



HOUSE OF LORDS

Industry and Regulators Committee

Corrected oral evidence: Building Safety Regulator

Monday 1 July 2025

10.05 am

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Members present: Baroness Taylor of Bolton (The Chair); Lord Best; Viscount Chandos; Lord Gilbert of Panteg; Baroness Harding of Winscombe; Lord Teverson; Viscount Thurso; Viscount Trenchard; Lord Udny-Lister; Baroness Valentine.

Evidence Session No. 2

Heard in Public

Questions 14 - 25

Witnesses

[I](#): Giles Grover, Co-Lead, End Our Cladding Scandal; Liam Spender, Trustee, Leasehold Knowledge Partnership.

Examination of witnesses

Giles Grover and Liam Spender.

Q14 **The Chair:** Good morning. This is the Industry and Regulators Committee of the House of Lords. We are looking at the Building Safety Regulator, which is very topical at the moment. We have two witnesses in this session: Giles Grover, co-lead at End Our Cladding Scandal, who is joining us online, and Liam Spender, a trustee of the Leasehold Knowledge Partnership. Welcome to you both.

I wonder if you could start by giving us your impression of the Building Standards Regulator, any interaction that you have had, and whether you think that it has made a difference. Perhaps you would like to start by just saying a word about the organisation that you are involved with.

Liam Spender: Thank you for inviting me here today. It is a pleasure to appear before you. As the Chair said, I am a trustee of the Leasehold Knowledge Partnership, which is a charity that represents the interests of leaseholders. It was heavily involved in lobbying to try to improve the Building Safety Act. It has also generally been involved in trying to promote leasehold reform and the adoption of commonhold.

I am a leaseholder myself. I live in a flat near Canary Wharf. It is not a high-risk building, but some of the buildings where I live are, so my main experience is of the occupation phase of the Building Safety Regulator.

The Chair: Do you feel that things are moving in the right direction, or what is your impression?

Liam Spender: I am not sure that things are moving at all. That would be my candid assessment. I have seen a lot of stories of buildings that need remediation but have been held up as a result of delays with the Building Safety Regulator approving the steps that need to be taken, which is causing issues for the people who live in those buildings. They need to be remediated.

I do not think that sufficient attention is being paid to the costs of the occupation regime. That seems to be a secondary consideration to what the Building Safety Regulator is doing. That is not to say that safety should not be the primary objective of the Building Safety Regulator, but I would say that it needs to be a proportionate cost.

Giles Grover: I am the co-lead of End Our Cladding Scandal, as you mentioned at the start. We are a leasehold and resident-led campaign formed over six years ago, focused on ensuring that whichever Government may be in power at the time ends the cladding and building safety crisis, so that leaseholds are protected from costs, residents can feel safe and be safe in their homes, and we can all move on with our lives.

I should declare an interest here as well, because I am an independent member of the Building Safety Regulator's advisory committee. I am also

a volunteer director of the residents' management company at my building. It is actually three buildings, all high-rise, with a principal accountable person, so I have that direct experience for my building, but also across the country, dealing with the campaign, as well as the vast number of meetings that we have had over the years.

In terms of my experience, it is an interesting question. I could go back two or three years and probably spend the next hour answering, but I will try to be relatively brief. I appreciate that a lot of the focus right now is on Labour's targets for building 1.5 million homes by the next general election. The key focus and experience of our campaign is making sure that our homes are made safe as quickly as possible, and not having to pay thousands upon thousands of pounds for it.

From the perspective of the people we represent, there are two key areas in terms of existing buildings. As Liam mentioned, it is the in-occupation oversight and regulation of the 12,500 to 13,000 existing high-rise residential buildings. A lot of the issues that we have seen since the BSR began to require building registrations in April 2023 are around impossibly tight timeframes for providing the information and key building documentation, with everyone expecting safety case reports to be called in from April 2024.

To cut a long story short, the legislation itself was rushed. That has been clear. It was done with the best of intentions and was well meaning, following the Grenfell tragedy, to try to get the estate of the built environment fixed. The timeframes, the provision of information and the limited guidance to support compliance created, in essence, a consultants' charter, where we are getting hammered left, right and centre for the information that is required, the assessments, and the BSR's costs for its desktop reviews. We did some analysis as part of our campaign. About 50 buildings were affected, which were being asked to pay about £600 a year on top of all the other costs that we have had to pay already.

For a bit of context, when it comes to remediation, it has been years and years. Many people have been waiting for at least five years, if not six, seven or eight years, for the work to start on their homes. It is still horribly complicated. You have different funding schemes, different building heights, unequal leaseholder protections, different approaches to risk assessment, a lot of stakeholders at each building, everyone focusing on their liability, national and local regulators with different approaches and different vires, as they keep telling us, and lots of complex legislation.

That is the context. The people we represent have been in homes that are unsafe for years. They have been through absolute hell trying to find out when it will be made safe and who will pay. Mortgage providers are not lending with real consistency, property values are falling, and building insurance is going through the roof. People are still trapped and are desperate for work to start. We know that there are a lot of issues with gateway 2, which I am sure we will get into shortly, whether it is the

underestimates, the lack of forecasting, the patchy communication, or the multidisciplinary team operational models.

Within that context, it is understandable that people are getting very frustrated, but it is important to say that it is not simply a case, as we seem to see a lot in the press, of people saying, "It is all the regulators' fault. They are doing badly", and industry saying, "Our culture has changed. Don't worry". We are just trying to make sure that we can design and engineer solutions to comply with the outcomes-based regulations.

It was Dame Judith Hackitt's report in 2018 that said that there is a race to the bottom and a focus on profits over safety. There is indifference and ignorance, because the system does not facilitate good practice. That is what led to the entirely avoidable deaths of 72 people at Grenfell Tower. A lot of these delays, while they are a problem and need to be resolved, are solvable. I am quite uncomfortable that they are being weaponised by the developers in the knowledge that Labour has, to put it mildly, a stretch target of 1.5 million homes.

