future, we only need a general definition in the context of a specified authority, also defined in subsection (7). Amendment 268 therefore removes the now superfluous general definition of “local authority” and amendment 270 places the definition within that of a specified authority.245

The amendments were made to the Bill.246

Amendment 278 was moved in relation to Schedule 11 (amendments to do with clauses 137 and 138), which would add:  
…paragraph 6 of schedule 4 to the Welsh Development Agency Act 1975 to the list of repeal provisions in schedule 11 to the Bill, meaning that the power to override easements and other rights currently exercised under the Act will in future be exercised under clause 137, as now amended.247

The amendment was agreed.248

2.9 **New Government provisions added to the Bill**

**Social housing: phasing out security of tenure**

During the sixteenth sitting of the Committee, Marcus Jones moved **new clause 32 (Secure tenancies etc: phasing out of tenancies for life)**. This new Government clause was considered with **new clause 33 (Succession to secure tenancies and related tenancies)** and Schedules 4 (**Secure tenancies etc: phasing out of tenancies for life**) and 5 (**Succession to secure tenancies and related tenancies**).

The Minister said these new provisions would prevent local authorities in England from offering secure tenancies for life in most circumstances. The Coalition Government legislated (**Localism Act 2011**) to give social

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244 PBC Deb 8 December 2015 (afternoon) c635  
245 PBC Deb 8 December 2015 (afternoon) c636  
246 PBC Deb 8 December 2015 (afternoon) c637  
247 PBC Deb 8 December 2015 (afternoon) c638  
248 PBC Deb 8 December 2015 (afternoon) c639
landlords' discretion to offer flexible tenancies with a minimum fixed term of at least two years. Marcus Jones noted that landlords had not taken advantage of this flexibility and went on:

…we believe that continuing to offer social tenancies on a lifetime basis is not an efficient use of scarce social housing. The new clauses will significantly improve landlords’ ability to get the best use out of social housing by focusing it on those who need it most for as long as they need it. That will ensure that people who need long-term support are provided with more appropriate tenancies as their needs change over time and will support households to make the transition into home ownership where they can. In future, with limited exceptions, local authority landlords will only be able to grant tenancies with a fixed term of between two and five years, and will be required to use tenancy review points to support tenants’ move towards home ownership where appropriate.  

He said that existing tenants would not lose their security of tenure. If these tenants are forced to move, e.g. due to a regeneration scheme, they will retain their existing tenancy rights. Where they choose to move their landlords will have “limited discretion” to offer “further lifetime tenancies.” Regulations will set out the circumstances in which this will be possible.

At the end of a fixed term period landlords will be required to consider whether to renew the tenancy, offer a tenancy of an alternative property or terminate the tenancy. Landlords will be required to serve a notice of the intention not to renew at least six months before the end of the tenancy. Tenants will be able to seek an internal review of a decision and challenge the landlord’s right of possession in the county court.

During the fixed term, tenants will have the same rights as most secure tenants save for the right to improve and to be compensated for improvements.

As drafted, the new provisions will only apply to tenancies let by local authorities. The Minister set out the Government’s thinking in relation to housing association tenancies:

We want housing association landlords and tenants to reap the benefits from shorter-term tenancies as well. However, we clearly need to consider any changes to housing associations in the light of the recent decision of the Office for National Statistics on classification. We are working through the ONS reclassification decision and considering the options but, given the complexity of the matter, careful consideration is needed. We will continue to work closely with the housing association sector, the social housing regulator and other stakeholders to finalise the

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249 For more information see Library Briefing Paper 7173: Flexible and Fixed-term Tenancies for Social Housing Tenants in England
250 PBC Deb 10 December 2015 (morning) c650
251 PBC Deb 10 December 2015 (morning) c650
252 PBC Deb 10 December 2015 (morning) c651
deregulatory package, and we will consider any changes to lifetime tenancies in the context of that work.\textsuperscript{253}

He also said an impact assessment would be published before the Bill goes to the Lords.\textsuperscript{254}

