

Levelling Up, Housing and Communities Committee

Oral evidence: Fire Safety, HC 62

Monday 27 November 2023

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Members present: Mr Clive Betts (Chair); Bob Blackman; Mrs Natalie Elphicke; Andrew Lewer; Mary Robinson; Mohammad Yasin.

Questions 1 - 44

Witnesses

I: Paul Morrell OBE, Chair, Independent Review of the Construction Products Testing Regime, and chartered quantity surveyor; Anneliese Day KC, Co-author, Independent Review of the Construction Products Testing Regime, and barrister specialising in construction disputes.

Examination of witnesses

Witnesses: Paul Morrell OBE and Anneliese Day KC.

Chair: Welcome, everyone to this afternoon's session of the Levelling Up, Housing and Communities Committee. This afternoon, we are looking at the important issue of the safety of our buildings, particularly fire safety, and at the challenges we all face in this regard, particularly after the appalling tragedy of Grenfell, in trying to make sure that we put in place rules, regulations and policies to ensure that that sort of disaster does not happen again.

Before we come to our two expert witnesses today, I will ask Committee members to put on record any interests they may have that may be directly relevant to this inquiry.

I am a vice-president of the Local Government Association.

Mrs Elphicke: I am a vice-president of the Local Government Association and employ a councillor in my constituency.

Q1 **Chair:** Other colleagues who are in the Chamber for the urgent question may join us.

I will pass now to Paul Morrell. Perhaps you could introduce yourself.

Paul Morrell: I am a quantity surveyor by training. I used to lead a major international consultancy practice of surveyors and project managers.

I subsequently spent three years in Whitehall as the Government's Chief Construction Adviser, based in what was then BEIS, now the Department for Business and Trade, and also in the Cabinet Office.

Subsequently, I have acted as an independent consultant, principally involved with strategic issues for the industry and with project governance.

I was the lead for this exercise on construction products—the testing review.

Q2 **Chair:** Thank you for that for joining us. Anneliese Day, hello. You are joining us online.

Anneliese Day: Hello everyone. I am sorry that I cannot be with you in person today, because I have a conflicting engagement, but thank you for allowing me to join remotely.

I am a KC who specialises in, among other things, construction law so I see how this works in practice. I primarily deal with civil claims but as part of this review, I assisted Paul Morrell in looking at the various issues that we will be discussing today.

Q3 **Chair:** Thank you both very much for joining us today. We are looking in particular at the review that you conducted and chaired, Paul, on construction products and safety issues around them.



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You headed the independent review of the construction products testing regime. You carried out your review, produced it for the Government and nothing much seemed to happen then.

Paul Morrell: No.

Q4 **Chair:** Does that concern you?

Paul Morrell: There had not been any engagement with the Government until last week, which may be a tribute to the influence of this Committee, when I received a briefing. I think Anneliese also received a briefing, separately.

The review was fundamentally completed at the end of 2021. I think we produced the summary of conclusions and recommendations in about August or September of that year. There was then about a year of back and forth with questions from the Department, which we answered, and we edited the report. It was finished, I think, finally, at the end of December 2022 and was published in April 2023.

During that period since we submitted it, we have had one meeting with the Department on the day of publication. Until last week, that was the only engagement we have had. A major issue will be the extent to which the industry understands what is coming next, but we will perhaps come on to that.

Q5 **Chair:** Yes. I must ask you this. Given the real concerns that there must be around fire safety post Grenfell and other examples of serious fires in residential buildings, does it concern you how long it has taken for the Government to get this far and to engage with you constructively about your recommendations?

Paul Morrell: Yes—and still more, engagement with the industry. We will come on to this, but the hard work here has to be done by the industry. We are going to have some duties that are quite hard to define, but the industry should do that. The industry's concern at the moment is about not knowing what is coming. Frankly, a mess was made of the switch from European to UK marking of products where the date for that kept being kicked down the road. Finally, I think after two or three times, it has been deferred and some people who have spent a lot of money organising their products for marking with a UK mark have lost some credibility in their boardrooms as a consequence. In other words, I have carried on my extensive engagement I have with the industry, which is wide and deep. The regularly repeated concern is about how to know, if we start doing this work now, that we will not have the rug pulled out from under us as we have had before. The industry absolutely needs to know the direction of travel and that is more important than engagement with me or Anneliese Day.

Q6 **Chair:** Right. Anneliese, do you want to add any comments on that?

Anneliese Day: No, but I agree with it.



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It is frustrating that the industry responded in June—I am sure you have all seen the big response from the Construction Products Association—and perhaps unusually, the association welcomed the findings of our report and wanted to move them forward. Certainly, we are hoping that that will happen soon. It is not something that the industry has not welcomed. The industry seems to have welcomed the findings and welcomed the chance to create something new, more understandable and safer.

Q7 Chair: Paul, you have both mentioned the industry's response. Is there anything that the Government can do to improve the testing regime in advance of legislation—things they could just get on with tomorrow or the day after if they chose to?

Paul Morrell: Yes. We talking at product level first of all and I would like to come on to the way the duties work or do not work right through the supply chain.

As far as products are concerned, it seems pretty definite that there will be a general safety requirement—in other words, a duty on manufacturers to say that their products are safe. There are massive complications in that and when I first heard it, I was slightly opposed to it, frankly, because of those complications, but the one thing one can never say is that you can object to the idea that a product should be safe. So what does that mean? What should be done to satisfy that a product is safe? When should a product be tested? What kind of risk analysis should be done? What information should be passed down to the supply chain? That is a lot of work; it could be happening now and some of it is.

A statement that there will be—subject to consultation and secondary legislation, so we are minded to introduce—a general safety requirement, which is what it says in the schedule to the Building Safety Act, but is on a “may” basis, would give the industry the confidence to get moving on some serious work. What we need here is new duties and accountabilities, which I sure we will come on to. To do that work, a lot of it has to be done by the industry.

Chair: I think Natalie Elphicke will follow up on precisely that point.

Q8 Mrs Elphicke: Absolutely.

Looking at the sheer number of construction products in the UK market, are you concerned about there being some that will not be covered by standards? Or do you think this new approach will solve that?

Paul Morrell: Anecdotally, about two thirds of products are not covered by a standard, so there is a lacuna in the regulatory regime. Some of those products are surprising. We were asked to review the UK system for testing the safety of construction products and make recommendations for improvement, but the reality is that there is no UK system for testing the safety of construction products. There is a system for testing compliance of products with standards agreed across Europe,



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but where a standard has not been agreed, no regulatory weight falls on that thing. The slightly—forgive me—trivial example I give is that there is a standard for the regulation of a bidet, but none for the regulation of a fire door, or at least there was not at the time of our review. That is because Europe has not agreed a standard for fire doors, because it is so controversial, whereas presumably bidets are not. So, yes, there is a gap, and what brings one round to an idea of having to have a general safety requirement is that that brings everything into the net. It does not mean that the standards are suddenly great and brilliant, and we still need more prescriptive standards for certain things that might cause great harm, but it does create a new sense of having to make sure that our products are not just launched on the market if they might do harm without them being tested and established as safe and without the information to make them safe. A general safety requirement would do that—no argument—as long as it meets certain standards, which we may come on to. In the meantime, yes, one has to be concerned about the gaps. The industry does not even then just throw the product on the marketplace. There are processes to go through.

