

Levelling Up, Housing and Communities Committee

Oral evidence: Building Safety: Remediation and Funding, HC 1063

Monday 21 February 2022

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Members present: Mr Clive Betts (Chair); Bob Blackman; Ian Byrne; Brendan Clarke-Smith; Ben Everitt; Kate Hollern; Andrew Lewer; Mary Robinson.

Questions 173 - 236

Witness

I: Michael Gove MP, Secretary of State, Department for Levelling Up, Housing and Communities.

Examination of witness

Witness: Michael Gove.

Chair: Welcome to this afternoon's session of the Levelling Up, Housing and Communities Select Committee, where we are having a session with the Secretary of State on our inquiry into building safety, remediation and funding, following the Secretary of State's announcement to the House on 10 January about certain changes he wanted to see, which have been followed up since and have resulted in some amendments being tabled in the House of Lords. We want to follow up on those issues this afternoon.

Before I come over to the Secretary of State—you are most welcome, again, Secretary of State, to our Committee—I want to put on record on any interests specific to this inquiry that members may have. I am a vice-president of the Local Government Association.

Kate Hollern: I currently employ a local councillor in my office.

Ian Byrne: I employ a local councillor in my office.

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



Brendan Clarke-Smith: I employ councillors in my office.

Andrew Lewer: I am a vice-president of the LGA.

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

Q173 **Chair:** That is us on the agenda very quickly. Secretary of State, thank you very much for coming. This is a very important and long-running issue, I have to say. It is now nearly five years since Grenfell and I think we, as a Committee, have been occasionally frustrated, as perhaps you may have been as well, about the pace of remediation and the pressure put on, particularly, people who, out of all good faith, bought a property and now find they have enormous bills and, potentially, unsafe homes to live in. It is about how we can work at those matters to try to put them right, so thank you very much for coming.

With regard to the announcement on 10 January, you were working to try to develop new arrangements so that leaseholders did not have to pay, particularly for buildings around 11 to 18 metres, and you were meeting with the industry and others. Is the fund that you are proposing, which you are asking industry and I think also product manufacturers to contribute into, going to cover just cladding remediation? That of course is where the developer of the building no longer exists. Is my understanding right about that?

Michael Gove: Yes, the fund is primarily for cladding. Exactly, yes.

Q174 **Chair:** In terms of who would pay for that, you have been having meetings with the developers, the Home Builders Federation and its members, and with product manufacturers. Bob Blackman wants to come in and ask one or two questions about product manufacturers, but are the housebuilders enthusiastic about paying into this scheme?

Michael Gove: I do not think anyone is enthusiastic, necessarily, about taking money from their reserves, shareholders or investors, but there is a widespread recognition, and that was very clear from Stewart Baseley and others in the very first meeting that we had, that leaseholders certainly should not pay. To be fair to the housebuilders and developers, they have engaged positively with the negotiating process.

There is an acceptance that, for the work required to be done on those buildings that are their buildings, as it were, they need to step up. They have acknowledged that the work required in order to ensure that the buildings they are directly owners of should take place. They should remediate their own buildings.

There is a broader recognition that we have an obligation, collectively, to protect leaseholders. The question they have been asking is whether the £4 billion that we have identified as the cost is fair. One point that they have made, which is entirely understandable from their point of view, is whether, rather than it simply being a fund to make buildings safe, there are some who are using the prospect of this fund to improve buildings



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beyond that which is required purely by safety. I hope I am being fair to them in saying that they have been constructive and pragmatic, but also cautious.

Q175 **Chair:** When the housebuilders came to see us, they were saying a number of things, particularly that others ought to be contributing as well. That was a key point. As I said, Bob is going to come on to look at the role of manufacturers. They suggested that there were contractors and subcontractors—and, indeed, many of the developers of high-rise buildings—that were not UK housebuilders but foreign companies, which seem to be exempt from all these requirements.

