

Speech: CEAR Bill – Second Reading

19 March 2007

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1. Introduction

Mr Speaker,

Allow me to begin by setting out that on this side of the House we broadly welcome this Bill. As the Minister said, this Bill is important for consumers – it merges key consumer bodies and makes an attempt to give consumers greater rights when buying or selling their house.

At the outset I want to pay tribute to the work done in the other place by the Noble Baroness, Lady Wilcox, and others. This has significantly improved the original Bill.

I believe firmly in consumer choice and in the accessibility of information to enable people to exercise that choice. This is something best achieved through a spirit of shared responsibility; with government, businesses and consumers working together.

Of course, this is not always the reality, and when businesses fall short of their responsibilities it is important that consumers have the means available to receive redress in a timely and efficient fashion. It is on the basis of those principles that we approach the Bill before us.

We support much of what this Bill does, but we do have a number of specific concerns, which I'd like to address today.

2. Energywatch and Postwatch

Mr Speaker, one of the principal features of this Bill, is the amalgamation of Energywatch, Postwatch and, in time, the Consumer Council for Water, within a new statutory National Consumer Council.

The Government argues that this is designed to strengthen and streamline consumer representation. The Government's record, however, has given rise to concern that the implementation of these changes may mean that consumers are in fact disadvantaged by these proposals.

There is, for example, increasing disquiet about how and when the Consumer Council for Water should be merged into the new regime. The next water industry price review, which will fix limits for water companies charging schemes, is due to be completed in 2009 – the period leading up to this date will therefore be a busy one for the Consumer Council for Water, yet this is just the period in which the Government want to begin abolishing it.

Ministers have yet to give a satisfactory explanation of why they are so keen on this particular date. I have no doubt that this matter will be debated both today and in due course in Committee.

The timing of the abolition of Postwatch is also unfortunate to say the least. At just the time that the Government is making deep cuts in the Post Office network, they are planning to mire the postal consumer watchdog in a transition process. Will this not simply mean that less focus is given to consumers at just the time they need representation most?

The question of timing in respect of Postwatch and the Consumer Council for Water raises significant questions as to whether the Government really does have the interests of consumers in mind at all.

I am also concerned about the skills and experience that have been built up in Postwatch and Energywatch. At the moment these bodies know the detailed issues in their sector and they have experienced people working for them. Can the Minister tell us how he

will ensure that these valuable skills are transferred to the new body?
For example, will the new body retain separate sectoral specialists?

Can the Minister assure the House that the new body will carry at least the same weight and reputation as the existing sectoral bodies, which have worked hard to gain name recognition?

To many there is a suspicion that the decision to create the new body was motivated, not by a desire to improve consumer representation, but simply a drive to cut costs?

3. Complaint Handling

Our second area of specific concern is the lack of provision relating to internal complaint handling procedures. We differ from the Government over how best to ensure that complaints are dealt with quickly and effectively?

Redress schemes are at the heart of this Bill, yet they are the last resort of the unhappy consumer. The first port of call is, and should be, the company from which the goods and services were purchased. Effective complaints procedures at this stage would have the effect of ensuring that more complaints were solved at their outset; it would reduce the burden on the new NCC and make for better satisfied consumers too.

Good internal complaints procedures really are the best way to protect and empower consumers, and yet there is precious little about this in the Bill.

Existing redress schemes vary greatly from granting immediate access to insisting on a three month wait before the consumer can invoke the services of the ombudsman. Three months is a long time to wait for a consumer and this creates an opportunity for supplier companies to avoid resolving complaints quickly, knowing that the process for the consumer may be too long and drawn out for them to bother pursuing things further.

On this side of the House, we believe that companies should have in place effective internal complaints procedures to deal with consumers quickly and efficiently. The best way to make this happen is to insist that internal complaints procedures which reflect best practice are a fundamental requirement for the membership of any approved redress scheme for which this Bill provides.

This is not re-inventing the wheel – a similar model is already successfully working in the financial services sector. The Financial Services Authority requires that membership of the Financial Ombudsman Service is dependent on an organisation having an appropriate and effective internal complaint-handling function.

The Government made only a small concession towards this approach when this issue was raised in the other place. The phrase they introduced into clause 49 was remarkably vague. They required regulators only to ‘have regard’ to ‘such principles as’ the ‘generally accepted principles of best practice’.

Now of course this is welcome, but to my mind it does not go nearly far enough. Effective internal complaint handling is central to the aims of this Bill and it should be a prerequisite of redress scheme membership and it should be on the face of the Bill.

Mr Speaker - Redress schemes are being provided to catch the worst failings of their member companies, but it must be preferable for the redress schemes to be proactive about preventing failures in the first place.