We saw the Grenfell Tower inquiry phase 2 report. We saw the regulatory capture there. We saw the Deputy Prime Minister say that government regulators have failed to protect people. That is in the context of 5,000 buildings that are now unsafe, an estimated 9,000 to 12,000, and over 3,000 high-rise buildings. That is what we need to talk about and focus on.

I am happy to get into the detail of where there are issues, but it is not just a case of having to cut away the red tape. Our homes being made safe should not be labelled red tape, whether explicitly or implicitly. Those are my starting thoughts.

The Chair: Thank you. There is quite a lot that we might want to unpack there and go into.

Q15 **Lord Teverson:** Leading on from that, as the Chair said, there are a lot of questions. One thing that strikes me about this is that the BSR has a very wide range of responsibilities in terms of technically small buildings, as well as high-rise buildings and the refurbishment of buildings. The emphasis so far from a lot of witnesses we have listened to has been on delays that have happened. Following on from what Giles said, I am interested to understand whether you think the BSR has its priorities right between those three areas, particularly the refurbishment side versus new build. Are those delays inevitable, from what you are saying, to get the right solution at the end of the day that makes safe buildings?

Giles Grover: That is an interesting question. Where do you start with a lot of this? It is a new regime that is in its infancy. As Philip White said, and as the statistics have shown, 70% of applications were being rejected. There are still a huge number being rejected. Can those developers and designers, if they are focusing on remediation or

refurbishment, or whatever you want to call it, prove that we are now going to be safe and fire will not spread? That is where the difficulty is.

If you look across the estate of the built environment, and the deregulation that took place over the last 30 or 40 years, it is an absolute mess out there. It is about ensuring that we can have as much consistency as possible and focus on what good looks like, as was asked last week, but there has not been quite the laser focus that I thought there would be.

Okay, the Building Safety Regulator has come out. I understand that it agreed with the previous Government to focus on a specific subset of buildings from April 2024, which are the tallest buildings with large panel systems and ACM, but we still had a lot of buildings that are high-rise, mid-rise, and even low-rise, which, despite being under the BSR's vires, no one was really targeting. It was still a case of saying, "Local regulators can deal with them".

As far as the Building Safety Regulator is concerned, after yesterday's news, we are in a state of flux again. It is all in a bit of limbo, but our campaign position is that we need that control and co-ordination centrally, whether it is the Government, the BSR or Homes England. In our view, it should be Homes England, because it has a database where, in essence, you can look at those 5,000 buildings, and then say, "We have a single version of the truth, all the issues, the materials and the stakeholders", and start to focus on those and then work with the Government, the BSR or the Leasehold Advisory Service to really get a focus on those buildings.

The BSR has a wide remit, but I am not 100% sure whether it has the focus that I thought we would have when I heard that there would be a Building Safety Regulator created. That is my short answer.

Lord Teverson: Liam, can I ask you to talk a bit about—this has not come up recently—the extra costs that have come out of this process for the victims? Perhaps you could just enlarge on that, as well as the BSR. You almost suggested that everything has moved backwards since it started its operations. We have heard that the Government are now going to put something like 100 more people—and professional people—into the organisation and rescue it from the Health and Safety Executive. Is that good or bad?

Liam Spender: Dealing with the second part of the question first, about the set-up and including it in the Health and Safety Executive, that was probably a mistake. I do not think that the Health and Safety Executive was the right place to put the Building Safety Regulator. That is not to be disrespectful to the Health and Safety Executive, which does good and important work, but I do not think that it was the right fit. It needed more expertise in design and fire safety, which I do not think the HSE has, because it is, if I can put it this way, more of a retrospective regulator. It is more about people and systems rather than design and technical questions about fire safety. That is where it has fallen down.

Time will tell whether the Government have made the right decision to turn it into a separate executive agency, which I am sure I do not need to tell you is another rendition of the chorus of an old song. If you set up a new agency, you create lots of issues that have to be overcome in the set-up. We will just have to wait and see on that.

Coming back to the issue of the cost of the regime, you are quite right. As I said in my introduction, the costs are met by the occupants of the building. You have the principal accountable person, which will be the freeholder or its managing agent. It is not spending its own money. You have the Building Safety Regulator in whatever guise. It deals only with the accountable person; it is not necessarily thinking about where the money is coming from to meet those obligations. The costs can be very significant.

To give you just one example, where I live, we have nine blocks. Four of them are higher-risk buildings. Each block, for some reason, had its height measured in three consecutive years. I do not know why. The cost of the building safety case report for each of those four blocks was £15,000. That is something like £300 or £400 each for the leaseholders in those buildings.

On top of that, while not technically within the BSR's remit, but under the Fire Safety Act, all the doors had to be checked. Across the estate of 436 flats, it cost £15,000 for the fire door checks. That is the better part of £75,000 just in one year for the costs of complying with the new rules. There is no regulation or oversight of the contractors that are being used by accountable persons and managing agents.

The cost is already disproportionate, but the risk is that it will become more so as the regime progresses, particularly given that, if the Building Safety Regulator, as Giles said, calls in a report, it charges for its time. That cost falls on the leaseholders. If the report has to be improved or changed, or more work has to be done, those costs fall on the leaseholders. It is not very difficult to get to a position where you could have enormous costs, or a doubling of the costs, just for the building safety case report, which has to be periodically renewed. Attention does need to be paid to that.

Lord Teverson: Could I retrospectively declare my interest as a director of Wessex Investors, Wessex Development and Investment, and Lasting Properties, which are in the development area? Thank you.

The Chair: The figures that you were talking about there are not for remedial work, but just for checking.

Liam Spender: They are for compliance with the new regime. There is no remediation in those costs.

Giles Grover: Could I come in with a bit more context to those questions? As Liam said, we always thought that it was a bit strange that it was set up in the Health and Safety Executive, which is generally more

used to organisations than people. From my understanding, and maybe with hindsight, it was set up there because that was the least worst option before they brought it back into MHCLG. I have seen what happens when MHCLG tries to set up systems and processes, and I am not convinced that that would have been the best idea.