Then there is the particular issue of innovation—a new product that comes in. While we were doing the review, an article was published establishing that there was a new type of insulation being manufactured in Scandinavia and made of popcorn. Having checked that it was not 1 April, that brought home to me that there is no prescriptive standard that you could ever write that would predict the possibility of people sticking popcorn on the outside or inside of buildings. There must be a clearer duty that whatever you make has to be safe and that you cannot launch a product without confirming that is so simply because it is currently covered by a standard.

Anneliese Day: We must couple that with effective enforcement so that there is a real sanction against people putting things on the market. I know we will come on this but you must have the two aspects in tandem. You need to have the duty and for people to know that it will be enforced.

Reiterating what Paul Morrell said, it is striking how few things that really matter are dealt with well and yet people seem to tick off things that do not matter. We need to change that.

Q9 **Mrs Elphicke:** Looking at the proposed limitation of the scope of the general safety requirement to normal or reasonably foreseeable conditions of use, do you have concerns about the clarity of that definition? Is it possible to give an example of what might be excluded from this approach?

Paul Morrell: That gets back to what we expect the industry to do. My conversation with the industry has been along the lines that it looks pretty certain that there will be a general safety requirement, but whether you comply with it or not will be a decision for the courts. The first thing the courts will look at, however, is what protocols have the industry agreed should follow that duty. The questions are, for example, should you test and how often, and what does “reasonably foreseeable”



mean. You build around that a system whereby what is reasonably foreseeable grows because you have market intelligence feeding back.

In consumer products, for example, there is a requirement to run a complaints system, which is not just about consumer protection but is about the fact that if you get a complaint about your product, you are learning more about how it is being used and how it is failing, and you should take that into account in understanding and performing your new duties. In “reasonably foreseeable” the word “reasonably” is always difficult, but it is how far you should go. At the moment, the absence of that requirement is used as a cop-out, colloquially. You have seen this over and over again in the evidence at Grenfell: “We are not responsible for how a product is used”. I think that is quite wrong. Manufacturers know why they make a product; they know how they market it and they know who is buying it. So as soon as you get a “reasonably foreseeable” test and they do know who is buying the product and where it is going, new duties and obligations arise. This is about the beginning of a continuous chain of accountabilities, which is critical.

- Q10 Mrs Elphicke:** Pressing you a bit further on that point, we are aware from the evidence from the Grenfell tragedy that another key element has been interoperability or disoperability—that the behaviour of particular products alongside other products either on installation or in tandem use. The approach appears to be a manufacturer decides if its own product is safe within particular parameters. To what extent are you satisfied that the concern about interoperability or different uses will be properly considered in a new approach?

Anneliese Day: To reassure you, the courts are quite used to applying terms such as “reasonably foreseeable”, so I do not see that being difficult to apply. It is a well-known concept.

However, you have identified a problem that often arises where a product is taken and put into a building and used with other things, and only then is it said, “You should not use it in this way.” The answer is that manufacturers can set out certain parameters. They can make clear what a product has and has not been tested alongside and people who put the product in a building will then also have to make sure that there has been some kind of test to ensure compatibility. It should not be all that difficult if you have clear duties. The problem at present, as Paul Morrell has said, is that it is not clear who the duties fall on so you find that everyone seeks to pass the buck to everybody else and or the so-called specialist companies may often have gone out of business, or just do not have the money to meet claims. But “reasonably foreseeable” should work; I do not see it as being an issue.

Paul Morrell: There is also what the manufacturer can reasonably foresee. There will still be circumstances in which a product be used in ways that the manufacturer did not foresee but the person who does know that is the person who produced the design.



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What I am not convinced about—but I am not a lawyer—is whether the equivalent duties are running right down through the supply chain. I think one of the surprises for people from the Grenfell inquiry was just how complex and fragmented the construction supply chain is. It was not a surprise to those of us who live in that world, but the consequences are there plain for all to see. If a product manufacturer have a duty to produce a safe product, I think designers have to have a duty to design it safely into the building, constructors have to have a duty to make sure that it is constructed safely, and building owners, operators and casual persons have to have a duty to make sure the building is run in a safe way. And that duty needs to be the same kind of language so that it is absolutely clear that in this relay race, which construction will always be, at the point at when two hands are on the baton, the right information passes across to keep people safe throughout in the absence of a single controlling mind, which is the reality of construction.

- Q11 **Mrs Elphicke:** Picking up on the point about construction companies or manufacturers going bust, is there a concern that learning and the building of information will be flawed or inadequate because there is no system of gathering information, but it rests with an individual product managed by an individual manufacturer? Are you concerned about the building of knowledge?

Paul Morrell: The so-called golden thread—the way the knowledge needs to go downstream—is again something that the industry must work out.

For the most part, certainly in the early stages of the Building Safety Act, the industry was asking what does “general safety requirement” mean, what does “safety critical” mean, what does “competence” mean and what should go into the golden thread? I would be quite firm in answer to that. If you don’t know that, you are illustrating the problem. Of course there has to be a dialogue with Government, but the protection of the information subsequent to somebody failing or disappearing from the supply chain has to be that the information will still be in the golden thread, so what you need to run your building safely is still in your possession.

Anneliese Day: Yes, I think that is right. Reiterating what Paul has said, we were trying to provide ideas and frameworks for others who know how this operates in practice to put them in place. The industry came forward and said, “We would like to do this. We would like to work with Government,” and called on the Government to respond, so that process has to start to work. We cannot talk about the mechanics. We are just trying to point out the problems and potential solutions to be explored. We are not saying any one thing is the solution.

Mrs Elphicke: Thank you. That was helpful.

Chair: Mohammed Yasin has only just come in from the Chamber to join us and will follow up on some issues market surveillance and enforcement.



Q12 **Mohammad Yasin:** Thank you.

The review was very critical of the enforcement regime. We all know that local authorities are struggling with lack of resources. To what extent can the inadequate rates of enforcement be attributed to the lack of resources we know the local authorities are struggling with?

Paul Morrell: It will become more of an issue in future. In the past the problem has been that there has been no enforcement at all. To my knowledge, there has been no attempt to find a resource to enforce. As well, therefore, as thinking that the system we have is not properly designed to protect safety, the system has never been tested at all. To our knowledge—I think Anneliese had words, including with the police, about this—there has been no prosecution ever under the construction products regulations as they now exist.