4. Reports and Transparency

Our third area of disquiet, concerns the independence of the new National Consumer Council. The Government has said that it wants the NCC to be independent and for the relationship between the NCC and the Government to be transparent and accountable. This is a noble aim, but the text of the Bill reveals a rather different approach.

Clauses 17 to 19 concern reports and advice that the new NCC may produce on consumer matters. In each of the circumstances described in the Bill, there is discretion as to whether the reports are made publicly available. Where the NCC itself determines that the report should be produced, then it has the discretion to publish. However where it is the Government which asks the NCC to report on specific matters, it is the Secretary of State who chooses whether the public ever get to see what the NCC has to say.

This is a matter of public accountability and of transparency for the consumer. The NCC will receive public funding, but the reports that it provides to Government are not necessarily to be made available to the taxpayers who funded them.

We believe that all reports produced by the NCC should, automatically, be made available to the public. This need not raise a cost issue, as has been claimed, as the documents could simply be made available on the NCC's website.

In another place, arguing against this suggestion, the Minister claimed that not all such reports would be of interest to consumers. However I fail to see how reports from a public body set up to look after consumers interests would not be of interest to and relevant to consumers. Work that one out if you can.

It seems to me that the Government wishes to use the NCC for its own purposes. The fact that the NCC will not have the right to publish its own reports goes to the heart of the question over whether the relationship between the Government and the NCC is sufficiently transparent.

On this side of the House, we believe it is essential that all such reports are published to ensure that the NCC is genuinely independent.

For years the NCC has been funded by the Government, but has been unhindered in choosing for itself the focus of the work it undertakes and to report on this as it wished. I hope the Secretary of State will agree that this is a better way to continue in the interests of empowered consumers.

5. Estate Agents

Our fourth and most serious area of concern with this Bill relates to Estate Agents.

Buying a house is, for the vast majority of people in this country, the single largest financial commitment they ever make. It is therefore right that the Government has sought to tackle the problem of rogue estate agents.

We welcome the steps taken in this Bill to ensure that estate agents are members of an approved redress scheme and to give more powers to the OFT to take action, where appropriate, against estate agents.

We are concerned, however, that in both of these regards the provisions do not cover all house sales. In particular new homes sold directly by the developer and houses bought and sold 'off plan' are not covered.

It seems illogical to me that the Government should take a positive step regarding estate agents, yet not extend the same provisions to cover all house sales.

I am also concerned that the penalties set for Estate Agents are too low. For example the penalty for not joining a redress scheme is only £1,000. Given that the average fee charged by estate agents is approximately £3,000, this does not seem to me to be an adequate deterrent. We intend, in Committee, to table amendments to raise the penalties for this and other rogue practices, even to £10,000.

The third flaw in this section and probably the single biggest omission in this Bill is the lack of any reference to the lettings and residential property management markets.

This is a sector that has seen rapid growth in recent years. Indeed since the 1979 Estate Agents Act was passed, the proportion of the housing stock that is let has increased by a third.

Not only does letting now account for a significant proportion of the housing market, but it also provides a sizeable chunk of the work undertaken by businesses who would call themselves estate agents.

That alone should be reason enough that lettings and residential property management work be included in the definition of estate agency. But if you add in the fact that consumers in the lettings market are likely to be less able to afford professional advice and advocacy, it becomes all the more important that protection should be afforded.

In the other place the Government argued that it would be too complex to fully update the 1979 Act to cover lettings and residential property management. This is utterly unconvincing.

The Government further argued that the OFT report on the estate agency market did not cover lettings. This is of course the Government's omission and I hope they will not in this House rely on this very same omission as a justification for then disadvantaging a whole group of consumers.

The redress scheme model that is at the heart of this Bill is a simple enough idea. On this side of the House we see no reason at all why the Government could not extend the areas of work covered by redress schemes to include lettings and residential property management.

That would be a step in the right direction, but we would urge them to go further. The Government could and should use this Bill to update the 1979 Act to cover lettings and more generally to make it better reflect a property market that has changed a lot in the last 28 years.

We might not get an opportunity in this House to look at estate agency again for another 28 years, so surely this is the right time to act.

6. Conclusion

In summary Mr Speaker, although somewhat flimsy, this is not a bad Bill and there are aims to be commended, especially the provision of a basic redress scheme for homebuyers. Our concerns are about the strength and independence of the new National Consumer Council and the regulation of estate agents. In Committee we will bring forward amendments to ensure that the NCC is free to publish its reports, to increase the penalties for rogue estate agents, and to extend protection to all house purchases including those bought off plan, and to include the lettings market.

I hope the Government will work constructively with us on these issues so we can make a little more of this Bill. As it stands the Government is missing a golden opportunity to modernise the 1979 Act and better protect homebuyers and tenants. The Bill should also give more power, protection and representation to consumers, especially to those in vulnerable groups.

My colleagues and I look forward to working with the Government to achieve this.

[2,222 words]