In terms of the costs, without getting into the weeds, you have different legislation. You have the Building Safety Act leaseholder protections, which include measures such as relevant measured surveys. You have the Landlord and Tenant Act, where surveys can be forced on to leaseholders via the cost and service charge estimates. It is the way that the pieces of legislation interact and conflict with each other. It is the lack of guidance.

I have three buildings in my development. Two of them are connected because there is a basement car park, but, in the eyes of the Building Safety Regulator, they are not connected, so we are having to pay 15 grand per building. As Liam said, it is all these checks. It is all the further requirements for compliance. There has been such a squeeze on capacity. The impact statement that was released by the Government in August 2023 said that these will be a cost to industry. It was marketed and advertised as that. If you read the small print, those costs are recharged to leaseholders. They recognise that those costs will fall on their backs, as well as remediation.

One really worrying concern that I have is that we have a proposed remediation enforcement unit that the BSR is bringing in. Will that then operate the same alternative cost recovery of charging the principal accountable persons, or charge the leaseholders for remediation to be accelerated? I have heard that rumour and I have asked the BSR for clarity, but I have received nothing yet, and it is very concerning.

Q16 Viscount Chandos: I have a question that goes to the heart of your two organisations. How does the BSR engage with residents? How do you see that feeding through to its decision-making?

Liam Spender: I do not see much sign of the BSR engaging with residents. It is one level removed at least, because it deals primarily with the principal accountable person, so leaseholders are not in the loop. That is a failing. In light of the fact that it is not hearing the leaseholder voice, that influence is not shaping its decisions, which possibly explains some of the issues that we are seeing.

Viscount Chandos: Is that because of its remit or the way that the leadership has pursued things?

Liam Spender: They have had a lot on their plate, to be fair to them, because they have had to set up a new organisation. As Giles said, their focus has been on addressing a subset of the highest-risk buildings, and that is where their priority has been. Perhaps the resident voice and listening to leaseholders has not been at the top of the agenda, so it is an issue of prioritisation. Whether it is a deliberate choice or just through

pressure, this has not been given the priority and the weight that it deserves.

Viscount Chandos: The residents' panel, therefore, implicitly, is not really working.

Liam Spender: I know people on it who say that to me. One of the failings of the residents' panel is that it includes a representative of one of the large managing agents, which does not make any sense to me. Again, it does not seem that the residents' voice has been given the priority that it deserves.

Giles Grover: I echo all of that. As a campaign team, based on what we understand, what we have seen and what we have heard, we have ongoing concerns about the make-up of the residents' panel and the way in which it is operating. It is about whether it truly represents the interests of leaseholders and residents. Liam has touched upon one of the concerns that we have had, which I have raised directly with the BSR. We have not really managed to get a breakthrough. It is saying, "We need people representing all areas of interest", and that individual who Liam mentioned is there as a leaseholder. I am happy to share more details privately, so I will leave it there for now.

I am not sure that there has been any meaningful impact from residents' panels. As Liam says, I know a couple of people there. I do not think that they are really focused on the key issues. It all feels pretty much like a tick-box exercise, really, as a lot of this does. Everyone always says, "Residents and leaseholders are our utmost priority and at the centre of what we do", but it often does feel like warm words. On the ground, we have a template for resident engagement strategies being pushed out. Oftentimes, they are just sent out by private buildings owned by an offshore freeholder. Again, it is all just to tick a box.

We have seen that residents can contact the BSR. I am not sure that there are any stats in the public domain. We need better statistics on the BSR's performance, which I hope will come quarterly, according to the Minister. We just keep hearing the warm words. We just keep being told, "Yes, you are at the centre", but it is all still very top down. It feels as if it is all just lip service, really, to put it mildly.

Viscount Chandos: You are on a different panel. Is that right?

Giles Grover: Yes.

Viscount Chandos: Is there anything that you see in the way that your panel fits and interacts that could be transferred to the residents' panel?

Giles Grover: I am an independent member of the Building Safety Regulator's advisory panel. We deal with Philip White, Sarah Newton and everyone directly. It has been challenging to get up to speed with exactly how it operates. There is a lot of trying to improve. It has got a lot better recently. I will also say that, when we first met Peter Baker at the BSR a

couple of years ago, that was probably one of the most awful meetings that I have ever had in my life.

As we have seen, across the piece, it is leadership that counts, and I do think that that leadership improved under Philip, but I am not sure that the discussions that take place there can be reflected in the residents' panel. I would be interested to understand more whether the residents' panel can talk about things that really make a difference and change things.

I will be honest. I was reminded at one point that it is an advisory panel rather than a scrutiny panel. I am more interested in scrutinising and making sure that we get things right, as well as advising, so it is a tricky balance, especially for an ordinary layperson and leaseholder, to join those sorts of committees, I would say.

Q17 Lord Gilbert of Panteg: I will declare an interest. I am a member of the board of a regulatory body, the Electoral Commission, and chair its audit and risk committee. I wanted to ask a question about the approach to regulation generally. Giles, you touched on this a bit in your opening remarks.

There are, basically, two approaches to regulation: rules-based and principles-based. Rules-based regulation has the advantage of bringing clarity. You comply with a set of rules and procedures. You tick all the boxes. You may be very diligent in ticking all the boxes. You may be very extensive in carrying out your duties. None the less, you have clarity. Principles-based regulation judges you on outcomes and whether you have applied a broad set of principles to guarantee, in this case, safe outcomes.

In your respective experiences, does the Building Safety Regulator balance those two approaches effectively? Does it give developers and property owners clarity about what is required of them?

Giles Grover: As with all these things, it is a case of finding a balance. Based on my experience and the experience of the people we represent, I am very uncomfortable with the whole outcomes-based approach and the lack of prescriptive regulation in this country. That started in the 1980s. We have had a lot of deregulation. We have had value engineering in the context of this country's national fire door classification standards. People are saying, "We are moving away from value engineering", but, last week, one of your witnesses talked about engineering solutions. I do not think that we will go back to simple prescriptive rules any time soon, sadly. Particularly for buildings below 18 metres, that might not be the subject of this discussion just yet.