The Minister was asked about potential exemptions from the requirement to offer a fixed-term tenancy, such as households with young children in school and people with a long-term disability in an adapted property. He responded by saying that the new provisions do not mean that a tenant will automatically be expected to move – their circumstances will be reviewed and one outcome can be the renewal of the tenancy.\textsuperscript{255}

**New clause 33** and schedule 5 will amend the rules on succession to secure, introductory and demoted tenancies. The *Localism Act 2011* amended the rules on succession for new secure tenancies granted after April 2012. The Minister said that the Government saw no justification for retaining an inconsistent approach to pre and post 2012 tenancies in terms of succession rights:

We therefore propose that the succession rights for secure tenancies granted before April 2012 be aligned with those granted after that date. The amendments will deliver a consistent approach across all secure tenancies and ensure that common-law partners are put on an equal footing with married couples and civil partners.

Other family members who may have had an expectation of succeeding to a secure tenancy granted before April 2012, having lived with the tenant for at least 12 months, will lose their statutory right to succeed. We do not think that it is right that those who may not need social housing, because, for example, they can rent or buy privately, should have the automatic right to succeed to a social home when nearly 1.4 million households are on council waiting lists.\textsuperscript{256}

He said that spouses, civil partners and those who live together will “continue to have an automatic right to succeed to a lifetime tenancy.”\textsuperscript{257}

Dr Blackman-Woods was critical of the decision to bring new clauses with wide ramifications before the Committee on its last day of deliberations:

The point I was making is that the Government new clauses, which are wide ranging and controversial and have an impact on lots of people’s lives, should not have been brought to this Committee on the last day of its deliberations without any consultation, without an impact assessment and without any background information. It really is extraordinary. It is extremely bad practice and not good policy making.\textsuperscript{258}

\textsuperscript{253} PBC Deb 10 December 2015 (morning) c652
\textsuperscript{254} PBC Deb 10 December 2015 (morning) c655
\textsuperscript{255} PBC Deb 10 December 2015 (morning) cc654-5
\textsuperscript{256} PBC Deb 10 December 2015 (morning) c653
\textsuperscript{257} PBC Deb 10 December 2015 (morning) c654
\textsuperscript{258} PBC Deb 10 December 2015 (morning) c656
She quoted comments received from housing lawyers:

The lawyers say that the current proposals are simply unworkable because:

“where a local authority grants a fixed term tenancy, possession proceedings operate by way of forfeiture. Yet the Bill excludes forfeiture from the remedies available against these fixed term tenancies.”259

Other points raised included: the impact of the measure on eligibility for the Right to Buy; the impact on family stability of increased insecurity; the removal of local control over tenancy policy (introduced by the Localism Act 2011).

The Minister, Marcus Jones, said the policy would make better use of social housing:

The legislation is all about making better use of social housing, and it will certainly save on temporary accommodation costs and the need to manage waiting lists. Our assessment of the policy’s impact will be revised, but we need to consider the family who have been in high-rent temporary accommodation for years. The Government have already shown a commitment to such people by allowing those in temporary accommodation to move into the private rented sector, which means that people who have to use such accommodation now do so for, on average, seven months less than was the case in 2010. That shows that the Conservative party is interested in getting the most vulnerable people housed, not in a policy built on ideology, as the Labour party seems to be.260

The Committee divided on new clauses 32 and 33 – they were both agreed, Ayes 11 Noes 7.261

Procedure for redeeming rentcharges

Clause 91 of the Bill as presented sought to amend the Rentcharges Act 1977 to allow for the Secretary of State to make regulations setting out how the redemption figure for a rentcharge should be calculated.

The Government issued a technical discussion paper in which views were sought (by 4 November 2015) on options for replacing the 2.5% Consolidated Stock and the Secretary of State’s future role in redeeming rentcharges. Responses have been requested by 4 November 2015.