The two bookends of the Government's role, before we can be clear what industry must do, is absolute clarity about the duties the industry must now carry—a duty to safety and the machinery that brings that about and verifies it—and, at the other extreme, an enforcement regime that works.

A line in the review, which is a quote from more than person from the many interviews that we held in the course of putting the review together, is, "Please try enforcement first". It is a shame that in the absence of enforcement and lack of clarity about the requirements, you get some ethical drift in behaviour in the industry and some of that has gone beyond drifting into crashing. However, that is in part a consequence of not enforcing. Of course, people do not want to compete with somebody who will not comply with the rules; they want them taken out, for commercial reasons apart from ethical ones. So there is no fear of an effective enforcement regime; rather, there is a request that there should be one. There is a real concern, however, if the eyes and ears of the enforcement regime are in Trading Standards. Trading Standards made it very clear to us that they do not have the resources or the skills—construction is not their world—and do not really want to do it. That would be a problem for OPSS—it is not a problem for us—but our line generally, I think, has been it is not for us to design a regulatory system, but that it is for us to be clear that it absolutely must work and the industry has to see that it will work to get it into the right position to sort out its house. One has to be worried. OPSS is absolutely on the case; we have had some good meetings with OPSS and some good engagement. I spoke at Building Control's annual conference about two weeks ago. Building Control is absolutely on the case. Trading Standards, I don't know, and I do not know now the extent to which OPSS will rely upon Trading Standards. Trading Standards does not exist in every local authority, is under-resourced and does not have the skills.

Anneliese Day: Trading Standards said they do not have the money, the skills or the people. A very graphic example from Trading Standards was that it could tell on sight whether a bottle of wine was compliant, but would have no idea about a building. There seems to be a general feeling that Building Control might be a more appropriate candidate to deal with



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enforcement in the construction industry, but that would have to be looked at because to be effective, it would have to be properly funded and resourced, have properly trained people and be independent. What comes from Grenfell is that with Building Control, issues such as privatisation would have to be looked at and dealt with. However, as Paul said, Building Control has been engaging and seems willing to take it on, so we will see.

Q13 **Mohammad Yasin:** Anneliese, what difference would the National Regulator of Construction Products make.

Anneliese Day: It would depend on what it did. It should be able to make a difference, but that will depend on how it operates.

Paul Morrell: I think it will make a big difference. I have a monthly with them and find them to be very much more engaged. They are putting together the machinery by which they will operate and seeking intelligence about how they will operate and how they will approach issues of risk and so on.

The concern is about how you connect the regulatory control of a product with the regulatory control of the building. Products only make sense in their use. You have to follow them downstream, and probably failure will only be obvious when the stuff is in the building—in other words when it is under the control of Building Control rather than Trading Standards. Recognising a problem on the shelf will be a difficulty. Imports may be different, but recognising that routine products are going to fail will be very difficult for Trading Standards, so there has to be a bridge between the product and its use, and most of the problem is not the product. The impact analysis done for the Building Safety Act puts the proportion of building failure that is due to defective products at less than 5%. Far more will be due to the inappropriate use of products—wrong marketing and so on. Problems come when you put products into buildings. Connecting the duties to make a safe product, designing it safely, installing it safely and running the building safely is one part of that; the regulatory regime that oversees that to make sure that those duties are being met with has to be connected.

Anneliese Day: Again, there is more learning if you have Building Control doing both ends, right? If you have Trading Standards handing over to Building Control, it is far more likely that you will lose some learning and information.

Q14 **Mohammad Yasin:** My final question to you both. What practical steps can local authorities take in the short term to improve enforcement?

Paul Morrell: I am not sure that local authorities have this on their agenda at the moment but that may be because I am not engaged with OPSS on their engagement with Trading Standards.

OPSS itself is doing the work that I have seen. OPSS is out there doing surveillance, research, intercepting products at the borders and so on. It may be that they have started to engage with Trading Standards. I don't



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know. I do note that the Government have reserved the right to change the regulatory environment in future and I sort of hope that they will. I imagine that is a precautionary measure against what might come out of the public inquiry, which I am sure will have something to say about the enforcement regime.

Local authorities will be focusing on building control and compliance of the building work itself. I am not aware that they are looking back into the product at this stage.

Anneliese Day: I guess it is about building knowledge. In fairness, it is not something that we specifically looked at. We did not look at the resourcing issues or any of that, or at what local authorities have, but knowing the report—the local authorities can read the report—I think it is a very useful explanation of why the regime is so complex. We have tried to set out what the regime actually is as well as to make recommendations for things to look at in order to improve it. However, knowledge is power and a lot of issues come from lack of knowledge. I was shocked at all the regulations that already exist. I did not realise they existed and was shocked that no one seems to be enforcing them; they are there but no one seems to know about them.

Q15 **Chair:** One idea about who does the enforcement at local level is that there should be some sort of national register of concerns found by whoever the local enforcement body is so knowledge can be shared. Might you be looking for something like that?

Paul Morrell: Absolutely. I am aware, by the way, that the report is a bit of a brute; it is long and an early decision was that there were too many complexities around decisions still to be made for this to submit to three big things. I think there are six big things, which I can very quickly summarise.

We need standards that deliver safety. At the moment, they and the system are designed for a single market and whatever has been agreed across a single market so they are trading standards as much as they are safety standards. There are issues around that. Those standards are missing.

We need an effective testing regime. We recommended that testers owe a duty to the public interest. And there should be more detailed housekeeping arrangements—what they should know about the history of a product, their duty to report any suspicions of their own, and so on.

There needs to be a continuous chain of custody so that people know that what arrives on site is or has been tested—labelling, marking—and the information is so to keep it safe. Then you get to issues of a powerful and enforcement regime, as we have just covered and discussed.

Then there are two other things, which are linked. One is the body of knowledge, a centre of excellence—this is relevant to your question—which is: where does this information go? Information from coroners, from the future mandatory reporting and the Building Safety Act,



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information gathered from enforcement authorities, information from the fire brigades—where does it go to feed into the one thing that I think we can be absolutely certain will be so powerful a recommendation from the Grenfell public inquiry that it will be on the cover?

How we learn our lessons, how we gather that information and how we ensure that we act upon it is my fifth building block of a good system. And, by the way, Dame Judith Hackitt has done some parallel work internationally and we came to extraordinarily similar conclusions, working on the same principles.

Q16 Chair: Presumably that means digitising all that information so it can be held in a way that anyone can access it.

Paul Morrell: Absolutely. It will go from quite big things—how you create a safe means of escape—to quite small things, about being careful of a product and feedback.