The key is to have a robust system of competence, which it is starting to, proportionate enforcement, an understanding of what enforcement means on the ground and how it takes place, and clear responsibilities, which are still being worked through in terms of what the BSR is doing, how it is working with local regulators, and how it is ensuring that it is

improving best practice and providing that guidance, without going back to the old days of very cosy relationships and regulatory capture, as was expanded upon in the Grenfell Tower report.

Ultimately, we do need to have better guidance, but, again, that is where the operationalisation of the legislation has happened very quickly. There was not sufficient forecasting and guidance, so there do now need to be more and better responses. We have seen that that has been quite patchy on the ground. We have different buildings and different funding schemes, such as developer contract grant funding schemes, where the responses from the BSR can still be quite inconsistent and patchy. They will sometimes just say, "We want an extension". They will sometimes give reasons for that.

I have seen issues where the process probably needs to be improved slightly in terms of what is happening at the validation point. There was an example of a building in Milton Keynes where the developer submitted the application in February and it was validated in April. It has now been rejected because the application was for one instead of 12 buildings, so they should have been separate. That is the sort of thing that could happen a lot earlier on.

There are a lot of process improvements as a starting point for the BSR, but there is also the opportunity now to say, "This is good practice". I would like to call out good practice and bad practice, but there is the scope to call out and say, "This is happening well. This is what we need to do. This is where we need to go".

Ultimately, without getting into the detail, you have building regulations. You have relevant defects. You have life-critical fire safety defects that will be fixed, so we are now going for a proportionate approach. It is that inconsistency between interpretations and that subjectivity of what is proportionate and what is a tolerable risk.

As far as we are concerned, our homes need to be made safe, but there are still too many disputes and delays. A lot of this is still a blame game between developers, designers, the BSR and MHCLG. Everyone is just spending a lot of time on blaming each other, without saying, "Let's crack on and fix it, and make sure that there is best practice and learning, because leaseholders and residents do need to be at the heart of it".

Liam Spender: I am not sure that there is sufficient evidence to judge whether they have adopted a principles-based or a rules-based approach. The system has not been tested, as far as I am aware. There has been no major case, as far as I know, where they have refused an occupation certificate. Unless the system is tested in that way, it is difficult to know what approach they are adopting.

To reiterate my previous answer, they have spent a lot of time trying to get to grips with setting up the organisation and processing the volume of applications. They are struggling with legislation that left a lot to be decided later. The Building Safety Act was called framework legislation.

At the time, we said that there should be more substance to it, so that people would have the clarity and certainty that you mentioned.

Perhaps because I do not deal with the gateways and the bulk of my knowledge is from the occupation phase, I cannot see anything in public that sets that balance or gives an indication as to whether it is principles-based or rules-based.

Lord Gilbert of Panteg: As a quick follow-up, perhaps for Giles, is the body well placed to stay ahead of innovation in the sector and apply regulation to innovative products, processes and concepts?

Giles Grover: If I am honest, from my perspective, “innovation” is always a bit of a worrying word in terms of exactly what it means. Modular construction or prefab was innovative, but there are further issues cropping up with that. There is an innovation unit, I have heard. There are lots of units and teams: “We will set this intelligence unit up”.

I have heard something about an innovation unit, but I am not sure, once developers and designers start coming up with these design-engineered solutions, how that will be tested. Will it have the usual BS 8414 (fire testing of external cladding) test? Will it be part of the single construction regulator as well, now that we are looking ahead? The BSR is probably trying to get up to speed with what is happening right now before we even start thinking about innovation and new improvements from the developer side at least.

Q18 Lord Udney-Lister: Could I just quickly declare some interests, which are all in the register? I am a non-executive director of Stanhope, which is an office developer in London. I am an adviser to Delancey. I also chair a registered provider, BMGP Homes, just to put all those on the record. I also perhaps ought to say that I am a former chairman of Homes England, so I have quite a lot of knowledge from the Homes England side, which is probably of some relevance.

Developers and building owners have complained of a lack of clarity, which we picked up in the last question. I really wanted to try to probe the clarity piece. Does the BSR know what makes a good, safe building? Could it give much better guidance to speed the whole process up?

Liam Spender: The simple answers are no and yes. I do not think that they currently know or are able to say what makes a good, safe building. It will differ from case to case, but that goes back to the point about where the substance of the regulations is. It all seems to be in a state of flux. There are reviews going on into building regulations. “What are the product safety standards? How do you fit them together?” There is no substance in the Building Safety Act to guide those decisions.

Could they come up with much clearer guidance? The answer is obviously yes. It should be a discussion that involves all the stakeholders, so the developer, the rule makers, the building owners and the people who are picking up the bills. Ultimately, it is the people who buy the products,

whether they are renting office space, buying an office block or buying a flat. To reiterate the previous answer, that clarity is sorely lacking.

Giles Grover: I would echo all of that. For new buildings higher than 18 metres, it should be easier, because there are rules out there. Combustible materials are now banned from those. For existing buildings, that is where the difficulty is and where there is pain on the ground. We have building regulations right now. We have relevant defects that cover a whole range of issues, including structural problems, but remediation is focusing on life-critical fire safety defects. It is that whole subjectivity. Are we just looking at the external walls? Are we looking at other factors relating to the building? There should be better guidance.

You then get into the complications of some people asking, "If we are replacing fire doors, can those be a category B?" Ultimately, when you look at what category A guidance is, it is something that will improve the fire safety of your building. Fire doors will dramatically improve that. There does need to be better guidance, and it is easier to do that for newer buildings, relatively speaking. With existing buildings, one of our campaign's long-standing calls has been for the Government to provide that consistency of risk assessment, inside and outside, so that we know what makes a building safe. That is where the last 30 or 40 years have led us into this mess, so it is incumbent on the Government to provide that certainty to the fullest extent within the context of where we are now.

