



Housing, Communities and Local Government Committee

Oral evidence: Pre-legislative scrutiny of the Building Safety Bill, HC 466

Monday 19 October 2020

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Members present: Mr Clive Betts (Chair); Bob Blackman; Ian Byrne; Brendan Clarke-Smith; Ben Everitt; Paul Holmes; Rachel Hopkins; Abena Oppong-Asare; Mary Robinson.

Questions 227 - 303

Witnesses

I: Lord Greenhalgh, Minister for Building Safety and Communities, Ministry of Housing, Communities and Local Government; Chandru Dissanayeke, Director of Building Safety Reform, Ministry of Housing, Communities and Local Government; and Michael Wade OBE, Expert Adviser, Ministry of Housing, Communities and Local Government.

Examination of Witnesses

Witnesses: Lord Greenhalgh, Chandru Dissanayeke and Michael Wade OBE.

Chair: Welcome, everyone, to this afternoon's session of the Housing, Communities and Local Government Select Committee and our pre-legislative scrutiny of the draft Building Safety Bill. It is our final session. This afternoon, we have the Minister for Building Safety and Communities, Lord Greenhalgh, with us, together with officials. I will come on to their introductions in a minute.

Just to begin, could Committee members put on record any particular interests they may have that may be relevant to this inquiry? I am a vice-president of the Local Government Association.

Bob Blackman: I am also a vice-president of the LGA and I employ a councillor in my office.

Ian Byrne: I am still a sitting councillor in Liverpool.

Rachel Hopkins: I am still a sitting councillor in Luton.



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Mary Robison: I employ a councillor in my staff team.

Ben Everitt: I am a councillor.

Brendan Clarke-Smith: I am a councillor and I employ a councillor in my office.

Abena Oppong-Asare: I employ a councillor in my office.

Q227 **Chair:** Lord Greenhalgh, we will come over to you in a second. Thank you very much for coming with your officials. This piece of draft legislation is extremely important. It is a consequence of the awful disaster that we saw costing so many lives and that we never want to see happen again. It is a consequence of that that we are now looking at the detailed legislation to try to make our buildings safe and to make sure that the fires we have seen in the past do not cost further lives in the future.

It would be appropriate, Lord Greenhalgh, if you could just introduce the officials you have brought with you. When we are asking questions, members can put their questions to you and, if you want to bring in your officials to answer all or part of those questions, we will leave that up to you to decide. If you could introduce your officials now, that would be really helpful.

Lord Greenhalgh: I am joined by Chandru Dissanayeke, who is not with me in the room but you have invited to speak today, and Michael Wade, who is specifically charged with working on the issues around affordability for leaseholders, as well as the Bill manager, Amy Payne, who has worked with your officials.

Q228 **Chair:** If that is the way we can proceed, we will ask you the questions and you can bring in your officials. That helps the Committee to structure things. It is now over three years since the awful tragedy at Grenfell. Have the pace of change and the pace of responding to that disaster been too slow?

Lord Greenhalgh: It is fair to say that this was a tragedy that lost the lives of 72 people and has had a momentous impact on how we view building safety and fire safety. This year, you are seeing a package of measures that are the biggest reform in over 40 years. There are three elements. We are discussing the Building Safety Bill, but I am also taking the Fire Safety Bill through the Lords at the moment, which goes to Committee stage next week, and there is also a fire safety consultation. Those three elements are part of the legislative package, which is incredibly important.

With regard to the pace of remediation, there is no doubt that we would have wanted it to go quicker. In my first appearance before this Committee, I set the ambition, if you remember, that we either remediated—taking the cladding off—or were onsite on all of the 455-odd buildings with aluminium composite material. That ambition is going to be tough to meet, but we are going to be very close to it. The estimate is that between 90% and 95% of buildings will be at that stage, and we are



pushing to get every single one onsite by the end of the year. We have seen a massive quickening of the pace in recent months, and I must thank the Mayors in Manchester and London in particular for helping with local authorities to quicken the pace.

Q229 Chair: We may come back to some of the financial issues around that in due course. Just in terms of the proposal in this piece of legislation, the Government have other ongoing policies with regard to housing development. One is around the issue of permitted development rights and simply trying to build more homes and quickening the pace of building. Does the issue of building safety and the fundamental reforms that you are trying to bring about conflict in any way with these other policies?

Lord Greenhalgh: We have twin endeavours of ensuring that we never see Grenfell happening again—that is the package of reforms that I have spoken to—but also needing to build more homes, as I am sure this Committee is aware. There has not been a reform of the planning system since the Town and Country Planning Act 1947. Permitted development rights have almost been a bonus in homes delivery and make an important contribution to housing delivery, with over 60,000 new homes delivered in the last four years. The building safety reforms introduce these new requirements around the lifecycle of a building, which will apply to all buildings. Buildings through permitted development rights still have to apply to building regulations.

Q230 Chair: There is one distinct difference. There are a number of gateways in the process that you are proposing to try to make sure that we get regular checks at every stage that buildings are being built safely, but the checks at planning gateway 1 will not apply where permitted development occurs and there is not a formal planning application. Is that not a concern?

Lord Greenhalgh: There is no doubt that permitted development has a presumption of going forward with development, but you can put in requirements that the planning authority has to take into consideration. We have not seen particular concern around building safety for permitted development. What we have seen is issues around the quality of the build—for instance, a lack of natural light and other things—that we have tried to address. What is the point that you are trying to make?

Q231 Chair: I am trying to make the point that you put a system in place to try to ensure that buildings are built safely, which has a number of gateways to it. One is the gateway that applies at the planning stage but, if there is no planning stage, that is one gateway that does not apply to buildings built under permitted development.

Lord Greenhalgh: I take that point and we are exploring, with stakeholders, the best way to ensure that the key elements of gateway 1 can be considered for in-scope buildings with permitted development



rights. It is something that we are considering at this stage, and it is a point well made.

Q232 **Chair:** That is what we are trying to explore, whether there are things that you are aware of and looking at. Clearly you are in that case, and the Committee may well come back to that issue. When we have the HSE before us, they talk about ongoing development of policy, which we understand—this is a draft Bill, so we are not there yet—including the recovery of safety-related costs from different tenancies where there are overlapping fire safety order changes. Are there areas here where policy development is still happening and you have not quite got to the finished article?

Lord Greenhalgh: There is no doubt that there are areas where we can make a better Bill, and I appreciate the work that this Committee is doing in bringing up some of those areas. We are continuing to explore, in part 4 of the Bill, some very complex issues around buildings with multiple owners and, therefore, multiple accountable persons; buildings where there is commonhold ownership; the liability of the building safety manager, which is an issue; and the appointment of a special measures manager. There are also provisions that deal with the insolvency of the accountable person. There are a number of issues that the Bill team are aware need to be ironed out before we introduce the Bill to Parliament. This Committee's findings will also be taken into consideration before introduction.

Q233 **Chair:** There are just two other points for me to explore. First, there has been a reference to the engagement with stakeholders. Could you just say something about the nature of that engagement to try to advise and brief you on the views of the multitude of different organisations and individuals who might well be interested in this legislation?

Lord Greenhalgh: I would start off by saying that we recognise that the whole point of bringing in a regulatory system is to improve the regulatory system so that we do not see the regulatory system failure that we have seen before, but also to drive up the professionalism and the culture within the industry, in terms of construction in particular, and to be a voice for residents. I was part of a series of ministerial engagement roundtables with groups and with building control as a profession. A number of people will need to perform better in the new regime. We also need to hear the voice of residents, as I have said. Officials have a number of ongoing engagements with those stakeholders and I hold a series of ministerial roundtables, organised in tandem with the Health and Safety Executive.