The final thing is some form of investigation linked to the centre of knowledge. Take the cost of the Grenfell inquiry in its broadest sense. That would have paid for something like the Aircraft Accident and Incident Investigation Board for something like 50 years. So, on learning lessons, I am really impressed by the way that they research air crashes and how they find out exactly what happened, very rarely settling for the first answer. A friend of mine who is a pilot says, “Oh, it’s easy. They blame the pilot because he’s dead.” Not true. Even if pilot error is the cause of a crash, the investigation then goes on to think about why the pilot made the error. Was it too complicated? Was the pilot too tired? Was the pilot badly trained? Something like that needs to happen for big things, again so the lessons can be fed back. At the moment, I do not see a machine—a structure—for learning our lessons. Databases, yes, by all means, but they need to be connected to something that leads to action and to improvement. When a plane crashes because there were defects, that defect gets regulated out necessarily.

That was a long answer to your question but those are the big building blocks of a system, I think.

Chair: Moving on to standards now.

Q17 Mary Robinson: Before we move on, one of the points you raised was around the CAA, aircraft and how things are fed back in. One of the key points is that in aircraft construction, whistleblowers—anybody who spots any issues—have a duty to call them out. Is this an issue as well: people may be seeing something wrong, but they are not reporting it? Should there be some duty to blow the whistle?

Paul Morrell: There are new mandatory reporting duties. We have suggested that there should be similar duties on testing houses. We have discussed in the past whether you should publish a failed test result as a matter of detail. I am not sure that that is helpful. If I am given a test pass, I want to know that I can trust it, not, “But be careful because it’s failed before.” However, we have said that the testing house should know



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the history of that product: if it has failed before, how did it fail and what has been done since. They should know if it has been tested in more than one place and above all they owe a duty to report if they believe, in the language that has been used post-Grenfell, that the system is being gamed. Under no circumstances should information that the regulator needs to know be blocked by commercial confidentiality.

Anneliese Day: You want to make sure that you do not stifle innovation in buildings. We looked carefully at the point about failed tests being published. However, you need to have something that is useable and that has important information on it rather than too much information. Building projects often have a lot of information and a lot of paper to wade through. We need to think about ways of recording that electronically, but also ensuring that what is recorded is the important thing.

The other thing to mention is that there might be reasons why people are reporting on competitors and all of those things. That was raised as something to have a look at. Paul and I are not in the nitty-gritty of how it is implemented, but the principle is there, bearing in the mind the other things that have been raised legitimately.

Q18 **Mary Robinson:** We will talk further about the future and what is going to happen as part of this. Just looking at the here and now, how do you assess the quality of existing construction products standards? Where are we now?

Paul Morrell: We did not, is the honest answer. The Department has done a review of testing standards—quite a few of them—and we have referred to them and relied upon that in the report. Quite a few products are said to be not fit for purpose. Having talked to some of the expert witnesses on the Grenfell inquiry, and without shooting that fox, I think that they are going to say that some of them are underinformed by science. We have made recommendations about those that are defective. Probably the only way of getting them done is for Government to commission and fund them. They should probably commission them from experts in the topics, to be assembled, and that then goes through the usual process by which standards are agreed in consensus. Of course, there is a current consultation on closing down the whole of 476, which is the principal standard by which people currently work. It would not necessarily be an advantage just to shut it down, and I am sure that the consultation will establish that.

We did not look at the detail of the standards because neither of us are qualified to do that, but we looked at what other people said about them and the arguments sound pretty persuasive. The Government have a review which looked 3,000 standards—we could certainly never have done it—and made recommendations about what should happen with those. I do not know what has happened to that review. I think that it would have gone to the Construction Standards Committee that was envisaged at the time of the Building Safety Act. I also do not know whether that Committee is still going to exist.



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Q19 **Mary Robinson:** Is this a cause for concern?

Paul Morrell: Yes. The first building block is standards that do what it says on the tin, in that overworked cliché, and some of them are said not to produce that. Many standards are designed for a single market, for a level playing field for trade. The UK has expected those standards to do everything else for us as well, whereas other countries bring in extra layers on the standards for aspects of local safety, for example. I do not believe that we have brought in anything of that sort. It is not a great big Wild West but we have not passed the first step of being sure that we have a set of standards that deliver what we need in the way of building safety.

Q20 **Mary Robinson:** How time-critical is this issue in addressing it?

Paul Morrell: Apart from the issue of fire doors, you cannot point to something where the absence of a clear standard has been a problem, so you have to do this on a risk basis. Standards take a long time. On the subject of testing, for example, for cladding—a more than slightly relevant example—the EU has been discussing that for 14 years, which is what happens when a subject is controversial and people have strong feelings nationally. The extent to which we can move faster will depend on the whole issue of whether we stay aligned with the EU or not. Therefore, yes, it is a concern.

Anneliese Day: It is a concern but, having said that, the bigger concern is about who is responsible for something and whether it is being enforced because generally cases are not necessarily to do with standards or misunderstanding standards. Everyone also, as Paul just said, talked a lot about how long it takes to change any standard. You need a consensus as a Committee and so on. Obviously the Government should implement those recommendations and have a programme for doing so, but I suspect that it is more urgent to make sure that there is someone, or multiple players, taking responsibility, and then enforcement. Those things are more important, but standards are a longer-term thing to be looked at to make sure that they are fit for purpose.

Paul Morrell: The bigger issue is those things that are not covered by standards, either because they fall outside the EU harmonised standards or because of innovation. A classic example of that is fire doors. Subsequent to the fire at Grenfell, as you probably know, the composite doors that were glass fibre-ish were tested and they were failing. I cannot remember if any passed, but they were failing in 10 to 15 minutes when they should last for half an hour. With timber fire doors, which are covered by a standard and have a much more developed body of knowledge in the industry, none of them failed, if my recollection is correct, because there is a standard to which they construct. Therefore, it is not so much the deficiency in the standard as the non-applicability of the standard in that product.

Q21 **Mary Robinson:** In the development of standards, are the right people



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in the room? Is the public interest being adequately represented?

Paul Morrell: We are not in the room, of course, but based on conversations, no. More than one public official, particularly in fire, said that cutbacks have meant that they did not have the time to sit in standards-setting fora. I do not think that the cynical idea that the industry just twists things to make life easier for themselves is a fair one—there is a pretty good internal review process—but the skills and knowledge of those people should be brought strongly to bear on the process of agreeing standards and making recommendations about them. There is an issue about funding public sector engagement and, on the subject of fire, most obviously the fire service, so that it is fully represented in the room.

Q22 **Mary Robinson:** Does that go to the funding of the BSI as well?

Paul Morrell: Yes. The BSI is not a standard setter; it is a standard publisher. It organises the process. It is probably a bit misunderstood. All the thinking comes from the industry. It has a rigorous process to make sure that it is consulted, that it gets the right information in so far as it can, that it is consulted, and that it follows a rigorous process. That is BSI's job, and then it publishes.