Lord Udny-Lister: Developers have called for better communication and feedback from the BSR and its multidisciplinary teams. Should there be greater communication, understanding and common working between the bodies, or is there a risk here of greater lobbying by the developers? It is a balancing act that has to take place, but I would be interested in your views.

Giles Grover: You are right. There is this balancing act. Last week, they were talking about the task and finish working group and how that will make sure that the guidance is out there. The Construction Leadership Council is now working with the BSR. That is when it goes back to my concerns in terms of whether it will end up just being the developers and designers saying, "We are doing this", and the BSR, or wherever it ends up, saying, "We accept that". It is that whole balance between learning, best practice, and getting the communications consistent across the piece, both individually relating to buildings and more broadly. Is it a case of the BSR using a bit too much stick? Could it use a bit more carrot?

I am just really worried, given what I have seen over the last few years and what I am still seeing with the developer contract, where one or two developers are choosing their own fire engineers, but they will still be able to choose their own building control entities. I am still not certain that the culture has changed enough for them to be leading the way on what good looks like, so it is a bit of a balance. Everything in this world is a balance.

Liam Spender: I would broadly echo what Giles has said. It is a balancing act. The complaints of the developers are legitimate, and there is a basis to them, but you do have to take them with a pinch of salt, because they want to manage their supply in a way that makes the most profit for them. That is their duty to their shareholders. Perhaps some of the criticisms of the Building Safety Regulator are more geared to explaining shortages in supply rather than issues that they are encountering with the Building Safety Regulator, so you have to be a bit cautious.

Generally, and as mentioned in my last answer, dialogue is a good thing. Developers should be able to get their business done, but the regulator should also be able to achieve its objective of making sure that we all have safe buildings to live and work in. I do not think that the right balance is being struck at the moment.

- Q19 **Viscount Thurso:** Following on from that, we have had a lot of evidence that there have been delays in approvals, mostly from people waiting to build new buildings, but I imagine that it is probably the same in maintenance terms. There have been reports from other committees that the regulator has said that this is because developers do not understand what makes a building safe. Equally, last week, we had some developer here who said, "We're all professionals. We've been doing this thing. We do know what we're talking about." I would really like to probe with both of you the extent to which delays are caused by a poor understanding of what real building safety is on the part of the developers.

Liam Spender: There are issues on both sides, so we need to be even-handed with both. Developers see things through the lens of profits, which is their duty to their shareholders. What they think of as safe is influenced by those considerations, and what the BSR thinks of as safe is influenced by more political considerations, so making sure that there is not another Grenfell and getting their organisation up and running.

That is the tension between the two positions, but one thing that has been lacking since Grenfell came along is this idea of safety. What does it mean? Is it focused on whether the external walls are built properly and clad in safe materials? If you do that right, does it matter if the rest of the building is not up to whatever standard you have specified, or is it a more holistic question? Is it the case that you need to make sure that there are specific rules that are met in relation to all aspects of the building, with a focus on the outcome being the safety of the occupants?

We seem to have a jumble between the two and there is tension between the two sides because they are still fighting that out. That is probably a failing of the way that the Building Safety Act came about, as a framework, with the substance to be decided later. It has still not been decided and we are now experiencing the results of that, which is the Building Safety Regulator not signing off as quickly as it could on new buildings or on remediation products.

To touch on Giles' point and to round off the answer, it is also a cultural problem among developers. They are used to pushing risk down to their subcontractors, and it being treated primarily as a question of cost rather than outcome.

Viscount Thurso: If you take the first part of your answer, which is, basically, the tension between the two sides and the developers' need to maximise profit, there is an implication in that. Developers know that they are building things that are substandard but think that they can get away with it. Are we really saying that that is the case, or are we saying that there is not an understanding of what a suitable safety standard is?

This is slightly angels on a pinhead stuff, but it is rather important, because one is a knowing decision to build something that is unsafe. That is like building an aeroplane where you expect it to crash. The other is building something that you think is perfectly adequate, without having an appreciation that what you have done may lead to that crash. They are two quite different things. Are you saying that it is the former rather than the latter that is the main problem?

Liam Spender: It is the former, as is borne out by the two Grenfell Tower reports, where you find wilful conduct and deliberate decisions to withhold safety tests about cladding and to market products that the manufacturers knew were dangerous. When the products arrive on the sites, you find a developer and a whole system of subcontracting that turns a blind eye to those issues. It is more on the wilful side of things. The better developers—I am sure that there are some out there—may be in the second category, but the problem is that the whole industry is tainted by the bad developers, and the fact that there are failings in products, design, construction and operation. It is difficult to say which pinheads you should rest on, but that would be my answer.

Viscount Thurso: You are saying that, basically, this is a problem that industry needs to sort out.

Liam Spender: Yes, and the BSR has a role in doing that, but it is primarily up to the people who design, procure and build buildings to do a better job.

Giles Grover: What Liam is saying is spot on. It has been the case for the last 30 or 40 years, because of the deregulation, because of the standards in the UK, and because everyone knew that there was no real oversight of what was built. There probably should have been, but building control did not, or was not able to, do its job. Whether it was private or public issues, the lack of rights, or only being able to check once a building was constructed, that was always well known.

Ultimately, leasehold law played a part in this, where developers could build something that is not very good, for want of a better word, and sell it to a freeholder, who then charges the leaseholders for it. We have seen that happen countless times. When I moved into my building, it was fairly new, but there were leaks left, right and centre, and issues with the

carpets. No one really cared, because they knew that they could get away with it. That is the culture that has built up for the last 30 or 40 years. That is not going to somehow change overnight.

I am sure that there will be good actors. It is about finding who those good actors are. Again, we are always told the right thing, but the problem is that everyone still keeps blaming everyone else. The developers are saying that it is the BSR's fault. The BSR is saying that it is the developers' fault. It will be something in the middle, but, as I say, from the perspective of a leaseholder, we are not big fans of any of the construction industry.