Michael Gove: There are two things. First, when we met with housebuilders, we all also benefited from Liam Spender, whom the Committee will know, discussing the broader situation. The point that Liam made, which I thought was fair, is that the developers sat at the apex of the system. We know from the Grenfell inquiry and other reporting that there are contractors and subcontractors that bear responsibilities as well.

Ultimately, the developer, the building owner, is responsible for every aspect of building control and development. That is where the buck stops, but we are certainly not saying that only developers should bear responsibility.

Q176 **Chair:** Where those developers are foreign-owned companies, or companies perhaps registered in one or two offshore domains, for pretty obvious reasons, are you going to be able to get them into this scheme and get them to pay their fair share as well?

Michael Gove: We have a range of levers and the levers that we have that can help to persuade—I am sure that they are already persuaded—developers to do the right thing bear with more force on them than on some of those who are operating at one, two or three removes. We do have other levers that we can use in order to try to pierce the corporate veil, to identify who the ultimately responsible owner of a building is and to make it clear that they have a responsibility to pay for the costs in the buildings for which they bear that burden and which they own.

Q177 **Chair:** Can you actually ensure that foreign developers, developers based abroad that have built these buildings, are made to pay? In the end, do you actually have the mechanisms to enforce that? If they say no, what are you going to do?

Michael Gove: I do not want to show too much of our hand. Some of the tools that we want to use are there and are apparent in the amendments that are being brought forward. As I think everyone appreciates, particularly when we are dealing with some determined actors that want to do everything possible to evade their responsibility, we do not necessarily want to show every bit of our hand there. It is just a statement of truth, and it applies to construction product manufacturers as well, that companies that are domiciled and do business in the UK are



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easier to engage with and it is easier to be clear with them about what the consequences of non-engagement might be.

Q178 **Chair:** Would you accept that the HBF has a fair point? In terms of the developers that should be making contributions, it should not just be its members.

Michael Gove: The HBF has been fair. As I say, it has accepted the high-level principles. It has outlined some concerns. We are seeking to meet those concerns. Ultimately, we have to try to find a way of protecting leaseholders. The approach that we have put forward is one that provides them with the maximum available level of protection.

That means that, if we cannot necessarily allocate precisely and with total authority all of the burden to some players that are hiding behind offshore or other vehicles, we can have a collective approach. As the Committee knows, the £5.1 billion that has already been committed to the building safety fund is taxpayers' money. We are trying to make sure that the burden is shared with developers, which are, as I say, at the apex of the system, and that we also pursue others as well.

Q179 **Chair:** In terms of the others, Simon Clarke's letter to you said that you could not go after the insurance industry with a tax or levies. When we had a discussion with the insurers who came to see us to give evidence, we raised the issue of warranties, which they accepted were slightly different. They are, effectively, saying, "This building is okay, because we are giving a warranty to it". Should they not be included in your collective arrangements?

Michael Gove: Lord Greenhalgh has been talking to Baroness Morgan of Cotes, who is the chair of the Association of British Insurers, about how we can have a more proportionate approach towards insurance overall. We believe that, ultimately, when it comes to insurance, the most important thing is to make sure that the premia that people are currently paying are more proportionate.

Chair: That did not really answer the question, I do not think.

Michael Gove: Not yet.

Q180 **Chair:** We are talking about contributions towards remediation costs in general. If you are asking the developers to pay, should you not be asking those who provide a warranty, saying these buildings are safe, to make a contribution as well?

Michael Gove: It is a fair point. The ultimate building control responsibility is the developer's. As I said earlier, that is where the buck stops, I believe.

Q181 **Chair:** You are not going to look at warranty providers as part of this scheme.

Michael Gove: We are not ruling anything out at this stage, but we have outlined those that we believe are at the sharp end of responsibility.



Q182 **Bob Blackman:** To follow up on the insurance issue, one of the issues is that any developer will have insurance for the work that it has done. Potentially, if the developer can say, "We believe we built this to the spec that should be there" and there is a claim on it, it could quite legitimately pass that claim on to the insurers. I wonder if you are pursuing that particular route.