Q234 **Chair:** Finally, we heard from Dame Judith Hackitt about the work that is going on in Australia, where you are looking at their building safety issues. Have you had any contact with counterparts over there, or have your officials been in touch? Is there a joint learning exercise that can be done?



Lord Greenhalgh: In this era of Zoom, I have had a very late engagement with officials and a politician who brought in the regime in Victoria, as well as with officials from New South Wales. Those are the two areas where we have something to learn from, and we certainly discussed their approach towards remediation. In the case of Victoria, it was part grant and a levy on developers. They recognise, as we do, that there is a lot to learn from each other. They certainly want to learn from us, and we are keen to learn from them as well.

Chair: That is reassuring.

Q235 **Mary Robinson:** Michael Wade, you are charged with “rapidly identifying financing solutions that protect leaseholders from unaffordable costs”. How do you propose to do it, and when will that be published?

Michael Wade: It is a very early stage at the moment, but we are looking at all manner of potential financing options, working closely with the Treasury and external advisers. You will forgive me, I hope, if I avoid anything specific today because it is very early stages, but I am very happy to come back at a later stage with more details, once I have them.

The remit is to try to look at these costs, unblock the finance arrest, as it were, and ensure that the costs to leaseholders are affordable. In that sense, I am looking at all options that might be available. I am working closely with the Treasury. I am also working closely with external advisers on the financial side, in the financial sector, which is my background. I suspect there is a degree of frustration in the sense that I have to say there is not a lot to report to you today but, of course, I want to come back to you as soon as you would wish me to, once I have better information.

I am guided by the basic principle that we need somehow to create a structure where these costs are affordable for leaseholders and there is a sense of fairness felt at the end of it. In the meantime, of course, that structure needs to speed up the works and to unblock the arrest of works, because that is what will bring back the value for leaseholders in their leases, where they are currently trapped and where mortgage providers are not able to offer mortgages in the way they have in the past. Opening up the market, restoring values and a sense of fairness for leaseholders is my guiding instruction.

Lord Greenhalgh: When I have engaged with residents and leaseholders, they have pointed to models such as Flood Re and Pool Re. Michael’s background specifically is that he developed those models, so he is bringing that experience to bear on this problem.

Q236 **Mary Robinson:** Would I be right to surmise that you are willing to be innovative in the way you look at this whole issue?

Michael Wade: I hope so. You will have to be the judge of whether I am innovative. I cannot claim to have invented either Pool Re or Flood Re but I worked very closely on both those projects, and those are areas where



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we had knotty problems such as whether you have an absence of insurance cover for terrorism, for example, going back to 1993.

Q237 Mary Robinson: Lord Greenhalgh, on the Building Safety Fund, this Committee agrees that it cannot be fair for the financial burden of remediating buildings to rest solely with taxpayers, but believes it will be necessary for the Government to provide funding upfront. Given the urgency of the remediation works, is it not inevitable that the taxpayer will have to bear some short-term costs?

Lord Greenhalgh: It is fair to say that, in terms of grant funding, the taxpayer is putting up £1.6 billion, when we take the Building Safety Fund with the amount of money that has gone towards the remediation of cladding with aluminium composite material. The £1 billion has not yet been spent, and finding a way to make sure that gets out of the door as quickly as possible is something that officials in this Department are working very hard on with our delivery partners, Homes England and the Greater London Authority. It is fair to say, though, that Michael is trying to do something in addition to the grant funding route in order to make sure that we make the historical defect costs of remediation affordable to all our leaseholders.

Q238 Mary Robinson: How quickly is that money moving through the doors?

Lord Greenhalgh: We have got to the stage where registrations have closed and applications are going through. It is a relatively small number of applications that have gone through to delivery partners. I am convening a meeting with Homes England, looking at how we can quicken that pace.

Q239 Mary Robinson: The residents of the Skyline building in Manchester recently had their right to challenge the Building Safety Fund rejected on the grounds that its purpose was to accelerate safety work, not to protect leaseholders from costs. Was this your interpretation of the Building Safety Fund?

Lord Greenhalgh: It is certainly fair to say that the Building Safety Fund is there for the removal of non-ACM flammable cladding. It is also fair to say that, even when we responded in the consultation to the Hackitt review, we made it clear that some costs would fall on leaseholders—they would not be protected from all costs—but we have always been keen to ensure that, where possible, we can make it affordable to them.

Q240 Mary Robinson: Do you expect the proposals that you bring forward to protect leaseholders from the unaffordable costs of fixing historical defects to cover those residents who have already contributed to the cost of remediation, or where are they left?

Lord Greenhalgh: Let us just take a look at what has happened so far. Developers and building owners in more than 50% of buildings with ACM have stepped forward and done the right thing. Unfortunately, that is not all building owners and developers. We recognise that, where possible,



we want to protect leaseholders, but there has always been an expectation that some of these costs will fall on leaseholders. The challenge is how you make that affordable. I do not want to talk about a specific building, although, in terms of the Skyline building that you mentioned, the judicial review has now fallen away, as you mentioned. Unfortunately, there will be cases where costs do fall on leaseholders.

Q241 Mary Robinson: You will know and understand that residents are very worried and are facing a lot of difficulties. This is a real challenge and an ongoing issue for them in terms of the value of the properties they are in. Some residents are facing bills of thousands of pounds to make their buildings safe, and this Committee has previously recommended that the Government should include the costs for interim safety measures in the Building Safety Fund for the remediation. Will the proposals cover the costs of interim fire safety measures?

Lord Greenhalgh: The answer is that we are not covering interim measures. We are focusing on the remediation of the flammable cladding that is a fire accelerant. That is where we are putting our money to work. At this Committee, I published some proposals around how to deal with the admittedly very high costs, in some cases, of interim measures, and two things that happened are helpful. The first is that the NFCC has revised its guidance on interim measures that really does show that alarm systems can be a way of providing that interim cover, and far more cost-effective than waking watch. It takes about seven weeks to pay back the installation of a fire alarm system, so I thank Roy Wilsher from the National Fire Chiefs Council for that document, which is helpful for leaseholders.

The second thing is that the Department has published the disparity of costs for waking watch, and this can be used by leaseholders to challenge unreasonable costs that occur through their service charges. There is no doubt that some leaseholders are paying far too much for waking watch, and for far too long. These are two things that we have done, which are practical measures to help out.

Q242 Mary Robinson: Michael, the Housing Defects Act 1984 introduced a grant scheme to help owners who had unwittingly purchased “designated defective” types of property—it was a specific designation—from a public authority; they were largely constructed poorly after the Second World War. Have you considered this or any other precedents in thinking about solutions?

Lord Greenhalgh: That is not something Michael should comment on. The Housing Defects Act 1984 is something we are interested in learning from. That Act came through in the early 1980s and provided, as you say, grants through local authorities for those who bought, essentially, defective premises. The big weakness of the Housing Defects Act—the Chair quizzed me on this early on in my term, and I was a little flaky in knowing the exact detail—is the statute of limitations, which is relatively limited. I am asking my officials to look at whether, for future buildings



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as opposed to historical buildings, there is an opportunity to extend the statute of limitations. It is not really going to solve the problem Michael is dealing with. That is why I decided to cut in.