Q20 Lord Best: The BSR has suggested that it might like to work on the basis of dealing with the organisation, rather than with the individual property. It looks at the skills and competence of the organisation as a whole, and approves on that basis, rather than looking at each of the 436 fire doors, one by one, and ticking off the boxes. Is this suggestion by the BSR worth while, or would this perhaps mean that some things go unnoticed, that wool is pulled over eyes, and that it is not such a good idea after all?

Giles Grover: I have heard Philip say that. It would make sense to be able to deal at a group level with the organisation. It does depend upon what the organisation is. Last week, it was a housing association that said that it had had that feedback and, because it has the systems in place, it will improve its processes. I still would not then go to the extent of the FCA, as was referenced, saying "We reviewed the culture of that company. It looked like it was doing okay, so we don't need to worry so much about it".

Particularly at this stage, there still needs to be that real oversight, that grip, and that view of what is being built, but within the context of, "These are the ones that we have seen doing it right. They have the developers and designers there. They are part of the way forward". Again, as I say, I would be worried that we just summarily say, "They will be okay in the end", because it is fair to say that, particularly when you start looking at the freeholders, the managing agents and the contractors providing the safety case reports, a lot of these parties have been profiting from us for quite a long time.

We have begged and pleaded with the BSR or MHCLG to really get into some of these bad, sharp practices, which we are seeing at individual buildings, but it is a cultural thing happening at a group level. There is value to do that. It might be the developers building under the remediation contract or the self-remediation contract of the Government. Is there scope then for that learning? MHCLG and HBF should be doing learning. Is there scope for the BSR to join that and improve those processes to say, "This is what you're doing terribly. This is what you're doing well. Can we do that at organisational level?" I think that we can, but we need to make sure that we do not just end up with a lot of rubbish being built again.

Liam Spender: In theory, the organisation approach is probably the right one. It is the way that a lot of regulators work. The FCA, for example, as you probably already know, goes in and certifies the organisation and certain people discharging senior management functions. Is it the right solution for accountable persons, where the accountable person is a managing agent? You can probably anticipate my answer. Currently, no, because you have people who, in my view, are not fit to discharge a fiduciary obligation.

In giving them the opportunity to potentially mark their own homework by saying, "We have certified the organisation. Therefore, we will take it on trust that you are doing what you need to do in each building", there are all sorts of terrible cultural problems. There is a culture of withholding information, not explaining what is happening, giving contracts to connected parties, a general lack of transparency in charging, a general lack of care in the way that works are commissioned and executed, because you know that you are not bearing the economic consequences of it, but are passing the bill on to someone else. Until you fix the culture and regulation of managing agents, which will be most of the people who are acting as accountable persons, you cannot move to an organisation-based approach.

Lord Best: You would support the creation of a regulator of property agents, which is the subject of a separate report.

Liam Spender: Yes, I would, as long as it is the right sort of regulator.

Q21 **Baroness Valentine:** Good morning. I should perhaps declare that I am a director of Value and Indexed Property Income Trust before I ask my question, which relates to the resourcing of the BSR. Do you feel that the BSR has sufficient resources to ensure the safety of buildings and to provide timely approvals? Is there a need to give the BSR more funding and, if so, should developers accept an increase in regulatory fees to allow for this?

Giles Grover: We have seen the issues with the lack of resource. The requirement was 190 staff and they said they needed more. There are going to be another 100 staff to approach that full complement. Part of the issue was underestimating. An approved inspector went bust as well, so there have been those operational issues. Ultimately, it is then the multidisciplinary team model, which they are talking about bringing in-house. If you bring that fully in-house, will that mean that you will not have the culture, the learning and the skilling up across the country as well?

There is probably scope to do a bit of a hybrid model here, where you have in-house but also external resource. Ultimately, there are a lot of process improvements, which goes back to some of the stuff that I was mentioning, where, particularly for the unsafe buildings, if you have that oversight of all 5,000 from end to end, you can really start showing the pipeline, whether it is the social housing buildings, the grant-funded buildings or the developer contract buildings, to say, "Let's get ahead of

it. Let's focus the limited resources on those buildings that are starting to come up".

Ultimately, for new buildings, developers should pay for it. The profit margin is already pretty decent, from what I understand, so why should they not pay it? Without sounding too flippant, the reality is that they will always find another way to reduce the costs. We have seen it here left, right and centre, with service charges being kept artificially low and insurance being low. Leaseholders end up paying indirectly, one way or the other, so I would rather they pay for it than we end up paying for it, which always seems to be the way with these new measures from Government, sadly.

Liam Spender: Ultimately, the BSR is never going to have the equivalent resources to compete toe to toe with the private sector. The private sector will always be able to outspend it in terms of expertise. The current evidence is that the BSR does not have the resources that it needs, and we saw only yesterday that more resources are being given to it.

It is an unfashionable question. How much should come from general taxation and how much should fall on the people who use the regulator's services? Bearing in mind that the people who are dealing with the regulator are not those who are ultimately picking up the bill, because the costs are reflected in higher prices for property and higher service charges for the people who occupy these buildings, my unfashionable view is that regulators should be remunerated from taxation, and their expenses met through general taxation as far as possible, because you remove the problem of distorting prices and potentially being captured by the people you regulate, because they are the ones picking up the bill.

Viscount Chandos: Why would you treat the cost of getting regulatory approval differently from the cost of construction? Anything will increase prices to buyers, tenants or leaseholders, so I am not quite sure about saying that regulation should be paid for out of general taxation.

Liam Spender: It is a philosophical difference. It is the same as the courts system, for example. It charges fees to the people who use it. If you want to issue a claim above a certain value, you need to pay a £10,000 issue fee. That engages questions of access to justice. If you cannot afford the issue fee, there are remission schemes, but you have to have only a very modest level of assets before you do not get the help.