Michael Gove: Part of the purpose of the negotiations is to say to developers, "You are first in line and there are reasons why we believe that is so". The purpose of the negotiations is also to say, "We have a shared responsibility to resolved this problem and we are open to your thinking about how we can best do that".

One point that we make is this. If it is the case that either contractors or insurers have a responsibility that we have not correctly and properly apportioned and identified, let us discuss what it is that we can do. There is pressure on the Government, quite rightly, or there was pressure, to bring forward amendments to give leaseholders reassurance. That having been done, we are now talking to the developers and others about how we can make sure that the funds are made available, so that leaseholders are not in the invidious position that they have been in the past.

Q183 **Bob Blackman:** The other issue is in relation to products. As you will know from the Grenfell inquiry, there are concerns that the product testing regime is not fit for purpose and that many products supplied do not even meet the tests that they claim to have met. These are fire doors. They are all sorts of products that are actually built into buildings right across the country. It seems to me perfectly reasonable that the product suppliers, which were warranting that these were fit for purpose, should be asked to either replace them free of charge or, indeed, contribute towards the cost. Is that being included in your thought process?

Michael Gove: Yes. There are two things that I would say. First, some of the most egregious transgressors are companies that are based outside the United Kingdom. There are therefore practical difficulties in pursuing them in the way that we would want to. As I think I mentioned to the Committee before, we have been seeking, with Kingspan, Iconic and other companies, to demonstrate to them that they cannot evade these responsibilities.

Secondly, in thinking about the regime that prevailed, as the inquiry shows, Government themselves have a responsibility as well. The inquiry will come to its own conclusions. Whether we look at the Department, BRE or others, it was clear that there was a collective failure to ensure that appropriate safety rules were followed and that information was shared in an appropriate way. I would not like anyone to think that it was anything other than a shared responsibility to deal with this situation. Government have to shoulder some of that responsibility as well.

Q184 **Bob Blackman:** Finally, to clarify on that particular product safety issue,



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how far back are you going to go, in terms of the products themselves? You have the 30-year rule that you have applied. Will that apply to products as well?

Michael Gove: I would have to come back to you on that. Going back as far as 2002, and arguably further back, it is clear that there were flaws in the way in which products were being tested, sold, marketed and regulated.

Q185 **Chair:** Why have product manufacturers not been included in contributions towards the building safety fund of £5 billion?

Michael Gove: We talked to the Construction Products Association and to manufacturers about the responsibility that they have. We wanted to eat the elephant in chunks and deal with it stage by stage. The most important and first thing to do was to talk to the developers because they are the people who, even though it is a shared responsibility, have the principal responsibility when it comes to the fitness of any building and its safety.

Q186 **Ben Everitt:** Hello, Secretary of State. Very quickly, can you please explain exactly which groups of leaseholders will be protected under law from future costs of remediating unsafe cladding?

Michael Gove: Essentially, we are seeking to make sure that all leaseholders, including those who may themselves be, as it were, landlords by default, are protected. If there is a leaseholder who has a string of properties, they will not be, but the overwhelming majority of those who have been affected and concerned will be protected by the legislation we are bringing forward.

As you know, we are making sure that no leaseholder should be liable for cladding costs. There is an absolute cap of £15,000 in London and £10,000 outside for any non-cladding costs. That is inclusive of past costs. As a leaseholder, if you have already been held responsible for waking watch and other costs, that will be taken off that sum.

Q187 **Ben Everitt:** I am sure that last bit will be particularly welcome. Please can you explain what you mean by landlords by default?

Michael Gove: It might well be that someone has moved out of their leasehold property, is in another property and is letting that property out. If that is the case and that is their only other property, they will be covered by these provisions. It is in the nature of the way that the property market has had to operate that some people might have found themselves in that position as they need to move to a property that is bigger, for family or other reasons. We wanted to make sure that we were not in a position where we were potentially creating an open-ended commitment to cover the costs of people who were the owners of multiple properties.