Q243 **Mary Robinson:** That is fine. Finally, Lord Greenhalgh, can you reassure the Committee that the Building Safety Bill will not be introduced to Parliament before the Government have brought forward the solution to protect leaseholders?

Lord Greenhalgh: We very much feel that we will not get an easy passage through Parliament without that, so our aim and endeavour is to do this before Bill introduction.

Q244 **Chair:** I want to follow up, Minister, on the words that were used there, which you used very carefully, that the costs should be affordable for leaseholders. Previous ministerial comments were that these costs should not fall on leaseholders, and that is quite a significant change of wording, is it not?

Lord Greenhalgh: It has to reflect the complexities of English property law. I studied land law in the 1980s, so it is a long time since I knew exactly how the landlord and tenant system worked, but it really is down to individual leases that often determine who pays, as well as whether buildings are in or out of warranty and the position of the freeholder. If the freeholder decides not to do the right thing and they are out of warranty, in law the leaseholder, unfortunately, faces the bill, if you like, without intervention.

Q245 **Chair:** That is the heart of the problem, is it not? It may well be the legal case that leaseholders are legally obliged to foot the costs, but the reality is that they cannot. The reality is that those buildings are going to stand unremediated if leaseholders cannot pay. They are going to be destitute, in many cases. I thought the whole idea of Government funding was to stop that happening.

Lord Greenhalgh: It is the whole idea of the grant funding that we have already put up but also of the work that Michael Wade has done. It goes to the heart of what we are trying to do.

Q246 **Chair:** There is a change of wording here from what Ministers have said in the past, and we will want to follow that up. It has certainly been in the past that leaseholders should not have to pay.

Lord Greenhalgh: I appreciate that, but I am very clear that we want to make sure that it is not unaffordable for leaseholders. I was not there in the past. You have a longer time of knowing what has been said, but that is certainly the position that I hold. I want to make sure that it is affordable.

Q247 **Chair:** Quite a few leaseholders will probably be slightly worried by that position, but we will come back to that in due course.



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Lord Greenhalgh: Affordability means it has to be something they can afford and they will not go bankrupt. That is the whole point.

Q248 **Chair:** The costs could still be significant, even if they are affordable, could they not, for leaseholders?

Lord Greenhalgh: Our aim is to make sure they are affordable. That is certainly the objective.

Q249 **Chair:** Could you give the Committee a definition of "affordable" at some point, even if it is in writing?

Lord Greenhalgh: Again, bankruptcy is very clear and defined as when someone is insolvent, but we are looking to make sure it is something they can afford to pay and still live in and enjoy their home.

Q250 **Chair:** That will be different for different leaseholders in the same property, will it not?

Lord Greenhalgh: Yes, of course. I understand that.

Q251 **Chair:** It would be helpful to have a definition of "affordable" at some point.

Lord Greenhalgh: We will do our best to give you a definition.

Q252 **Ben Everitt:** In bringing in the building safety charge and introducing it in the Bill, the Government have described it as being to "facilitate transparent recovery of costs incurred by landlords in putting in place building safety measures". Anyone can see that there is a lot of Government in this Bill, and we have already had representations from representatives of freeholders and property managers who have told us that the building safety charge is an unnecessary additional layer of bureaucracy. What is the thinking behind not having it as part of the service charge?

Lord Greenhalgh: We need to understand that leases are written in different ways and service charges do not all operate in the same way. I have seen views of lawyers that indicate it may be very hard to put costs that relate to historical defects through the service charge in some cases. Therefore, the costs that relate to prospective building safety measures, like the cost of a building safety manager and some of these other things, need to be very upfront and not hidden away. This is for high-cost buildings that are six storeys and above 18 metres. There is something very clear for leaseholders to see that relates to the new regime to ensure that their building remains safe.

Q253 **Ben Everitt:** We are confirming, then, that the historical repairs are separate to the ongoing building safety.

Lord Greenhalgh: It is a separate issue. The building safety charge is about looking forward prospectively.

Q254 **Ben Everitt:** I am aware that we just dipped our toe into property law



over the last few decades. The Institute of Residential Property Management has told us that, "Leasehold and service charge law is governed by a handful of statutes and a great deal of case law, built up over the last 35 years". We have "similar but different" provisions being proposed with the addition of the building safety charge, and they suggest that these will lead to more court cases in the coming years. Are they barking up the right tree? Is that what you see coming?

Lord Greenhalgh: As someone who avoided the law as a profession, we should be doing our best to ensure that does not happen. That is certainly something that our officials think can be afforded, and they are also getting counsel's advice to avoid that. It is something this Committee needs to raise. If they see any ways in which we can strengthen the way the Bill is currently drafted, we are very open, but we believe there will be less legislation in the round.

Q255 **Ben Everitt:** There are restrictions on the building safety charge, for example around timely demand. Should there be an upper limit?

Lord Greenhalgh: That is an interesting policy question, and one that we will certainly consider before introduction. The idea is that it is transparent, proportionate and reasonable for what is being asked.

Q256 **Ben Everitt:** The requirement to pay within 28 days is currently being kept under review, to use a phrase that is used a lot at the moment. What will be the appropriate outcome of that review?

Lord Greenhalgh: In terms of the 28-day demand, you pointed out that this is for prospective costs to do with building safety. It is important that leaseholders know that, when a demand becomes payable, it does not exclude a leaseholder's right to challenge its payability. We need to ensure that the 28-day requirement is not concerning to those leaseholders who may face unexpected large bills. The issue for us is when they have ongoing costs of maintaining the high-risk regime, which are reasonable and fair, but they may also face bigger bills. That is something we need to work through in terms of making sure that the leaseholder in question is not overwhelmed with the costs of the past and the remediation of that, and with the prospective costs of maintaining the building to be safe in the future.

Q257 **Paul Holmes:** Good afternoon, Minister and other witnesses. The initial scope of the regime, which considers height alone, has been criticised as being too simplistic and crude. Minister, what is your assessment of how effectively this reflects the risks that are present in buildings?

Lord Greenhalgh: It is very fair to say that everybody considers height as an important marker for risk. I spoke very recently to Dame Judith, and she has given evidence to this Committee that there are 500 fires in high-rises all over the world every year. We recognise that the fire risk is far greater in buildings over 18 metres in height, and even greater over 30 metres. You are right to say that it is not the only measure, and Dame Judith also provided me with something from the International Building



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Quality Centre that looks at how regulation is conducted for high-risk buildings throughout the world. They would look at the size of the building, the intended use and location, the likely number of occupants and their vulnerability, which this Committee has raised as an issue, the proximity to adjoining buildings and whether the building has multiple applications. There is a whole range of factors that need to be considered when we think about scope. Certainly, height and use, as I said, are two of the limited number of criteria used in the UK and internationally to characterise the level of risk.

Q258 Paul Holmes: Bearing in mind the factors that you have just mentioned, which were provided to you by Dame Judith, have the Government made an assessment of how many buildings will be covered by the regime, based on different risk factors, apart from the two you just mentioned?

Lord Greenhalgh: If we look at height, what we are saying is in scope are buildings of six storeys or above 18 metres, but we must remember that that would include the Cube at 17.7 metres, if it is above six storeys. Those are complex multi-residential buildings, which we would define as high-rise. Chandru may want to come in and say more, but it is important that that is in scope but that the Bill has the ability to widen its scope as we get this regime up and running. We then need to look at a number of factors in order to introduce the buildings that are truly high-risk.

Chandru Dissanayake: The Minister covered it excellently. The Bill sets the framework for us to be able to look at scope, but the scope will be decided in secondary legislation, and work is ongoing in relation to that. We are clear, as the Minister said, that buildings 18 metres and above, and six storeys or more, are definitely in.