Q23 **Mary Robinson:** Is it your view that funding of the BSI has influenced this?

Paul Morrell: No, not really, and nor does it. It may ask the question. "Tell us what to do and we'll do it," was its answer for the most part. The one issue, though, is that it depends on voluntary input. Most people doing something voluntary will do it, but it will not be at the top of their in-tray against the demands of a client, for example, so it takes a long time. The principal reason for saying to take it out and commission it directly is the market failure of producing a standard in good time when something is safety critical. Some of those standards are designated standards—in other words, they are standards that are important to the regulatory regime already—and if they are said not to be fit for purpose, they should be done quickly. Similarly, if we do designate things as safety-critical—a term that needs defining—that will also be a big chunk of work. There will be no standard for that and there needs to be one. We have said that it is safety critical and yet there is no standard. That needs to be done as a matter of urgency.

Anneliese Day: I do not have a lot to add; Paul has covered it very succinctly.

Chair: Moving on to the assessment bodies.

Q24 **Andrew Lewer:** Approved bodies are the bodies responsible for testing and certifying products that are covered by designated standards that we have been talking about. Do you have any concerns about possible conflicts of interest within the industry?

Paul Morrell: I make my living as a consultant, for a fee. I also know that the minute that the fee is the only thing that matters and that that



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drives my voice, I am finished. For the most part, the evidence is that the large testing hazards take the same line. Their business depends upon being trusted. They are, none the less, answerable to a client and there are commercial confidentiality issues and serving the public interest. Those things need to be done away with so that they have both the obligation and the authority in their relationship with their customers to say whatever needs to be said in terms of expressions of concern about the way that the process is being handled.

Q25 Andrew Lewer: Do you think that the issue in that case is transparency about the relationships rather than that they exist?

Paul Morrell: Yes, transparency and on no circumstances should client confidentiality get in the way of the regulator wanting to know what has happened and how. It is ironic that the two bodies that have struggled the most in the evidence coming out of the Grenfell inquiry have both been previous public sector, not-for-profit bodies, so it is not just about the relationship and the profit. What may have happened is that people may take on work that they should not take on. They do not have the systems or the skills to secure the income. It is not, "Give me the money and I'll give you an answer you want." It is, "Give me the money and I'll take it away and do the job." Certainly some bodies have gone into hazardous territory as a consequence of not doing what they should be doing.

Anneliese Day: I probably have a skewed view of this because I see where things have gone wrong. I agree with Paul that there are lots of professionals doing a great job but obviously there are always going to be bad actors. For me the issue is how those are picked up and dealt with as quickly as possible when there is a problem, and also ensuring sufficient knowledge. The point that Paul has just made is a very real one, where people say, "I'm only the generalist. This is a specialist; I relied on them." You hear that time and time again. How do we make people more accountable and more willing to put their hands up when they think that there is a potential issue that should be looked at further?

Q26 Andrew Lewer: Would you say that the Government are doing enough to strengthen the conformity assessment process within that?

Anneliese Day: They need to respond to our report, full stop. We need that to happen soon. We were told last week that it is going to happen.

Paul Morrell: The strengthening that is required is that, first of all, they must have a clear duty. They cannot have a duty to say that the product is safe, because that confuses whose duty it is to make sure that the product is safe. It must be a manufacturer. Also, if that is the only obligation that they have, they can spend £500,000 of their client's money to satisfy themselves. They have to work on the standards that are set for testing that product and confirm that it meets that standard. If that is not good enough, we need to change the standard. They do need to owe a duty in doing that; exactly how that is spelt out is a job for Government.



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There are hygiene arrangements that we have recommended—information exchange, and what they should know when they are testing a product from the manufacturer to make sure that they are not being gamed. There are also issues for UKAS, the body that accredits those testing houses. Whether we are being naive in thinking that it could perform a strategic purpose, I do not know, but it clearly does not yet.

We also think that they struggle for skills. They are all recruiting from a very small pool of people who know the technicalities of these tests. One of our recommendations is that they send specialists in to check a test. They arrive at random—a scientist or a consultant—and say, “Show me what you did with that product and why you came to that conclusion.” I know that OPSS has done one or two of those and has found examples of where the testing has not been done properly and does not conform. There is a competence issue, or a conscientiousness issue, that needs to be put right. That is about more regular inspection of what they are doing.

Andrew Lewer: Unannounced, Ofsted style—just turning up?

Paul Morrell: Yes, random. They have a right now to arrive randomly, but for the most part, they arrive randomly and then ask, “Did you do this, did you do that?” I think that there should be somebody who goes to look at a safety-critical product and the testing for that and says, “Show me what you did”—a highly skilled person. They are not unskilled in UKAS, but everybody involved in testing is recruiting in the same pool and there are not enough people. The issue of capacity runs across the whole of this. There is a cross-cutting theme.

Andrew Lewer: Any final UKAS thoughts, Anneliese?

Anneliese Day: No, just the point about funding and not having enough. We need to train up more people. We do not have enough capacity. That has to be a big priority.

Q27 **Chair:** When we had sessions with Dame Judith herself following her review post-Grenfell, she expressed concerns about the testing regimes. There was some evidence that product manufacturers would take their products around until they found one of the testing houses that would approve them. Has it come back to you in the work that you have been doing that some products pass because they get taken to enough testing places until one of them eventually says yes?

Paul Morrell: Because we do not have powers of investigation, we could not follow up the anecdote. There is a general belief in the industry that they know where the easy furnaces are, and that you are more likely to get your fire door passed if you go to that furnace. UKAS has said to us that if we know who that is and where that is, to tell it, but I do not know. However, if I ask somebody in this world if they know where the easier furnaces are, I tend to get a yes. They would go towards that person and that person has no commercial interest in discouraging them from doing that.



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We did not see any particular examples, apart from those in relation to the Grenfell inquiry, of people literally hawking their products around. However, the fact that that could happen should be addressed. In our review, we have put a summary of all the allegations made, particularly in the Grenfell inquiry. It was not our job, thank god, to decide whether those allegations are founded, but the line that we have taken is that if this could be true and there is a way of preventing it from happening in the future, that should be of interest to us.

We have said, for example, that a testing house should know if a product has been tested before and by whom. It above all should know if it is also being tested at the same time by somebody else. It would take a degree of collusion in that case for them to be gamed and it certainly would not happen unknowingly. That is what I meant by the hygiene recommendations that we have made. It is the day-to-day way in which the job is done. We should look through the allegations in Grenfell and ask how we give ourselves a better chance of making sure that that is not partnering as a matter of routine.

Q28 Chair: You are saying that a testing house should know who else is testing this product but that that should not be publicly available, particularly where a product fails. Why?