I see it as the same issue with building regulation, but the other way around. If you put large fees on the people who are making the applications, you will push up prices and affect the market. To me, it makes more sense to spread the cost through general taxation. That was the way that I was approaching it.

Baroness Valentine: Clearly, if one could speed up the process by paying more money, that should not, in theory, translate to additional cost. The developers would say that the delay is causing extra cost.

Therefore, if you can make it quicker, you have traded those two things. Is that fair, Liam?

Liam Spender: It would depend on how it is made quicker. If it is made quicker by employing many more people, the cost may go up, but if it is made quicker by making the process more efficient, which is what I think you have in mind, it should lower the cost. It would depend on how the BSR gets to grips with that organisational issue.

Q22 Viscount Trenchard: My question has largely been covered, but just going a little more deeply into the resources of the BSR, does the BSR have access to the skilled staff necessary to carry out multidisciplinary assessments of safety? You have already said that it needs perhaps another 100 staff on top of the 190 that it already has, which is an increase of nearly 50%. Are they more skilled staff and, therefore, more expensive? Are we looking at something much greater than a 50% increase in personnel costs?

Do these need to be in-house? Would it be better that the BSR had its greater capacity in-house rather than relying on contracting outside staff for its MDTs? If this will require higher salaries, it seems to me that we are looking at not just a modest increase but a massive increase in cost of regulation, which pulls even more into question your suggestion that it should be for the taxpayer to meet this cost rather than for the developer. Can we go a bit more into this question of skills? Are there enough skilled staff available to do this, whether in-house or not?

Liam Spender: The evidence is that, given that additional staff were announced for the BSR yesterday, there are not enough staff at the moment. In terms of what they cost and whether they should be subcontracted, I did read something the other day that said that one of the issues that the BSR may be encountering is that, because it can pay only at public sector rates, it has difficulty in attracting highly skilled professionals who can earn more in the private sector. That is a problem that all public sector organisations face.

I am not sure that relying on contractors is necessarily the best way forward, partly because you are going to have to pay something equivalent to a private sector rate, so you push up the cost of doing it, but there is also a risk of conflicts of interest if you have someone who works sometimes for the private sector and sometimes for the regulator. It is poacher turned gamekeeper turned poacher again and again. If you wanted to adopt that sort of model, you would need systems in place to manage any conflicts of interest. It is a difficult organisation question, which is really for the Government and the regulator to answer.

Giles Grover: Just going back to the question, 190 staff were needed, and they are recruiting 100, but that means that they will still need 90 more. It is difficult to pass through some of the numbers. Quite a few of the building control professionals have been around for a while now. In essence, before the transitional arrangements for the BSR came into effect, they thought, "Okay, it's time for me to go", so there are gaps

there. Last year, there were something like 4,000 building control professionals. Half of those were trainees. Different ones could do class 1, class 2 or class 3.

There does need to be full understanding of what is coming through and what work they need to do. You can bring it in-house, but, as I say, it is still the case that we need to have that knowledge and learning locally as well with the local regulators, because they still have to support the BSR. They might not then have to support it in some of the remediation, but will they be supporting it in calling in safety case reports?

The wider point of a lot of this has always been that, for however many years, under both the previous Government and this Government, there have been capacity constraints. Thousands of buildings have needed remediation. Initially, it was about the fire engineers, the assessors and the contractors. It is now more about including the building control professionals as well.

Going back to 2020, the Public Accounts Committee said that the Government had failed to resource, plan or deliver. Ultimately, there has not been enough resourcing. There has not been enough planning. There has not been enough finetuning and firming up of estimates.

There are a lot of potential process improvements. Without necessarily getting into where the resource comes from, you could just have proper oversight of all those buildings, as I will keep going back to, where you have all these entities—the Government, regulator and Homes England—working together and streamlining those resources. The regulator's code says that those should not have duplication, but we are seeing too much of it. Ultimately, if it is not done in-house, there will need to be funding at local level. There has been some limited funding, but there will need to be more to make sure that they can scale up locally as well.

Q23 Lord Teverson: Perhaps I could come back to low-rise buildings. Has the BSR got its head around those, and is that providing greater confidence on those sorts of buildings, or is it just a distraction from its getting on with a job that is really important, which is the remediation of high-rise developments? I do not know what your experience is of the low-rise sector here, but what is the added value here, and is it a distraction?

Giles Grover: Any building, of whatever height, if there are people living in it, needs to be made safe. The focus has always been on high-rise residential buildings. We get the point around height being a determinant of risk, but it is not the sole factor. There are lots of different factors. You might have a 17-metre building with Aluminium Composite Material (ACM) wrapped around it that needs remediation. You might have a 19-metre building that has two fire escapes and a tiny bit of ACM. Does that mean that the 19-metre building is more dangerous? That, in essence, is the approach that we seem to have taken without looking properly and holistically at buildings, inside and outside. Ultimately, mid and low-rise buildings can still be constructed using combustible materials.

It is our fear, from what we have seen and from the reality that we face, that there is a lot of gaming of the system, such as building just below 18 metres, as we have seen relatively recently, to get around having a second staircase. I have seen that happen. One of my buildings is at 17.9 metres, so that it would not have to meet the theoretically stricter thresholds above 18 metres. Are there buildings now being built just below 11 metres to avoid needing sprinklers?

I am hopeful that one of the BSR's roles in terms of the regulation of the building control profession will help improve the culture, but I am very concerned that we are just talking about height, height and height. I get why we have to do that, because there are 12,500 buildings, and goodness knows what would happen if it starts to regulate the 80,000 to 90,000 mid-rise buildings, but there needs to be a better understanding of what the BSR is doing, how it is reviewing the building control and approving inspectors, and how that key learning is being shared, whether with councils, with combined authorities, or nationally.

Ultimately, it does get very confusing on the ground. I have mixed-height developments, with one over 18 metres, one mid-rise and one low-rise. Who is looking at those? Do they not all deserve to be made safe at the same time, as quickly as possible? That is what we think should happen, but you have BSR in charge of buildings over 18 metres, while, for mid-rise buildings, developers can still choose their own regulator. It does not quite make sense to me. I am not certain that it is the optimal approach.