Q259 Paul Holmes: It is good to hear that you are open-minded to assessing other aspects, one of which, as has been communicated to this Committee, as I am sure it has to you guys, is that many witnesses have suggested that vulnerability, financial or otherwise, of residents in a building is a key concern. Minister, is this a factor that should be considered going forward, possibly in secondary legislation?

Lord Greenhalgh: I would want to defer to the experts. This is a difficult area because we would love to take a risk-based approach to this from day one, but the reality is that risk operates in a number of different spheres. Fire risk is one element. We have the National Fire Chiefs Council thinking about a risk stratification for fire safety. Building safety has its own set of risks, and the Royal Institute of Chartered Surveyors is looking at a risk stratification model for building safety. Also key is the regulator. What does the regulator define as a way of identifying "high-risk"? It is a matter for us to be led by the HSE's view about what is appropriate in terms of how we widen the scope in the right way and get the sequencing right. That approach is something they would need to work on.

Q260 Paul Holmes: You slightly answered this, but I want to push you a bit



further. When I say “slightly”, I am being uncharitable—you have answered this—but I want to bury down into it. How do you see the process of bringing further buildings within scope, and in what timescale? You have outlined, as did Chandru, in terms of being open to widening the scope through secondary legislation, but have you, through the passage of this, looked at what timescales you might be looking at to bring in other factors?

Lord Greenhalgh: I look at this as I would view someone who is trying to test something out. The phrase that I learned in my early business career was, “Test what you want to expand, and expand what you have tested”. In shadow form, we are trying to work up the things that we need to do to get an effective regulatory regime led by a new chief inspector of buildings. The Bill has to pass through the House, and that will take all of next year. We then have to allow the new system to bed down in the following year. It is probably a higher risk than necessary to widen the scope so greatly that the regulator cannot cope. It is a question of working closely with them in the course of the next few years to widen the scope, but I would not expect that scope to widen for another one to two years. We will come back to the Committee when we have more information to impart on that.

Q261 **Paul Holmes:** I appreciate that. Thank you, Minister. Just turning to Chandru to address some more detail, the Bill is, understandably, focused on fire and structure issues. We completely understand that, but some written evidence has suggested that the scope of building risk should be expanded to cover, for example, flood, escape of water and security. Has a more holistic approach been considered by officials at the Department?

Chandru Dissanayake: To be clear, during design and build, it is the full breadth of building regulations and their functional performance that the Bill covers and that buildings will be subject to. It is in occupation where the focus is on fire and structural safety, but the Bill also says very clearly “any other prescribed matter”. A bit like scope, we leave it open for the regulator to advise on what those prescribed matters should be in the future, but these must be based on evidence.

Q262 **Paul Holmes:** Talking of evidence, some evidence to us and to the ongoing consultations has suggested that the regulations in general provide a minimum bar, but that the Government should be aiming much higher to ensure that the quality, sustainability and safety of our buildings should be a “race to the top”. How can the regime help achieve that?

Chandru Dissanayake: I wholeheartedly agree with that. Industry must move and improve standards over time, based on new technologies and new evidence—that is the culture change Dame Judith Hackitt talked about—and not focus on the bottom. It is about how we get our sectors to really focus on improving standards for residents and for the quality of buildings, so I wholeheartedly agree with that. The regulator provides the foundation, but we are working with industry, industry partners and



leaders and other partners, such as the British Standards Institution, to really push this to see standards improve over time. I wholeheartedly agree that the sector should not be aiming just to meet regulations.

Q263 Chair: Just to pick up on the issue of what is in the Bill and what will come later in secondary legislation, and this issue of expanding scope, I recognise that a lot of advice will come from the building regulator in due course, but would it be appropriate at least to put on the face of the Bill those factors—probably not exclusive factors—that the regulator will be asked to take into account when looking at expanding the scope in the future?

Lord Greenhalgh: That would make a great deal of sense to me. We have a clear idea about how we stratify risk and how that would be considered in terms of what comes in scope. It is a good suggestion.

Q264 Ian Byrne: We would all agree that residents' voice is absolutely crucial in moving forward. We have seen so much evidence where people put forward that they did not believe their voice was heard. There are concerns that the approach to resident engagement in the Bill is very top-down. The current system for resident engagement is, as we heard, unsatisfactory. What will the Bill do to make engagement with residents meaningful and inclusive across the various tenures, all of which have different issues?

Lord Greenhalgh: I know you have already heard from Sarah Albon, the chief executive of HSE, who has made it very clear that resident engagement is critical. It is also important that the Bill seeks to have a resident engagement strategy. This Committee can make recommendations that ensure we get, through that strategy, much more of a bottom-up approach. I agree with you that this will fall down if it is too top-down. You have a local government background, and I have been a councillor for 16 years, and I appreciate that what you do not want is a self-appointed boss telling you what everyone thinks. You want to get to hear the voice of all residents in social housing in particular, and also, for that matter, have an opportunity for residents of all types and tenures to be able to feed back. That is something we need to pick up as part of that resident engagement strategy.

The other thing is to have a very clear way of making complaints. As you know, we often pick up problems through the complaints process, so ensuring that people have access to that will also be important.

Q265 Ian Byrne: It is quite refreshing to hear that; that was a good answer. Let us talk about inclusiveness, which I mentioned before. The definition of "resident" for the purposes of the Bill is a person who lawfully resides in a dwelling. The National Housing Federation and Leasehold Knowledge Partnership have expressed concern that this could exclude some occupiers in a building, for example sub-letters, but also leaseholders, who may own the property and have an interest in safety issues but not be residing in the building. Is it not extremely important to include these



people when we talk about inclusiveness, so everybody has a voice in the regime for building safety?

Lord Greenhalgh: That is the sort of suggestion that can add to the strength of the Bill. I agree that we want to make sure that we are not restrictive in terms of the stakeholders who can engage with this new regime. That would include, as the Leasehold Knowledge Partnership points out, those who potentially own a flat in a high-rise but are not living there. Also, as you point out, the National Housing Federation's point is good. That is something we need to consider and, hopefully, those points will be made in your final report.

Q266 **Ian Byrne:** The National Housing Federation found through their work that significant barriers to engagement are faced, including availability and finance. How does the Bill address these issues? We are building on that inclusivity and the ability to have a voice.

Lord Greenhalgh: I am not aware that the Bill addresses that kind of support but, in the same way that we want to have good advisory services for leaseholders—at the moment we have an organisation called LEASE—we want to make sure that we have the pathway and advice for social tenants in buildings owned by registered social landlords or local councils.

Q267 **Ian Byrne:** The sentiment is quite clear, where we are trying to go. The Bill imposes some specific duties on residents in relation to keeping any relevant item in repair and proper working order, and to take reasonable care not to damage any relevant safety items. The National Housing Federation is concerned that these duties may be too onerous on residents, especially those on low incomes. How can low-income residents be protected from significant additional costs?

Lord Greenhalgh: This goes back, again, to Michael's work. The issue around affordability affects everybody, irrespective of tenure, so the concerns that the National Housing Federation is raising are concerns that many leaseholders in private buildings are also facing. The principles that Michael is working on would apply to anybody, irrespective of tenure.