Paul Morrell: My failure point is just that I am not sure what I am being told as a buyer. If I am being told that a product has failed, presumably I am being told that because I should not quite trust what I am being given or told. I think that it has to be a clear duty on the testing house to give you a test that you can rely upon. With those downstream, like a designer or a constructor, if a system depends upon them digging into what happened before, and deciding whether that was fair, true and honest and so on, the system is doomed. They need to be able to trust what comes to them. Therefore, the work needs to go on making it trustworthy. I do not think that a failed test result tells you anything other than to be careful. Do I believe it or do I not? I do not know what to do with that.

Anneliese also mentioned why was a test done. Was it done for product development or was it done as part of the secondary approval process? Although it is often said that we should not work to the lowest common denominator—this is a cliché—when you set standards, people are allowed to design down to it. To design above it is wasteful. If you are not happy that designing down to that standard gives you the result that you want, raise the standard. Put a safety margin in the standard or whatever, because they have to be able to test until things fail and say that we have overdone it. They are in a competitive market; they are in a resource-constrained market. We do not want people to overdesign things. Therefore, they will fail while they are testing a product and find that it does not comply.

Anneliese Day: That is what I was going to say. You need to have things that will fail, otherwise you are not going to be innovative or come up with new products, particularly as we have our new technology



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coming into play. You want to encourage that to fail. However, in a sense, if you know that they have been to another testing house, you will not have it passed. You will know that another house has not passed it. If they are coming to you, why are they coming there? Therefore, it is not necessary to know that something has failed. As Paul said, it is normal that things will fail, without that being a reason for concern. That is just part of the development-testing process.

Q29 Chair: In that case, it is a different product that has failed, isn't it, than the one eventually that will pass?

Paul Morrell: Yes, but it is the pass that you need to be able to trust. Getting back to UKAS and the supervision of these bodies, if it turns out that a body is habitually passing things that should not pass, which would usually be a matter of competence rather than collusion, the remedy lies with the way that you regulate that body. There is such a body in Europe that is believed to be producing results that cannot be trusted. It has said that some of its results have turned out not to be right. Then you fix that testing house.

To get back to the same point, what am I meant to understand from being told that this failed a test before but now it has passed? Am I meant to suspect it? Does that create a new duty for me? If my job is to design a safe building, have I met my duty, proceeding on the basis of a product that has passed but failed a previous one? It confuses the critical thing here, which is a connected chain of accountability through the whole supply chain.

Q30 Chair: It sounds okay once you have all the testing houses working properly being properly compliant and being inspected regularly. Until you get there, maybe there is something that needs to be a bit more transparent, that is what I am suggesting.

Paul Morrell: Transparency to the testing house, absolutely, but, as the customer, have you created a new duty for me because you have told me that I maybe should not trust this result? It confuses what absolutely has to be clear, which is the duty that each person in the chain owes.

Chair: Let's move on to verification of testing.

Q31 Mrs Elphicke: I would like to build on what we were discussing earlier on the testing of products and within the context of the assessment of verification and of constancy of performance framework. In your review, you referred to it as a system that was so complex that few people understand it properly. You made some recommendations about simplifying it. Could you take us through what some of the key recommendations and approaches could be to simplify the approach?

Paul Morrell: Yes. I am, by the way, 75 years old and I have been on building sites since I could walk. My dad was a builder and health and safety was not what it is today in the 1950s. I had heard of none of this stuff before starting this review. If you had asked me about the AVPC system, I would have said "Huh?" Therefore, there is a huge issue with



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two bubbles. There are those who test and are fascinated by it, set standards and are fascinated by them, and accredit and find that process fascinating. They are in a quite separate bubble from those who design and construct buildings. They need joining together. The systems throughout need simplification and clarity.

The problem with the AVCP system—that testing system—is that it seems to bear no relationship to the risk of a product. We expected to find that when you looked at the highest level of treatment required, that would be the most risky product, and so on down through the system. There is no such relationship. Of the nine or 10 products that are put through the whole gamut of testing, including in production, nine of them are coloured cements. They are not fire doors or sprinklers and fire extinguishers and so on.

The way that we get back to the general safety requirement and the idea of safety products is about proportionality. It is almost bad taste to talk about proportionality in the context of Grenfell but at the end of the day what matters is whether what we are doing is effective, as opposed to proportionate. One way that one could simplify this is to say that for products that are not capable of doing serious harm, the duty is to make sure that they are safe. It is not prescriptively to go through the three steps of the AVCP system, or the four steps. There is, "You must decide whether you should test, how you should choose samples and so on." That is one of the things that the industry can work on, what should happen.

If, however, something might seriously harm or kill somebody, it is not enough to know that the general safety duty makes it clear who is responsible. Somebody has died. That person has to be protected by the public interest saying that in those circumstances safety does not just need to be done, it needs to be seen to be done. We would therefore say that you could almost have an AVCP that only has one level, again subject to the line that we take with Europe and the whole issue of international trade. You could say that for anything that does not cause serious harm—which will develop over time with experience and databases and so on—"You must do whatever you think necessary to satisfy yourself and your customers that it is safe." That is all capable of building.

At the highest level, though, you must go to the highest level of the AVCP system. You must have independent verification of what you are doing. You should not choose a sample; the AVCP should. You should not test it; the AVCP should witness it. You should build the test rig so that you are responsible for it, but the testing house must witness that and keep records of it. The testing house must run the test.

We would say also that unless it is impossible because of the nature of the product, you should keep testing during the production process—not just when it changes, but routinely, because it is pretty mad to test a product once, say that it has passed and it can then run on the market for as long as it is not changed. As well as the duty to report any change,



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because quite a small change can make quite a big difference to the performance of a product, there should be a duty to routinely test right the way through the life of a product or its availability in the marketplace.

The simplification comes from saying that you rely on the general safety requirement and the manufacturers will decide what they need to do to meet that duty, but for things that might kill you, there is the highest level of treatment. At the moment, that is far more extensive than what happens now because with the highest level that is tested all the way through, including in manufacture, most of them are coloured cement; they are not the things that kill you.

Q32 Mrs Elphicke: Where would your fire door example fit?

Paul Morrell: I would say that a fire door belongs at the highest level. I was told by Ken Knight, whom some of you may know, and whom we talked to very early on in the process, that there is a fire in a tower block every day in London, but for the most part, the compartment holds. In other words, the people in the next-door flat do not know that there has been a fire, let alone the next floor. The tragedy of Grenfell was manifestly that the compartment did not hold.

The priority in looking at where the risk is is first whether the compartment holds. Anything that goes to make a fire compartment should be tested, and tested in assembly and so on. There is a group in industry looking at that now and at fire compartment walls. I have seen some that are supposed to be firewalls that finish 30 cm from the ceiling.