New clause 23 (Procedure for redeeming English Rentcharges) replaces the current procedure with a mechanism which will be set out in regulations (subject to the affirmative procedure). The new procedure will not involve the Secretary of State. Marcus Jones said: “the rent owner and the rent payer will be required to take certain steps for the redemption of a rentcharge.”262

The new clause was agreed to without a Division.

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259 PBC Deb 10 December 2015 (morning) c657
260 PBC Deb 10 December 2015 (morning) c668
261 PBC Deb 10 December 2015 (morning) c669
262 PBC Deb 10 December 2015 (morning) c648
Default powers exercisable by Mayor of London or combined authority

**New clause 17 and new schedule 2** make provision for the Secretary of State to invite the Mayor of London or a combined authority to prepare or revise a development plan document for a local planning authority in their area that is failing to make progress with preparing such a document. For further information see section 2.7 of this paper on local plans. This new clause and schedule were agreed without division.263

Compulsory purchase: right to enter and survey land

**New clause 18 and new schedule 3** aim to clarify how the new right of entry provided for in the bill would interact with a number of existing powers of entry. For further information see section 2.8 above on compulsory purchase. The new clause and schedule were added to the Bill without division.264

2.10 Opposition new clauses not added to the Bill

Duty to promote lending to small and medium sized developers

Gareth Thomas moved **new clause 9** which would have placed a duty on the Secretary of State to promote lending by banks to these developers.

Responding, Brandon Lewis said the Government recognised the barrier that a lack of finance for smaller firms can pose, but did not believe placing a statutory duty on the Secretary of State would work. He pointed out that the Secretary of State has no power to force banks to lend.265 The clause was withdrawn.

Planning obligations in respect of apprenticeships

Labour Member Gareth Thomas moved **new clause 10**, which was described as a probing clause, to suggest that in proposed development for sites where 50 or more dwellings are to be constructed, there should be a guarantee that local people can be offered apprenticeships. The aim was to champion the take-up of apprenticeships by the construction industry to help address a skills shortage for small and medium-sized housebuilders.266

The Minister, Brandon Lewis, replied that a legal requirement for all sites with 50 or more dwellings to include a requirement to offer apprenticeships to local people would “not necessarily support apprenticeships.” He said that the trade activity within these sorts of projects may not be able to support apprenticeships and may be
unsustainable. He went on to say that “it may not be feasible for a company based in a different area of the country to support a locally-recruited apprentice once their element of the project is completed. I want to work directly with the sector on that issue.” The new clause was withdrawn. 267

**Tenants’ rights to new management following LSVT**

Dr Blackman-Woods moved new clause 12 to give tenants the right to be consulted about their satisfaction with management arrangements following a large scale transfer of stock. The clause would have introduced a competitive tendering exercise in the event of 50% of tenants expressing discontent with management arrangements. 268

Brandon Lewis noted that there were no powers currently available to tenants to “sack or fire their housing association” but set out a number of mechanisms through which tenants can raise issues. 269

The new clause was withdrawn.

**Conversion of leasehold to commonhold**

Dr Blackman-Woods moved new clause 13 which sought to convert all long leasehold properties to commonhold tenure by January 2020.

Brandon Lewis set out the Government’s position:

> Abolishing leasehold and forcing leaseholders into commonhold may seem attractive to some, but would that be the right thing to do in all circumstances? The Government believe that it would not. Removing choice in this instance and, with it, the rights and protections currently afforded to leasehold homeowners and at the same time forcing existing leaseholders to become commonholders against their will would not be desired by all. Considerable care needs to be taken before embarking on legislation that would force existing leaseholders and landlords to transfer to the commonhold model, which would not in all cases be appropriate. Commonhold should remain a voluntary alternative to long leasehold ownership. 270

The new clause was withdrawn.