Q268 **Ian Byrne:** Everyone is watching this, and the affordability issue, which you raised before and you have raised again, is going to strike fear into people's hearts. People will want clarity on what is affordable. I know the Chair has raised that with you, and I can already see on Twitter that there is a storm of protest about what is affordable. That will be a really interesting outcome to our report and where you go with this. It is not clear whether the Bill imposes a duty on residents to inform the accountable person of names and contact details. Should this be a specific duty on residents?

Lord Greenhalgh: Let us understand what we are trying to achieve with the accountable person. The accountable person is responsible for the safety of the building and will have a range of enforceable safety obligations. They appoint the building safety manager. The point of Dame



Judith wanting to have an accountable person is that someone is held to account for dealing with this. Very often, it will be the building owner, but sometimes it could be the head lessee. In some cases, where you have residents' organisations that run the building, it may be someone else. The issue is that we have to recognise the complexity of English property law and work towards a system where, irrespective of the situation, someone becomes that accountable person.

Q269 **Ian Byrne:** For clarity, it might be better putting something within the Bill, just so people understand exactly where they are. Sometimes, the ambiguity leaves the ability for people not to do what is needed here.

Lord Greenhalgh: It is the right probing, and it is fair to say that the concept of an accountable person is not difficult to understand but the complexity of the ownership of buildings, which varies very greatly, is something that we have to contend with. The important thing is that the Bill needs an open door about who can be defined as the accountable person.

Q270 **Ian Byrne:** We will go through that in the report. Lastly, the Building Safety Regulator must establish a consultative residents' panel to advise on guidance and other issues. Who should sit on it to make sure it is able to effectively contribute to policy considerations and, crucially, also to be respected?

Lord Greenhalgh: We are looking to be guided by a cross-tenure residents' reference panel and the feeling safe research project. The view is that we set out robust requirements in the Bill that this panel is effective in engaging with residents. Although the plan may not be worked up in its detail, what you have in evidence given to this Committee is a commitment to listen to residents' concerns from the new regulator that will be housed in the HSE, and the regulator will be bringing out a strategic plan that speaks to that. I do not want to say any more until I am apprised of those points.

Q271 **Bob Blackman:** One of the things that we have heard during our evidence sessions is the issue around clarity on roles and responsibilities, particularly where a high-risk building has more than one accountable person. The evidence that we have thus far is that it can be very confusing for people as to who they go to, and it could end up being very costly for residents, because these costs are going to be passed on to them in some shape or form. There could be a property manager and possibly several different building safety managers, and they may have overlapping duties, for example dealing with complaint systems and other elements of the role in the building. That adds to the costs. How are the Government going to make this proportionate to the risk?

Lord Greenhalgh: That goes to the heart of making sure we take what works in law to something that works in practice. The work of this Committee will help that. We are working with expert legal counsel to review our accountable person clauses to ensure that, where there are multiple accountable persons, which you referred to, they can work



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together to ensure there is a whole-building approach, as Dame Judith Hackitt wants us to take when it comes to buildings, and that they appoint, even if there are multiple APs, one building safety manager.

One thing that came out from my ministerial roundtable is that I was really worried that the idea of a building safety manager loads unnecessary cost on to leaseholders, if we are not careful. What I mean by that is that you want to see an upskilling of the property managers, who are quite expert in what they do, to have the necessary skills in most cases—a bit like we have seen the upskilling, through continuing medical education, of general practice—and that they refer when they need specific advice, rather than paying for some super-expert who you really do not need 365 days in the year. It is about an upskilling of property managers rather than having multiple people who are responsible for the safety of the building. I have discussed that with Dame Judith Hackitt, and she would agree with that approach.

Q272 Bob Blackman: One of the issues that comes out from the draft Bill as it stands, as we can see, is whether you will be amenable to suggested ways that the Bill could be amended to clarify this issue. There will be a lot of worried people out there.

Lord Greenhalgh: It would be incredibly helpful to ensure clarity, and we are very keen to hear positive suggestions on anything we can do to sharpen up the Bill.

Q273 Bob Blackman: You spoke about upskilling. One of the concerns is the capacity of the industry, particularly in relation to the skills and expertise that are going to be required by these new duty holders. How are you going to make sure that the upskilling can take place?

Lord Greenhalgh: We are in discussions, through officials, with the relevant bodies about how we bring in the qualifications and skills to do precisely that. I would say that we are going to have to use the time that we have in shadow form to work with the relevant bodies, such as the Institute of Residential Property Management, ARMA and others, and also with our competence steering group, to come up with the proposals that do precisely that. We have a little time before the Bill comes into force, but it is absolutely the right question to ask.

Q274 Bob Blackman: One of the issues is going to be whether people are going to have to go through training courses. Who then runs the training courses? Are they going to have to achieve certain qualifications before they can take on these sorts of roles? People will be looking and asking, “What is the intention here?”

Lord Greenhalgh: This is industry-led. It is wrong that Whitehall tries to lead everything. We have a competence steering group that is trying to define the competencies required, raise competence standards and ensure that the qualifications required to demonstrate that are there.



Chandru Dissanayake: The competence steering group has published its report in relation to the core competencies that the building safety manager could hold. They have set it out as a British standard in terms of principles that can be demonstrated. I am sure that Dame Judith, in her evidence to you, will have mentioned skills, knowledge, experience and behaviours as key characteristics that we would expect to see in anyone undertaking this duty. I would also point the Committee to work that is already being undertaken by some housing associations to embed building safety managers across some of their buildings, and they are getting ahead of the game, as are some of our early adopters. There is a lot of work and focus in industry on how they make this work, so that it is effective and affordable. I commend that, and we are looking to industry to step up more, take this forward and really get ready before the Bill comes in.

Q275 **Bob Blackman:** You will have seen, from the evidence we recently got from representatives of the industry, their concerns, notwithstanding the publication of the competence matrix and suchlike, about the capacity to deliver people to do these sorts of roles. Things do not stand still and we have a shadow position before the legislation becomes law. Clearly, this has to go hand in hand; otherwise, on day one, we are going to have legislation and, potentially, no one to do these jobs. Can we be clear on what preparation is being made to get people up to the required levels of competence?

Chandru Dissanayake: It is critical. It is ongoing and we are working very closely with the competence steering group and the boards that come out of that to ensure that courses are held and the right skills are being implemented. You will also notice that the Bill allows for a competence group within the Building Safety Regulator, and we see that as a key vehicle to ensure that the regulator is married into the requirements and the capability and capacity of industry, to make sure that is driving up standards and that capacity is available in the industry to ensure that the regulations are implemented effectively.

Q276 **Bob Blackman:** When do these courses start, and how do you apply?

Chandru Dissanayake: I will have to check with the competence steering group. I know that there are bodies already doing courses for building safety managers in terms of generic skills that you might require.

Q277 **Bob Blackman:** It is not for me; I am thinking of the people who might apply. I do not intend to apply for one of these roles, I can assure you. I am not sure, Minister, if you want to come back on this, but gateway 1 of the new regime happens before the duty holders under the Bill are appointed. The Construction Products Association told us that the requirements for planning documents and fire assessments under gateway 1 require a professional person to prepare. Who is going to do it, and how can quality, professionalism and responsibility be assured?



Lord Greenhalgh: Essentially, what we are trying to achieve is a culture change that ensures we do not see what we have seen in the past in terms of historical fire and building safety defects. That means that all involved in the design, construction and refurbishment work take responsibility and can be held to account. As you point out, gateway 1 is delivered through the existing planning system, and the expectation is that people with the right competence are employed for the technical aspects of planning applications. As you know, as a former council leader, it is possible to use the planning system to ensure that that work is done properly. As you say, the planning system does not require duty holders to be appointed, but that provides flexibility for the planning system. You can be sure that it is on the right path, though

Q278 **Bob Blackman:** One of the things that we all want to see happen is that buildings are built safely to start with, rather than having to go back and retrofit them, which is much more expensive—to get this in, in the first place—and it is getting that advice, help and guidance to developers before they start putting buildings up and then start saying, “You have loaded us with unfair costs” and so on.