Q33 Mrs Elphicke: Anneliese, from that experience that you have described of people essentially saying, "I did my bit but it was the guy next door," and him or her saying, "No, no, it was the other person," how confident would you be that allowing industry to decide itself whether something was critical would work?

Anneliese Day: It has to be a partnership between everybody involved. One of the problems, particularly with fire safety, is that we just do not have enough people who are qualified and who understand fire safety. A lot of the cases that I see involve alleged defects in fire safety and everyone will say that the fire engineer should deal with that, and the fire engineer says, "I wasn't involved in enough detail in the project so it's not my responsibility. My retainer was limited to looking at what I was shown." That is just an example. In a sense, we can have all the systems and all the standards in the world, but we have to make sure that people understand how to build safe buildings or are getting the expertise that is needed to provide the advice on that.

I do want to pay tribute to Paul. We spent about three months trying to understand the system—meeting after meeting looking at things on PowerPoints—and he has distilled that down into the report. I am still not convinced that I fully understand it and the people trying to explain it to us often did not. It is phenomenally complex and it needs to be replaced with something that people can understand and then have the training to implement.



- Q34 Mrs Elphicke:** Looking at one of the aspects of the AVCP process is to try to look at this constancy—how something performs. How, over time, can there be confidence in both the product and the system? Thinking in particular about some of the products that have been identified as higher risk and may deteriorate over time or have a life expectancy, how would that aspect—the end-of-life review—be built into the system while also having that simplicity that you have described?

Paul Morrell: Through the standards requiring longevity to be tested as well. There is an issue with adhesives and mastics, for example, particularly with structural glazing, which is held in with goo. You need to know what the life of that is. We have the example of RAAC as to what happens if you are not aware that things have become time-expired, so you build the standard in.

You talked about the industry selecting safety-critical products. That should not happen. We made a clear recommendation that the idea of a safety-critical product should be a category of all of those things, which in certain functions is where it is gets complicated. You can use a panel for perfectly benign use and it is fine for it, but when you stick it on a compartment wall, it is a killer. It is complicated to relate products to their use and then say that they are safety-critical. It has to be a job of work between industry and Government. However, once they are agreed to be safety-critical, they need to be regulated, and tightly. At that level, in the public interest, the whole process needs to be independently verified, not just relying upon the general safety duty.

At the moment, with the way the safety-critical category is described, it will only apply where there is no existing standard. It is almost a device for bringing in a new standard without calling it a designated standard. Our recommendation is that everything that should be in that category should be called safety critical and should attract a different level of regulation.

- Q35 Mrs Elphicke:** Essentially, there will be things that either by themselves or in combination are safety critical and everything else you have a different approach to. Those things that have been identified have to be tested to an independent standard and applied in the process that you have described. That is very clear, thank you.

Finally, you talk about partnership with industry, and this is a highly complex industry and you both bring tremendous clarity to us on what I know is incredibly complex. If we take just one example, post Grenfell some builders suddenly found that component edges of balconies that might have just a piece of finishing cladding were suddenly deemed to be non-compliant. Is there some sort of process, arbitration, or assessment at the point where a decision needs to be made, particularly on that in-place assessment? How will that decision be made in such a way that it properly reflects the risk that is involved?

Paul Morrell: There are two things there. One will be the liability for that building. I am happy to leave that to due process. However, on the



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impact that that might have elsewhere—other people are unsafe but do not yet know it—I get back to my idea of some kind of body. It might be the regulator, although on the whole there is a governance issue if the regulator is also doing the investigation. Somewhere there needs to be a structure through which that kind of information gets fed back and acted on, and there needs to be a bias for action as well. The market will never produce that, I do not think.

The market is currently working quite hard at looking at what safety critical might mean, how you might define it and what might go into it. It is looking at categories of approved documents and compartmentation. Another group is looking at the systems that go into a building making it safe—firefighting systems, smoke detection, fire alarms and so on. Two institutions have looked at means of escape and safety critical as well, so there is work going on; it just needs a shove by it being confirmed that that is the way that it going to be. However, at the moment the only thing that we have to indicate what it might be is the draft secondary legislation that was published in parallel with the safety Bill, which has now been taken offline. That only had two products that were safety critical, which were fire doors and the ACM panels, because they were the most recent examples of something that had fallen through the net. However, those are only two of many things that could make buildings unsafe if they are not properly tested and put together.

Anneliese Day: Having safety critical as a way of prioritising things is important. My understanding from my discussion last week with the Department is that it is going to support a lot of the recommendations in our report. Obviously that is not public yet, but this is one of the things that it was talking about. It told me that there has been work done on the definition of safety critical and that it did support that as a general concept. It is vital, as Paul said. He has explained it very clearly to you and it makes a lot of sense that that becomes a way of prioritising things within buildings that need to be looked at and dealt with.

Q36 **Mary Robinson:** Dame Judith Hackitt in the review did point out issues with the culture in the industry. How satisfied are you that the construction industry as a whole, throughout all its levels, is fully committed to playing its part in getting this right?

Paul Morrell: I am. I am not convinced that culture is a very strong driver. I am a huge believer in culture, but that famous saying that culture eats strategy for breakfast does not mean that you do not have a strategy. It means that you could lose your strategy if you do not surround it with the right values. There is a desire to demonstrate the right values, and there is a desire to see people who do not demonstrate those taken out of the marketplace.

For the most part, what the industry understands is projects. It is a reactive industry. It has a massively volatile workload and a massively diverse workload. The phone might ring and it is a school or a hospital or a tunnel, and it is stopped or it is started, or it is cancelled, or it is restarted again and so on. What it is good at is answering the phone and



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putting together a proposition for the project. Building safety has to be made a project. You are getting a preview of a speech I am giving this week. Like projects, it has to have resources, programmes, objectives and so on. I think that we are on the way to seeing what that looks like. We are having discussions about who might co-ordinate that because at the moment there are lots of things going on, but it is a bit like botany without Linnaeus; there is no taxonomy of the work in progress. It needs organising and co-ordinating. We have a leadership council, co-chaired by Government and the industry. That is the obvious place for that to happen. It needs to be given more confidence that it knows where it is headed and that the rug will not be pulled by a change of direction.

Therefore, the critical things for Government are, on the one hand, absolute clarity about connected duties. I am not convinced that they are connected here. That might be my lack of understanding, but as a general safety requirement, there should be the same requirement on those downstream. At the other end, there is a totally effective enforcement regime and, between the two, addressing some market failures like standards and so on. We need to get the direction of travel—those things that industry must do.