Lord Teverson: Just to follow that up briefly, are you saying that there have now been examples of this cliff edge where developers are coming in at 17 metres and 99 centimetres? Is that what is happening?

Giles Grover: There was one example in Penge, in Bromley, where the firefighters—I will check whether it was the London Fire Brigade—were very concerned that it was against the spirit of the rules, because it had just reduced it. You can then get into a conversation around holistic risk. What are the other redundancies? What are the other factors in play—means of escape, sprinklers, or whatever it might be?

What I have seen in a lot of buildings does concern me. There was The Cube in Bolton many years ago that was just below 18 metres. The building safety fund was at 18 metres but had to be changed to 17.7 metres because of that gaming of the system. I have seen one example, and I am sure that there will be many more. As Philip White said recently, even on buildings that were developed and completed fairly recently, they are finding issues there with the gateway 3 approvals, so there will still be these issues across the country.

Liam Spender: It is not something that the BSR has got to grips with. Nobody has got to grips with it, because, at the time of Grenfell and in the run-up to the Building Safety Act, the Government made the decision that the focus should be on what eventually became known as higher-risk buildings—those over 18 metres. I do not think that anybody has a clear

picture of how many other buildings are out there, but it does go back to this question of what makes a safe building.

The evidence is that low-rise buildings with particular sorts of defects can be as dangerous as higher-risk buildings. There are certainly examples of this. Giles mentioned The Cube, a low-rise building, which burned down very quickly, and it was difficult to get people out, so perhaps the focus should be on fire safety more generally. It goes back to this question of what is the substantive definition of a safe building.

One of the recommendations in the phase 2 Grenfell report was that the regime should be extended to buildings of all heights. I do not think that the current regime should be extended to buildings of all heights, because the indications are that it is not working properly for design, construction or occupation, so you would need to fix it before you extended it. Is there an issue with lower-risk buildings? All the evidence points to the fact that there is.

The Chair: That takes us very nicely into Baroness Harding's question.

Q24 **Baroness Harding of Winscombe:** I would just like to explore your view on how the Building Safety Regulator's work should relate to the regulation of construction products. One of the things that the Government said yesterday was that the move of the BSR out of the HSE was an initial step towards creating a single construction regulator. How do you see the BSR working today with the Office for Product Safety and Standards, and how do you think it should work?

Liam Spender: It is one of the things that have not been dealt with, probably because it has been forced down the agenda as a result of the need to set the organisation up and to process applications. It is vitally important that construction products are brought into the regulatory piece, because, in the discussion that we have had today, a clear recommendation from Grenfell was that it was a serious gap in the system of safety for buildings. You had product manufacturers deliberately withholding test results, gaming the testing system and putting products that they knew to be unsafe on the market.

To my mind, it seems to be the case that, if you have an effective system of building regulation, the material that you are putting into the building must be of appropriate quality. Perhaps it is because I do not deal with the Building Safety Regulator at the gateway stages and I just do not have that experience, but I cannot see anything publicly indicating that that link has been made between products and the things that the Building Safety Regulator is interested in. If moving towards a new single construction regulator with that brought in is the way to do it, it would be something that I would welcome.

Giles Grover: Similarly, I have not seen a massive amount in the public domain. I keep seeing all these acronyms—the OPSS (Office for Product Safety and Standards) and how it will work with the BSR, who is doing what, and who is leading. For products, as we have seen, there was

systematic dishonesty that they knew that they could get away with using the UK as almost just a dumping ground for their rubbish, for want of a better word.

We do need a single construction regulator. A concern has been raised and there was a recommendation in the Grenfell Tower inquiry's phase 2 report. The testing and certification of construction products should be done by the construction regulator and taken away from the privatised system that we have in place. There has been a lot of pushback on that, for their own reasons. That is my concern. How will that operate and play out? As much as the Government are saying that they are taking those recommendations forward, they are not really implementing them at the pace or in the spirit that we thought they would be.

Q25 Viscount Chandos: Striking the balance between safety, affordability and supply is not a challenge uniquely for the UK. Are there lessons to be learned from best practice and where it is perhaps done better in other countries and jurisdictions?

Giles Grover: I saw this question as part of the briefing. I am struggling enough to cope with how it is working in England, never mind in other countries. If I look at, say, Singapore, it seems to be better. Germany has a more prescriptive code. Ultimately, while they are not necessarily moving forward as quickly as possible, if I look closer to home at Scotland, they have a single building assessment in terms of remediation. Ireland and Wales have a different approach. They probably have a better grip of it and a better approach overall in terms of making our buildings safe, which is my main focus for today. I am sure that we can learn from other countries as well. That is my simple answer.

Viscount Chandos: I am absolutely sympathetic to your capacity to cover the world, but should the BSR be more proactive in trying to learn from elsewhere?

Giles Grover: The starting point is that it needs to get up to speed with where it is now. There is probably scope to learn from other areas. That then comes down to whether the BSR is able to make the changes that it needs to make, or whether it will have to go to MHCLG. That might be another reason for bringing it into housing, so that it can make these tweaks and improvements, and deal with other countries at that group level as well. That is at the end of my knowledge at this point, really.

Liam Spender: I would agree. There will be examples of other countries that have managed similar problems perhaps better than we have, and those examples should be adopted. Australia and New Zealand, for example, have had issues with construction and have adopted a much more muscular approach, which we could usefully adopt here.

You have also seen examples of buildings in the Middle East where cladding fires, before and after Grenfell, have been dealt with differently from the way that we have done it. I am sure that there are lessons to be learned from elsewhere in the world, and the regulators should do it.

The Chair: Thank you very much. You have been very generous with your time. You clearly both have quite a lot of hands-on experience of this particular area, so thank you for the insights that you have given us this morning. Feel free to follow up with any other information that you think we should have brought to our attention. Thank you very much indeed.