Lord Greenhalgh: I completely agree. The real issue is that the cultural shift needs much more of a systematic approach to construction beyond the planning stage. I would say that we seem to have lost that systematic approach to building in recent decades. If you go back to the Victorians, they had their pattern books. If you go to Bath, there is a very systematic approach to construction. What we want to see is that same approach with modern methods of construction, whether volumetric or non-volumetric modular construction that is being pioneered by particular volume builders, but also design for manufacture and assembly. Essentially, it is a bit like Meccano and you inherently know that there is very minimal risk, that you are using the right materials in the right way and that it is properly sequenced. That is part of the culture shift we need to see in the system. As you know, once you pass gateway 1, you have gateway 2, where there are duty holders, and that all happens before construction starts. That is the important thing.

Q279 **Bob Blackman:** There is also a suggestion from some of the evidence we have received that independent accreditation and a register for these roles in the Bill, such as principal designer, principal contractor and building safety manager, should be maintained. Do you agree with that? If so, would you want to see this in the Bill?

Lord Greenhalgh: We feel, and I certainly feel, that that is a decision for the industry around whether there should be a register. It should not be a diktat from Whitehall. The Building Safety Regulator will be responsible for assisting and encouraging competence among the built environment industry. We have the regulator, on the one hand, ensuring that there is competence, and the industry may well decide that a register is the way to go. Registers help identify competent individuals. If you talk to RICS, which has a register of architects, it is a great way to know that someone is not a cowboy, so I would hope that industry does not spend too long



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thinking about it as a sensible approach, but I do not want to have to order them to do it.

Q280 Bob Blackman: The worry will be if, as you say, other people who are not on the register are providing help and advice, and that advice is not up to the required standard. There is a moot point here about whether it should be in legislation or in the industry, and I quite accept that.

The other issue that has come out very loud and clear during our evidence-gathering is the issue of insurance premiums for professional indemnity insurance, or even, worse still, that insurance companies may not be willing to provide cover for people in these circumstances. Do you see this as a potential risk that would prevent the roles of competent individuals from being delivered, therefore undermining the whole regime?

Lord Greenhalgh: There is no doubt that access to professional indemnity insurance is one of the things that we are grappling with as an issue. It is needed to deal with the problems of the past, but the skills of competent fire engineers are needed for our complex-risk buildings. There are a number of things that we recognise need to happen. In fact, it is Chandru's team who are working on those things, and he may want to comment specifically on this.

Chandru Dissanayake: The regime introduces real clarity on information that is missing in the current regulatory system. It introduces real clarity on accountability and competence, which, again, is often missing in this system. The safety case introduces real clarity on processes and performance in relation to how building risks are managed. In that sort of context, it provides insurers and other parties with much more information than they have today in terms of understanding the risks and how those risks should be priced and managed effectively. In addition, there is a much more muscular regulator pre-empting and taking action where it is required. My hope would be that, with all of that additional insurance that this new building system and building regime brings, we will not see PII being a barrier to the sector stepping up, but that, rather, it will help reduce costs over time as people become more confident that these risks are being managed effectively.

Q281 Bob Blackman: What has been the reaction from the insurance industry thus far?

Chandru Dissanayake: We are beginning discussions now with the insurance industry in relation to those things in the Bill—as I said before, competence, processes and information—to make sure that they mirror what they might require and to ensure that the system works effectively. We are clear that we cannot operate without the insurance industry and the wider market operating with us.

Lord Greenhalgh: It might be helpful to hear from Michael Wade, because he is an expert. He has been Crown insurer. In this whole issue of professional indemnity, whether it applies to duty holders or



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professionals doing historical remediation, Michael is the expert and might want to comment.

Michael Wade: You are quite right that professional indemnity insurance has been lacking in many areas, and this is one of them. It has been the uncertainty of definition of where liability applies that has caused insurers to have a problem. I have been in touch with a number of insurers, as well as the ABI, on the recognised absence of capacity of insurance in this area and/or the high cost of it. Again, it is early stages and I am sorry if it is frustrating to give non-answers, but I am in touch with the industry. I have expressed the view to the industry that it should not look at all risks with the same brush, so to speak, but look at the risks individually. “Computer says no”, is not the right answer to this problem.

We are hoping they will take a much more detailed approach to looking at these risks in professional indemnity and, indeed, buildings insurance in this whole area. These are the two areas where, although I would not say that there has been a failure of insurance, it has certainly been too expensive or lacking in quality of cover in terms of breadth of wording.

I am very much on the case. There are certainly precedents for creating schemes or pools to address shortages of capacity. We referred earlier to things like Pool Re and Flood Re where industry has failed to provide the cover required. Certainly, we are working in and looking at all areas, and recognising it as a current problem.

Q282 **Brendan Clarke-Smith:** Does the Bill do enough to tackle the much-criticised past culture of the construction industry? I am thinking in particular about the things that Dame Judith identified, such as the primary motivation to do things as quickly and as cheaply as possible.

Lord Greenhalgh: We have to recognise what is happening. This is creating a new regulatory regime for high-risk buildings. We have the Building Safety Regulator operating that regime. Competence and culture change will drive that up and follow it. It may not be written on the face of the Bill, but if you build buildings that have to go through the level of scrutiny and oversight—if you put in place the measures that we have talked about in occupation, and you are very clear that someone is going to be held to account all the way through, from a duty holder before construction begins right to occupation—then you will see that increase in culture. A number of things drive that, not just the legislation and having a Bill. It is, as I say, dialogue with the industry and thinking about quality at the same time as we think about safety.

Q283 **Brendan Clarke-Smith:** On that subject, how can competence be embedded throughout all the stakeholders working in the design and construction of buildings in order to make sure that we are getting those quality homes that are safe for people to live in?

Lord Greenhalgh: It is fair to say that we have learned a lot about this from the early adopters group, which was one of Dame Judith’s



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recommendations, to see those who champion building safety and can share best practice. They are spearheading that cultural shift, if you like, for the built environment industry. They were signatories to the Building a Safer Future Charter in the early part of this year. I have dialogue with Amanda Long from the Considerate Constructors Scheme, which is thinking about opportunities for the industry to improve and also to signal to consumers and potential purchasers things around quality and safety. Those are the vehicles that are being used to drive the cultural change that we all want to see.

Q284 Ian Byrne: What lessons have been learned since January, when the Secretary of State announced the immediate establishment of the regulator in shadow form?

Lord Greenhalgh: We have learned a considerable amount since January. The HSE has started to build the infrastructure required to deliver the new regime. They have appointed the top management team to deliver its functions, and they have been doing pilots of the new regime with industry early adopters, as well as providing the guidance for industry. The shadow regulator is continuing to engage stakeholders to ensure that they know how the new regime is intended to operate, and I am pleased to say that recruitment for the chief inspector of buildings within that regulator is now open, and perhaps you should apply. Perhaps not, but anyway, it is moving ahead at pace and there has been an investment of not quite £20 million this budgetary year to ensure they are in place to build up the new regulatory operation.