**Permitted development rights**

Roberta Blackman-Woods moved new clauses 19 and 20 which aimed to ensure that residents of buildings which had been converted to residential use from other uses, through change of use permitted development rights, would be protected from factors affecting their amenity and enjoyment. 271 She expressed concern that when there had been change of use from office to residential use in particular there were increased complaints from the new residents about the levels of noise from nearby existing music venues. She highlighted how this was upsetting for residents and problematic for music venues, some of which were now being forced to close. She asked the Minister to

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267 PBC Deb 10 December 2015 (afternoon) c681
268 PBC Deb 10 December 2015 (afternoon) c682
269 PBC Deb 10 December 2015 (afternoon) c682-3
270 PBC Deb 10 December 2015 (afternoon) c684
271 PBC Deb 8 December 2015 (morning) c586-7
change these permitted development rights to go back to requiring full planning permission so that the complex issues, such as noise, could be examined fully.\footnote{PBC Deb 8 December 2015 (morning) c590}

The Minister, Brandon Lewis, replied he believed the new clauses were “unnecessary”, that they would impose “inflexible requirements on local authorities” and that there were already “appropriate protections to address these issues.” He set out that:

The framework [the National Planning Policy Framework] goes further by making it clear that existing businesses that want to develop in continuance of their business should not have unreasonable restrictions put on them because of changes in nearby land use since they were established. The planning guidance supporting the framework is clear that the potential effect of the location of a new residential development close to an existing business that gives rise to noise should be carefully considered. The guidance underlines planning’s contribution to avoiding future complaints and risks to local businesses from resulting enforcement action. To avoid such situations, local councils are encouraged to consider appropriate mitigation, including designing the new development to reduce the impact of noise in the local environment and optimising the sound insulation provided by the building envelope.\footnote{PBC Deb 10 December 2015 (afternoon) c687}

The Minister also said that he would work with the Minister for Culture and the Digital Economy and meet with some music organisations to talk about this issue. He said he needed to make sure that existing powers were being used properly. On the basis that there would be further discussions, the new clauses were withdrawn.\footnote{PBC Deb 8 December 2015 (afternoon) c599-600}

**Planning obligations: local first-time buyers**

Roberta Blackman-Woods moved new clause 21 which would give local planning authorities powers to impose a planning obligation when giving planning permission for the construction of new housing for sale, requiring a proportion of the housing to be marketed exclusively to local first-time buyers. Dr Blackman-Woods explained the aim was to ensure that new homes went to local people and not to second-home buyers and buy-to-let investors.\footnote{PBC Deb 10 December 2015 (afternoon) c688} The purpose of the new clause was to “probe the Minister on what more can be done to ensure that first-time buyers are not priced out of the housing market and to ensure that their needs are considered in order to encourage them into the housing market.”\footnote{PBC Deb 10 December 2015 (afternoon) c685}

The Minister, Brandon Lewis said he recognised that more needed to be done to support first-time-buyers, but that the starter home provisions in the Bill should help to deliver more homes to first-time-buyers.\footnote{PBC Deb 10 December 2015 (afternoon) c599} The new clause was withdrawn.
Security of tenure (assured shorthold tenancies)

Teresa Pearce moved new clause 22 to make a fixed term of 36 months the default position in relation to assured shorthold tenancies let by private landlords after 1 April 2018. She said:

New clause 22 is designed to encourage longer-term tenancies and to make them much more common, so that both landlords and tenants have more stability. It is important to note that that should not penalise responsible landlords who may need to evict tenants, perhaps because their own financial position has changed or perhaps because they are unhappy with the way the tenant is treating the property. These are legitimate circumstances in which landlords should still be able to evict tenants by providing proper notice.278

Marcus Jones, responding, said “there is no one-size-fits-all approach to tenancy length” and argued that the clause would be counterproductive.279 The clause was withdrawn.