We should stop asking what safe means and what competent means. If you do not know, you are probably not competent. It will take a long time to build competence because there is a very low barrier to entry to the industry and it is a very lowly regulated industry so far. The consequence of that has been problems of competence and problems of compliance and both need to be sorted. There is good work being done on defining what competencies there should be in the various people critical to making a safe building. That will need building. Those people do not suddenly arrive overnight. However, I see very encouraging signs that there is good work going on. The only thing that could discourage it is being told that they are not doing it and that they are rotten—all the worst stuff that is coming out of Grenfell. People were generally shocked by Grenfell but it is no comfort to those involved in it to know that people are shocked. They must be very tired of routine apologies and expressions of regret. That is not what the industry wants to do; it wants to sort it out.

Anneliese Day: Everybody from the industry who we spoken to was very helpful and very engaged. We did not get met by, “You don’t understand it, don’t tell us what to do”. You just have to look at the reaction to the report. There have been a lot of people who have published and supported what we are saying and encouraged dialogue with the Government to try to take it forward. That is a bit of a shift, perhaps even looking back at when Dame Judith published her first report. There is much less defensiveness, and much more asking how we work together to work this out. Certainly from my direct experience of this process, it has been encouraging from the industry.

Chair: Moving on to the testing capacity.

Q37 **Bob Blackman:** One clear thing from the Hackitt report was a strong



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recommendation that more testing should be carried out and more detailed testing. Anneliese, do you think that there is the testing capacity in the system to implement what the Hackitt report recommended and what we would all like to see: a greater level of testing?

Anneliese Day: The short answer to that is no, there is not enough testing capacity. The more difficult question is how you increase it.

Q38 **Bob Blackman:** That is the follow-up, yes. What do we need to do about it?

Paul Morrell: I went to the opening of a big new testing lab last week—for plasterboard, for example. It is one of our major manufacturers and it built twice what it needs and will make the rest available to the marketplace. That is an investment decision by its parent company and a big investment. There is confidence, therefore, that the market will grow, and it is demand that creates supply and the certainty that there is a market. The one issue currently, to which I have no idea what the answer might be, is the whole question of whether we will bring in a UK marking system or whether we will continue to accept the European marking system.

Q39 **Bob Blackman:** The current position, as I understand it, is that the Government have delayed bringing the UK market system in from 1 January this year to 1 January just coming up,

Paul Morrell: The year after—2025 now.

Bob Blackman: Sorry, yes, 2025. Given that it has been delayed once, do you think that it will need to be delayed again?

Paul Morrell: It is not a question of whether it should be delayed; it is a question of whether it is going to exist at all. One of our questions during the review was when we asked the Department what the marking was for. The answer was that it was for a single market. I asked, given that we are not in a single market, what it is for now, to which, to be honest, the best answer we got was, "That's another question." I assume that the thinking that is going on inside the Department now is about what marking is for. It could be a safety mark, but it is not.

Q40 **Bob Blackman:** Presumably this would be that it conforms to the safety regulations that are required and therefore it is an equivalent of a safety mark to say that it conforms to the regulations or that it does not.

Paul Morrell: However, if we extend indefinitely, as has been done for other products—the acceptance of a CE marking—that will slow investment here in our own testing system because they will see demand being met overseas. If we want to be confident in the investment, we need to be confident of what the future looks like in respect of marking.

There will be more testing because if there is a general safety requirement and the manufacturers carry on thinking the way that they are thinking, they will see the need for more testing to be able to demonstrate that their product is safe against a new requirement, the



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general safety requirement, so there will be more testing. As I said, I think that the investments will grow—not overnight, but they will grow.

- Q41 **Bob Blackman:** Given that there is a potential divergence, would that mean that our standards might be more rigorous on products that may be imported from, say, the European Union or from abroad, and that therefore they would have to be tested either on arrival or in country to demonstrate that there were of a suitable standard to us?

Paul Morrell: Yes. Where we are advised that the existing standard is not fit for purpose, if that is right, we need higher standards. In many places in Europe, they add a layer of local requirements, in the interests of safety in particular, to the existing standards where they do not think that that standard gives them what they want in terms of the outcome being safety.

- Q42 **Bob Blackman:** Are there any countries you could quote where that is the case?

Paul Morrell: I can certainly get back to you. I think that the answer is most European countries.

Bob Blackman: If you could pass that detail on, that would be useful for us, thank you.

- Q43 **Chair:** You began by telling us at the beginning that you had had little contact with the Department and suddenly it was inviting you into a meeting. That may be connected to this hearing or not. Did it tell you what its intention now was with regard to taking forward the recommendations in your review and over what period?

Paul Morrell: At a general level, yes. Notwithstanding Anneliese saying that it is not known publicly what they told us, it probably is known now because of what we have said here. I think that the Government's intentions should not come to the Committee through us, but in terms of the reaction to our report. The original terms of reference, which are important to me, were that it would be published and that there would be a Government response. When I asked a few months ago, in September I think, when I could expect to see the response, the answer I got was, "Our public position is that there will not be a response." It referred me to the Secretary of State's press release at the time that the report was published, which we did not see until after it was published. That said words to the effect that, "We will issue recommendations for reform, building on this report, in due course".

The last I heard was that there is no current intention to reply specifically to the review, which is a disappointment to me. On publication, the suggestion was that there would be a White Paper. I do not know what would be in it or why it should be white. The latest that I can share here—I think the word used was "prospectus"—is that there would be a "prospectus" for change, for reform, issued before or after Christmas. That is the best that I can give you. Any more than that, you need to ask them, but that is what we have been told.



Q44 **Chair:** We do not know whether that will specifically address your recommendations and say which they are accepting and which they are not?

Paul Morrell: No. Most particularly, of course, we will not know, if they do not look as if they followed them, why they did not follow them. I would have hoped for some dialogue about, "We liked this, we don't like that. The reason we don't like that is because we don't think it will work for this reason." Then we might be able to say that we thought about that and it could work if you did it this way. There needs to be more dialogue. There is dialogue with the industry going on, I know that, but there has not been an enthusiastic embrace of the work that we did last year or the year before.

Anneliese Day: Last week I was told that there is this prospectus that Paul talks about. I do not know the date. As Paul says, you would need to ask them about that. However, the impression that I was given was that there was general acceptance of the recommendations in the report, but we have not had any opportunity yet to discuss that. Both of us have said that we would be willing to do that, but beyond that, you will need to ask them.

Chair: We might ask the Secretary of State when he comes to see us next week and when we get whatever sort of paper it is. It sounds like a Green Paper or a White Paper with green edges that we are going to get. We may want to ask some questions about that and may ask for your input into the questions that we ask, which would be helpful to us.

Paul Morrell: You would be most welcome to.

Chair: Thank you both very much for coming to the Committee this afternoon. It is a highly technical subject area, which laypeople like us sometimes struggle to deal with. Thank you for explaining it so clearly and comprehensively. That is very helpful to us. In the end, though, it is a very technical issue and a very important one for the public and public safety. Thank you very much for coming.