Q285 Ian Byrne: I will just drill down on the HSE aspect. The *Financial Times* reported in May that funding to the HSE has been cut by £100 million since 2010. That is a cut of 46%. Its workforce shrank by one third over the last 10 years. There is a real concern, with the spending review looming, that insufficient funding will impact the regulator's ability to get to where it needs to be. As the Chair said, this underpins everything. How can you reassure us that your Treasury colleagues will have this as their priority?

Lord Greenhalgh: I know that the building safety regulatory changes are a key part of what this Government want to achieve. There is no doubt that this has cross-party support. We just want to ensure that Grenfell never happens again. I was wrong about the precise figure when I said £20 million; it is £16.4 million this year to enable the HSE to establish the Building Safety Regulator. I said it was around £20 million. There is a specific spending review proposal on the funding needed to operate this regulatory regime. We want to make sure that is separate from the rest of the HSE funding, that it is ring-fenced for its intended purpose and that, if there is a squeeze or a shortfall, the money is then funded by the Ministry of Housing, Communities and Local Government and not by the host organisation for the HSE, which is the DWP. The budgets are, effectively, being kept separately, so that the money that is going towards building safety reaches building safety. That answers your question.



Ian Byrne: It is ring-fenced.

Lord Greenhalgh: It is ring-fenced, essentially, yes.

Q286 **Ian Byrne:** We have also heard concerns that a two-tier system might be created, which will be very rigorous for high-risk buildings but with those non-designated buildings not getting the same level of protections. Are you concerned about this potential anomaly within the Bill?

Lord Greenhalgh: It is fair to say that the high-risk or enhanced regime is focused on risk. It appreciates that the risk to life is far greater in buildings taller than 18 metres. Between 18 metres and 30 metres, buildings are almost four times more likely than apartment buildings of any height to have a fire involving a fatality or a casualty requiring hospital treatment. That was in the period between 2011 and 2018. Staggeringly, this increased to over 35 times more likely for buildings over 30 metres compared to buildings of any height, so this is very much a high-risk regime using height as a marker for risk; based on the statistics, that would make sense.

There are other bits of the regime: the fire safety order, which will be amended by the Fire Safety Bill, applies to all buildings of all types. Although the measures here apply just to the high-risk regime, we are hoping they will be reflected in the approach to all buildings.

Q287 **Ian Byrne:** Can fire safety be brought across to this Bill if required? We got a lot of concern from many witnesses that they thought the 18-metre bar potentially rules out many buildings that need this sort of work. It was a real concern from the witnesses. Our job here is, as you said, to look at the Bill and influence it to make sure it is a fairer Bill. Is that something you would bring back?

Lord Greenhalgh: I have answered this, in some respects, in answer to previous questions. We want to make sure that we get the high-risk regime right and we do not widen the scope too greatly so that it just does not work and the Building Safety Regulator cannot cope. Let me give some numbers to that. If you are talking about buildings taller than six storeys or 18 metres, that is about 11,000 to 12,000 buildings. The moment that you look to a threshold of 11 metres, you head towards 100,000 buildings in scope. If you look at care homes, that is another large chunk. We want to make sure that we take an approach to this high-risk regime based on what the regulator considers as a risk and expand it appropriately.

The two regimes—the fire safety regime and the Building Safety Bill—have to operate together cohesively, even though their scope is different. That is why some very bright person in some position designed my role. I am Fire Minister in the Home Office at the same time as being the Building Safety Minister in MHCLG, precisely because we want the officials and the legislation to work together, even if the scope is different.

Q288 **Ian Byrne:** The regulator has the power to establish committees to



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advise it, but clause 12 of the Bill allows the Secretary of State to repeal all three committees by regulations, not even requiring consultation. Is there a situation in which that would be justified?

Lord Greenhalgh: First of all, let us just say that the three committees are the building advisory committee, which takes over from BRAC as it currently stands, the residents committee and the competence committee. The provisions on the regulator's committees are about striking a careful balance. We are providing Parliament with clarity about our intentions by placing the requirements for these three important committees on the face of the Bill, but also allowing the committees' structure to evolve as the regulatory system matures and the regulator learns what works best. Effectively, we are trying to get the right balance, but we obviously want to hear what this Committee thinks and are open to your comments.

Q289 **Bob Blackman:** Clause 48 of the Bill amends the legislation. It removes the ability for people carrying out building work on higher-risk buildings to choose their own building control body. Why not all buildings? This seems to me to be a scandal where people can appoint whom they choose and control them. We want to make sure this is purely and utterly independent.

Lord Greenhalgh: Let us unpack that. We all accept that we want recommendations about how we can upskill and professionalise building control as a function. I am afraid I did not follow the advice not to use too much paper, but I have the report, *Recommendations on the future regulation of the Building Control Sector and Profession in England*. That is a very important part of thinking about it in the round, irrespective of whether they are local authorities or the private sector.

Within high risk, the Building Safety Regulator is, essentially, acting as the authority for building control. It is important, where they are, effectively, running the regime, that they are able to choose the building control body that they work with. That can be local authority building control or private building control. That does not necessarily mean they have to act as the building control authority for all buildings, and we would hope that lessons will be learned from the approach taken in the high-risk regime that reflects the competence, professionalism and standards when it comes to building control for all buildings.

Q290 **Bob Blackman:** One of the key issues here is that it is possible for particular people who are developing buildings to choose their own building control for buildings that are less than higher risk. The Bill does not seem to deal with this particular issue.

Lord Greenhalgh: I hear the point. You are saying that you can build a building that is of a certain height and the same system applies. How we address that is by ensuring that we improve the competence of building control and that there is a standard, competence qualifications that are required. We have learned from the Grenfell inquiry that you can get



well-meaning people who are simply not competent do the job. What we do to avoid that is to ensure that they have the competence. That is going to be an important part of the resolution. It does not mean that the Building Safety Regulator needs to be the building control authority for every building. It means that we have to ensure that culture of competence extends very widely, whether it is private building control or local authority building control.

Q291 **Bob Blackman:** Up and down the country, there are buildings that exist right now that have been signed off as being safe, and the issue is whether that was the right decision, whether they are high-risk, whether the decision was right and whether it was the case that the company building the building chose their building control and, therefore, people were encouraged to approve things that, in retrospect, were not the right thing to do.

Lord Greenhalgh: We know what happened. In the 1980s, we got the part-privatisation of building control. We have seen a better standard of service than the lumbering approaches we had in the past, but there is this issue, as you say, that you go to someone you know and whom you have used for many of your projects, and they do not really apply the rigour that you would expect. That is addressed by competence, qualifications and standards, as much as being the direct authority for selecting them.

Q292 **Bob Blackman:** Can we clarify how the Bill addresses the issue of competence to build this up? Right now, the position is that it will apply only to higher-risk buildings. What we want to see is the standard improved right across the industry, and making sure that buildings that are not in scope at the moment of being higher-risk are also made safe.

Lord Greenhalgh: What we also have to recognise is that the draft Bill is introducing a new system of performance monitoring and of individual inspectors and employers. There is a new professional framework for individual building control inspectors. This is going to apply to the whole profession. That is how we are seeking to address it through the draft Bill. I accept your point that there may be more that we can do, which is why we are going through the pre-legislative scrutiny.

Q293 **Bob Blackman:** The other argument that has been put, by the way, is that competition in building control encourages innovation, and that there is a risk, by this legislation, that we might stifle that innovation and drive down the quality as a result. That is a different argument that has been put forward. What is your reaction to that?