Local planning authorities: control of planning fees

Labour Member Helen Hayes moved new clause 24, to allow a local planning authority to set its own development control charging schedule. She said the new clause was supported by the Local Government Association and by London Councils and that it would allow local planning authorities to recoup the full cost of their planning services. She argued that planning departments had taken a large proportion of cuts to local government funding and that well-run planning departments contribute to economic development and growth. “The proper resourcing of planning departments is essential to their being able to do that.”280

The Minister, Brandon Lewis, highlighted that section 303 of the Town and Country Planning Act 1990 already provided for the Secretary of State to allow, by regulations, local planning authorities to set their own level of fees up to cost recovery. He said giving local government a “completely blank cheque, as the new clauses would do, could bring about unintended risks”. He highlighted how local planning authorities could work together to help reduce costs:

…some authorities have introduced new ways of delivering planning services through outsourcing and shared service arrangements, showing that costs can be saved and services can be improved, more should be following that lead. The research shows that there is a saving of 5% to 20% for competitively tendered or completely shared services. More local authorities need to do that, not just because it brings efficiencies but because it brings better resource, particularly for small districts that will be challenged to find the best players. Coming together gives them a better career opportunity, and there is also an opportunity for planners. Not enough local authorities have moved down that road.

I do not disagree with the hon. Members who spoke in favour of the proper resourcing of planning services, but local government and councils need to understand that their planning department is

278 PBC Deb 10 December 2015 (afternoon) c691
279 PBC Deb 10 December 2015 (afternoon) c692
280 PBC Deb 10 December 2015 (afternoon) c693-4
also their economic regeneration department, and they should focus clearly on it. Going further must go hand in hand with local authorities driving forward those service improvements and cost reductions.\textsuperscript{281}

The new clause was pressed to a division where it was defeated: Ayes 7, Noes 11.\textsuperscript{282}

**Standards in the private rented sector**

Teresa Pearce moved \textbf{new clause 25} to place a duty on landlords to ensure their properties are fit for habitation when let and remain fit during the tenancy. These provisions are related to those contained within Karen Buck’s Private Member’s Bill.\textsuperscript{283} It was considered alongside new \textbf{clause 26 (Requirement to carry out electrical safety checks)}.\textsuperscript{284}

Brandon Lewis set out the Government’s position:

Local authorities already have strong and effective powers to deal with poor-quality, unsafe accommodation and we expect them to use those powers. Where tenants raise concerns, they can carry out an inspection using the housing health and safety ratings system introduced in the Housing Act 2004, which assesses 29 categories of hazard found in a property. Local authorities can issue an improvement notice or a hazard awareness notice, or prohibit the property from being rented out. In serious cases, the local authority may decide to make repairs itself.

The Government want to crack down on the small minority of rogue and criminal landlords who exploit their tenants by renting out unsafe and substandard accommodation and who fail to comply with statutory notices. Measures in the Bill that we have already debated will ensure that our powers against rogue and bad landlords go further than ever before. I hope that Members are advising their constituents with bad electrics or mould that they are covered in that way, and telling them to contact their local authority so that the local authority can use its powers. In addition, the Government have a wide range of policy initiatives to improve existing properties in the private rented sector. New clause 25 would result in unnecessary regulation and cost to landlords, which would deter further investment and push up rents for tenants. I ask the hon. Member for Erith and Thamesmead to withdraw it.\textsuperscript{285}

The Minister said he would consider new clause 26:

We will carry out further work to understand what legislative amendments for undertaking electrical safety checks, if any, would be beneficial and appropriate to the private rented sector, and ensure that they do not harm the sector by stifling it with red tape.\textsuperscript{286}

Both clauses were withdrawn.

\textsuperscript{281} PBC Deb 10 December 2015 (afternoon) c701
\textsuperscript{282} PBC Deb 10 December 2015 (afternoon) c702
\textsuperscript{283} For more information see Library Briefing 7328, \textit{Homes (Fitness for Human Habitation) Bill [Bill 15 of 2015-16]}
\textsuperscript{284} PBC Deb 10 December 2015 (afternoon) c702-4
\textsuperscript{285} PBC Deb 10 December 2015 (afternoon) c707
\textsuperscript{286} PBC Deb 10 December 2015 (afternoon) c708
Description of HMOs
Teresa Pearce moved new clause 27 to amend the definition of an HMO so that mandatory licensing would apply to properties with less than three storeys.