Q188 **Ben Everitt:** You referred to "a string of properties". Where are we



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drawing the line on this? We have heard from the National Residential Landlords Association that, originally, buy-to-let landlords were excluded from remediation funds. Then, of course, the Government's amendments to the Building Safety Bill protect non-resident leaseholders who own one other property. "A string of properties" implies multiple ones. Are you implying that there might be protections for having more than one property?

Michael Gove: No, just one. That is the aim.

Q189 **Ben Everitt:** There is no real chance, then, of committing to protecting leaseholders who own one, two, three or four as part of a retirement package or something like that.

Michael Gove: That is not the plan at the moment. As the Bill makes its way through the House of Lords, if there are specific hard cases or systemic problems that emerge, we will look sympathetically at any amendments. The aim is to ensure that we are not in a position where we have a runaway commitment to people who are themselves of significant means.

Q190 **Ben Everitt:** That is understood. What is at the back of my mind is that I meet quite a lot of constituents who have saved up and bought one, two, three, maybe four very small properties, basically keeping affordable homes in the market, and are leasing them out as their retirement plan. We are saying that, under the current plans, they would not be capable of being supported.

Michael Gove: Under the current plans, no. Precisely the case that you have mentioned is one that is worth looking at. We did not want to be in a position where we were subsidising people who were of significant means. Looking at those cases, seeing how widespread it is, I do not want to make any promises at this stage, but we will look sympathetically at any amendments that help to capture people.

We put forward the amendments as quickly as we could, seeking to capture the spirit of what so many campaigners had asked for. They are not perfect; they cannot be, but they can be refined in the House of Lords.

Ben Everitt: As you have implied, they are not necessarily the Grosvenors of the world.

Michael Gove: No, quite, exactly.

Ben Everitt: This is their pension, essentially.

Q191 **Chair:** I have one follow-up there. It has been drawn to our attention that where, maybe in a block of 30 flats, a couple of those flats are owned by landlords in the situation that Ben has just described, if they cannot afford to remediate their flats, it can sterilise the whole of that development and affect everybody in it. Is that a concern that you are looking at?



Michael Gove: Yes.

Chair: Can those sorts of factors be taken into account?

Michael Gove: That is precisely what, in a way, the process of parliamentary scrutiny is there to help us to achieve. As you quite rightly pointed out, because the whole chain, the whole situation, is so complex, I do not think that we will ever have a perfect solution in which there will not be potential delays in some remediation or potential hard cases or injustices at the side. We want to listen sympathetically to all those and see if we can refine our approach to take account of that.

Q192 **Bob Blackman:** Last week you announced the fact of having the limit on the charges for non-cladding costs for leaseholders. Can you clarify why there is a difference between the cladding costs and non-cladding costs? In many ways, the fire defects dwarf the amount of money that is required for cladding.

Michael Gove: It is a triage process. The greatest potential catastrophic risk comes from unsafe cladding material, but that is certainly not, as you quite rightly point out, the only fire safety risk. We know that the Government have already committed to removing all cladding in high-rise buildings. We have an approach towards removing cladding outlined for mid-rise buildings.

When it comes to dealing with other costs, to be fair to developers and to the taxpayer, there is a limit to how much we can scoop from those pots. Ergo, we are saying that it is the responsibility of the freeholder to deal with these costs. We will pursue them as far as we can, but we recognise that it may not be possible to get all the resources we need. Therefore, the Florrie's law principle that leaseholders can, in extremis, be called upon to pay some of these costs, but we will cap them, is one that we think is fair.

There is another question as well. I have to be careful, but our legal advice is that, if a building owner were to challenge our legislation and we had not shown that we were taking a proportionate approach, they might have more of a chance of potentially shielding themselves from these consequences. It is partly governed by legal advice to show that we recognise that there can be—I hesitate to say a *de minimis* amount—amount that can necessarily be relied on leaseholders to contribute for the less urgent work, although I would not want to diminish in any way the importance of it.