Lord Greenhalgh: That is precisely why we need to get the right balance between this. We need that competence and the basic level of quality, but I believe in competition. It is good to have competition. It is good to have many providers that you can choose from. If I built a building, I would want to make sure it lasts as long as the Romans lasted with their buildings. We want to build quality, ultimately. We do not want to build



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something that has a lifespan of 20 or 30 years and has to be pulled down. It is in the interests of everybody that we have that approach to the built environment.

Q294 Bob Blackman: The final bit from me is the issue that has been raised in written evidence about potential conflicts of interest, with the regulator being the standard-setting body and the control body. How are you going to address that?

Lord Greenhalgh: The Building Safety Regulator's oversight regime will not assess the performance of the Building Safety Regulator on high-risk buildings. The Building Safety Regulator will be accountable through Ministers to Parliament for the exercise of its functions, so the answer to that question is that the accountability is to Ministers, including on its role as a building authority for high-risk buildings.

Q295 Rachel Hopkins: Just touching on something you mentioned earlier about the read-across, the Bill is the main legislative vehicle for changing the regime, but we have heard concerns, including from the fire safety sector, about the possible overlap with other legislation, including the Regulatory Reform (Fire Safety) Order 2005, known as the FSO, and the Fire Safety Bill. How is all this being managed?

Lord Greenhalgh: I partly answered this. We know there are two regimes, as you point out: the fire safety regime, with the fire safety order that is about to be amended, the fire safety consultation and the Building Safety Bill. I am a Minister in both the Home Office and in the Department I am in now, and we are working to ensure that the two regimes work together cohesively for these in-scope buildings and that there is adequate regulation in non-residential buildings. That is an important part of what we are trying to do, and this very much has to be seen as a package of reforms that bring these things together. We have to recognise that the Building Safety Bill is an important part of that, but it is not the only thing, and secondary legislation that comes with the Bill will also be an important part of this.

Q296 Rachel Hopkins: I will come on to that, but a point that has come up is about how you will manage the fact that the duties in the fire safety order and the Bill will not always fall on the same people or in respect of the same parts of the building. It is these nuances that people want clarity on.

Lord Greenhalgh: Within the fire safety legislation, you talk about a responsible person, and then people say, "You are talking about an accountable person for the building safety regime", but what we have to recognise is that fire safety and building safety will not necessarily overlap completely, and accountability will not necessarily fall on the same person. The responsible person for fire safety is performing certain levels of functions for that building, and that is different from the building safety requirements where the accountable person takes responsibility and then employs a building safety manager. They are two different



regimes, one addressing fire safety and the other addressing building safety. We have to make sure that they come together to make sure that we do not have any more fires in dwellings, and fire deaths, and also that our buildings are safer in the future.

Q297 Rachel Hopkins: I appreciate that, but can you see how this could be quite confusing for residents?

Lord Greenhalgh: I agree, but we will always have two regimes. We will have the fire safety regime and the building safety regime as a matter of course, if this Bill goes through Parliament, but the most important thing is that there is a culture of transparency. Certainly, the information around a building when it comes to fire safety, I believe—and that is what we are consulting on at the moment—needs to be made available to all residents, so that they know all the information they need to know that is pertinent to that particular building with regard to fire safety. That same culture of transparency should also be adopted in the proposed building safety regime, so that they have the information they need and do not feel that they never get access to it because the building owner does not give it to them.

Q298 Rachel Hopkins: You touched on it just now, but one of the major criticisms we have heard during our inquiry is about the amount of detail being left to secondary legislation. Is the amount of delegated legislation in the Bill justified?

Lord Greenhalgh: Perhaps we should recognise that the Bill we have at the moment is the framework to improve building safety and to make sure that residents feel safe in their homes. We feel that the use of delegated powers is appropriate. We are building the flexibility into the regime so that secondary legislation can be made to reflect emerging building safety risks and changing circumstances more quickly than by amending primary legislation. We are always keen to hear from this Committee about ways it thinks we can improve that balance, but that is our intention.

Q299 Rachel Hopkins: As we set off into the Bill, can you reassure us that Parliament will be able to scrutinise the Bill properly and thoroughly, and that all those regulations will be published in draft by the time of introduction?

Lord Greenhalgh: We are very clear that we will make as much of the secondary legislation available through passage so that Parliament is informed on that, but the main focus at the moment is on primary. We will consider what secondary we can make available in time for introduction. We want to get as much as we can to be scrutinised by Parliament, alongside primary. Chandru is working with the team and may be able to make a further commitment, but I do not want to commit to something that he cannot deliver against.

Chandru Dissanayake: Our focus at the moment is on making sure we get the primary right, and hearing back from the Committee is going to



help us do that. We are then turning the teams towards secondary legislation and looking to do as much of that as we can as the Bill goes through Parliament. We will certainly focus on those key areas that are important to Parliament and that Parliament wants to scrutinise.

Q300 Chair: It is really helpful, when Parliament eventually gets to consider this Bill, that it considers it understanding what is going to come in terms of secondary legislation. If we, as a Committee, have particular areas that we would flag up as being really important to have that secondary legislation in place, so that Parliament considers it as part of the passage of the Bill, would you be prepared to reflect on that?

Lord Greenhalgh: It would be incredibly helpful if you could set out those areas that you think would be helpful to improve the passage of the Bill. We want to make some of the secondary available to you but, if you could pick those areas that you think are critical, that would help task the team with those areas in advance of introduction.

Q301 Chair: You will probably be relieved to know that we are now going to talk about what happens after the Bill has been passed, so you know we are coming towards the end of the session. When the Bill is eventually passed and becomes an Act, would you expect implementation on day one or are you giving some thought to phasing in implementation over a period of time? If so, over what sort of timescale?

Lord Greenhalgh: It is fair to say that we are in a position where we can implement in phases, but the regime will operate from day one. There are people in the management team who are thinking about how those phases will pan out. Perhaps Chandru can come in on exactly how this is going to work.

Chandru Dissanayeke: We will need to be clear about transition arrangements. The team are working through what that means in terms of buildings in scope and how we transition in the right way. We are working very closely with HSE colleagues.

Lord Greenhalgh: I said what I am supposed to say. It is definitely a phased approach. It has already begun in shadow form, and that will continue when the Bill receives royal assent.

Q302 Chair: The Bill provides for mandatory independent review of the regime after five years, but we all know that an awful lot can go wrong in five years. I hope it does not, but it can do. Have you given any thought to how there might be parliamentary scrutiny of the development, given the phasing, the potential change in scope that may come in the future and those sorts of issues?

Lord Greenhalgh: It is fair to say that we think five years is a reasonable period to allow a new regulatory system to bed in before we have an independent review and look at whether this is working. Five years is a suitable timeframe to provide time for the preparation of the report and implementation of recommendations, but it allows flexibility to



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the Secretary of State, should they feel they need to intervene more frequently. We want a framework that we can change if necessary.

Q303 **Chair:** I was not disputing the five-year review; it is just a question of in the meantime, during those five years, what you would think about ongoing parliamentary scrutiny of implementation and changes that may come in through secondary legislation, et cetera.

Lord Greenhalgh: That is something where we are open to ideas, because we need a balance between the Secretary of State having flexibility and Parliament having the ability to scrutinise and come in as well. That is something on which we would appreciate the thoughts of this Committee.

Chair: On that point of agreement, Minister, thank you very much for coming with your officials this afternoon to answer our detailed and probing questions, but ones that are clearly relevant to getting a Bill that works, with the aim, as we all agree, of making sure that a Grenfell disaster never happens again. Thank you very much for coming.