Brandon Lewis, in response, said that extending mandatory licensing is an option for tackling abuse in the HMO market but that he wanted “to fully consider all responses before announcing how I will proceed.” He explained that extending the scope of mandatory licensing can be achieved through secondary legislation.287

The clause was withdrawn.

Reporting of Housing Benefit paid
Teresa Pearce moved new clause 28 which sought to place a duty on local authorities to disclose information to HMRC in regard to monies paid to landlords through Housing Benefit. The aim of the clause was to ensure that landlords pay the tax due on their rental income:

The overwhelming majority of landlords pay their taxes in a timely and correct fashion. However, a few choose not to. I have seen evidence of that myself, where tenants have to pay every Sunday, when the landlord comes round and collects the money in cash. That is public money—housing benefit money—but it goes into the landlord’s pocket, and they do not pay any tax on it.

I was so concerned about this issue that I wrote to Lin Homer at Her Majesty’s Revenue and Customs and to HM Treasury. I got a reply from a Minister and Lin Homer, both of whom estimated that the tax gap for letting income could be as high as £500 million a year. Something needs to be done about that, because housing benefit is public money—it is taxpayers’ money, and we should ensure that where it goes to a landlord, it is treated with the respect it deserves.288

Marcus Jones advised that such a provision “would become of diminishing relevance” as Housing Benefit is, for the most part, not paid direct to private landlords.289

The clause was withdrawn.

Accreditation and licensing for private landlords
Dr Blackman-Woods moved new clause 29 to place a duty on local authorities to operate an accreditation and licensing scheme for private landlords.290

Marcus Jones rejected the new clause on the basis that it would create additional “unnecessary costs for reputable landlords” which “tend to be passed on to tenants.”291

The new clause was withdrawn.

287 PBC Deb 10 December 2015 (afternoon) c709
288 PBC Deb 10 December 2015 (afternoon) c710
289 PBC Deb 10 December 2015 (afternoon) c711
290 PBC Deb 10 December 2015 (afternoon) c711
291 PBC Deb 10 December 2015 (afternoon) c713
Restrictions to granting permission in principle
Robert Blackman-Woods moved new clause 30 to restrict the circumstances in which the Bill’s new concept of permission in principle can be applied. The new clause would limit permission in principle to brownfield sites for housing and to sites that have already been approved in an adopted local plan for the provision of housing. She said the aim of the new clause was to elicit from the Minister exactly how wide the permission in principle outlined in clause 102 of the Bill will be applied and what sort of brownfield sites could be used.292

The Minister highlighted the earlier discussion in Committee on this point and said that the Government had “no intention of allowing, for example, planning in principle to be used for some of the things that I know some people may be concerned about, such as fracking or waste development.” He set out that it could be used for mixed-use developments that “promote balanced and sustainable places.” The new clause was withdrawn.293

Extension of Housing Ombudsman’s role
Teresa Pearce moved new clause 34 to pilot the extension of the Housing Ombudsman’s role in London to the private rented sector.294

Brandon Lewis advised that private landlords can already join the Housing Ombudsman scheme on a voluntary basis. He said there was “no intention of introducing unnecessary regulation on landlords.”295

The clause was withdrawn.

Protection of money held by letting agents
Teresa Pearce moved new clause 35 to require letting agents to have client money protection to cover all money received in the course of their business. She referred to industry support for the clause and said:

The new clause is designed to protect both parties in the unlikely event that an agent goes into administration or misappropriates the client’s funds. Any losses could be recovered through the scheme. The Bill’s extension of banning orders to letting agents has acknowledged that there are times when letting agents do not act in the best interests of landlords or tenants.296

Brandon Lewis said he was aware of some support in the housing sector for this measure. He went on:

We want to ensure that we have a strong and thriving private rented sector that is not tied up in excessive regulation. Requiring agents to pay to belong to a client money protection scheme would force honest agents to buy insurance against the risk that they themselves were fraudulent, when, as the hon. Lady said, the vast majority of agencies are not. Introducing a mandatory client money protection scheme at this point would be a step too far and would overburden a market that is perfectly capable of self-regulation. However, in May 2016 we will review the impact of

292  PBC Deb 10 December 2015 (afternoon) c714
293  PBC Deb 10 December 2015 (afternoon) c714
294  PBC Deb 10 December 2015 (afternoon) c715
295  PBC Deb 10 December 2015 (afternoon) c717
296  PBC Deb 10 December 2015 (afternoon) c718
the transparency measures that were put in place only recently. At that stage, I will take due consideration of whether any further action is needed, and obviously I will take into account the comments made this afternoon. I hope that, with those points in mind, the hon. Lady will withdraw the new clause.297

The clause was withdrawn.

**Restriction on office to residential change of use**

Labour Member Gareth Thomas moved new clause 36 which would remove existing and any future permitted development rights allowing change of use of buildings from office to residential in London. Such changes would therefore require full planning permission first. He said that the loss of office space in London since the existing temporary permitted right was introduced had increased office rents in some parts of London through loss of available office space, increased costs for businesses and meant that developers could avoid section 106 affordable housing agreements.298

The Minister Brandon Lewis replied that the policy had increased the number of change of use homes developed in London, where there was an acute housing need. He said that local authorities could, where they consider it to be necessary, use an “article 4 direction” to remove this permitted development right. The new clause was withdrawn.299

**Removal of debt cap on local authorities**

Gareth Thomas (Labour) moved new clause 37 which would have removed the limit on the amount of debt that a local authority with a Housing Revenue Account can incur.300 He argued that removal of the cap would enable authorities to build more affordable housing. Background to the borrowing cap can be found in Library note 6776, Local housing authorities - the self-financing regime: progress and issues.

Brandon Lewis responded:

The limits do not mean there is no flexibility for local authorities to borrow. Indeed, at the time of self-financing, there was borrowing headroom of about £2.8 billion. That figure has increased as local authorities have reduced their debt levels. At the end of 2014-15, the headroom had increased to almost £3.4 billion. We were aware that the headroom was not evenly spread and that some councils needed additional borrowing headroom to build more homes, which is why we made available £221 million of extra borrowing headroom to 36 councils in England, to support thousands of new affordable homes in 2015-16 and 2016-17.

Much as I support the hon. Member for Harrow West on seeing more homes built, I cannot agree to the unrestricted increase of housing debt that would result from the amendment, given the implications for the public sector borrowing requirement, so I urge him to withdraw his new clause.301

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297  PBC Deb 10 December 2015 (afternoon) c719
298  PBC Deb 10 December 2015 (afternoon) c720
299  PBC Deb 10 December 2015 (afternoon) c723
300  PBC Deb 10 December 2015 (afternoon) c723
301  PBC Deb 10 December 2015 (afternoon) c725
Extension of help to buy

Gareth Thomas moved new clause 38 to probe the Government’s position on the potential for equity loans to help to pay for the sale of housing association homes:

The proposal from the Mayor of London and the noble Lord Kerslake might be a potential solution that obviates the need to sell off council housing in particular areas—notably in central London, where it will be very difficult to replace—while allowing the Government to move forward with their agenda of offering housing association tenants the right to buy their flat. If the only motivation for including the forced sale of council homes is to pay for the cost of the discounts that housing association tenants will get through the right to buy, the option of extending the Government’s own Help to Buy scheme to housing association tenants might provide a genuinely new route to avoid the sale of council homes, and, as a result, exacerbate the housing crisis in London.302

Brandon Lewis responded:

The Help to Buy equity loan scheme can only be used for new build properties, so would not apply to either local authority or housing association tenants looking to buy their own home.303

The clause was withdrawn.

302 PBC Deb 10 December 2015 (afternoon) c726
303 PBC Deb 10 December 2015 (afternoon) c726
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