Q193 **Bob Blackman:** At the moment, there are limits being put on. What estimate has the Department made of the number of leaseholders who are liable to be paying any money towards this as things stand?

Michael Gove: I will have to come back to the Committee because, again, a lot will depend on our success in making sure that we can compel or encourage building owners to live up to their responsibilities. I can come back with a rough and ready estimate of exactly how many



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people are likely to be potentially in scope. It would have to be an estimate, rather than anything else.

Q194 **Bob Blackman:** We understand that, but also what the average would be. A cap is one thing, but leaseholders may well be asked to contribute anyway, which is significant. Where we have got capped contributions from leaseholders and contributions from developers, building owners, landlords et cetera, when it is deemed to be insufficient to cover the remediation of the fire safety, the non-cladding defects, who is going to pay for the rest?

Michael Gove: Ultimately, as ever, the taxpayer is the backstop. We are seeking to ensure that we can pursue those who have a direct responsibility. It has always been the case, and the Chancellor will probably shiver for me to say so, that we have a responsibility here. We want to make sure that, the taxpayer having already committed a significant amount, those who have a direct stake in ownership do so. The view I have taken is that, if you fine the freeholder, that individual or institution is likely to have the resource required. Some will say, "But some of these freeholds are in pension funds and so on". I accept that. Ultimately, someone will have to pay, but I would rather that it was a big institution that bore the burden of having to do this work. They were prepared to take on the benefits of securing that freehold and what they assumed was guaranteed income. With those benefits come responsibilities.

Q195 **Bob Blackman:** You have put these proposals and the amendments we have seen to the Lords. Are you open to other suggestions for other amendments that might be incorporated that might protect some of these areas?

Michael Gove: Yes, completely. I cannot make a commitment that there will not be others within Government or elsewhere who might be cautious about accepting, but the whole approach we have tried to take is to engage with those who have been most affected and their champions, in order to try to make sure that the legislation meets those needs.

As I think I mentioned the first time I appeared before this Committee on this issue, I was struck by the fact that the arguments that were made by campaigners were arguments rooted in justice. As I looked at their position, I did not think there was anything inconsistent or wrong about it. We will continue to work in order to refine the legislation.

Q196 **Bob Blackman:** What advice would you give to any leaseholder who receives a bill now, ahead of the passage of the Bill?

Michael Gove: You can be confident that you will not need to pay more than the amounts we have outlined. Therefore, if your freeholder is demanding this sum from you, you should say, "No, the Government are going to legislate in order to ensure that you, the freeholder, or whoever else it might be, are responsible for paying".



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Q197 **Chair:** How are you going to decide whether a freeholder can pay? We have had past evidence that some are fairly low-capitalised companies that, essentially, live off the ground rents that they get. How do you decide whether a company can make a contribution?

Michael Gove: Ultimately, they decided to take on that freehold. They are seeking to pass on the costs to the leaseholders. If they are corporate institutions that have sought to do so thinking that they can make a profit from it, there is a responsibility that they must bear and not seek to pass on to the leaseholder.

Q198 **Chair:** How do you decide whether they can pay?

Michael Gove: We will do everything we can to ensure that they do, because that is their responsibility.

Q199 **Chair:** How do they show that they cannot? Some might simply say, "We do not have that resource".

Michael Gove: I am sure a lot will say that, but it is our job to make sure that they cannot hide behind professions of poverty. There are people who are being asked to pay huge sums, as individuals, who simply cannot afford them. My view is that, if you are the sort of individual or institution that owns a freehold for a block of flats, you are unlikely to be indigent or in need of Government support.

Chair: That might be an interesting issue for discussion.

Q200 **Ian Byrne:** I want to touch on something you spoke about before, Secretary of State. With the Grenfell inquiry last week, BRE was exposed over three days for doing nothing against dangerous cladding other than ignoring emails and then merely sending them to the Government Department. BSI, another privatised company, had to withdraw its standard, as it was against the law. You touched on the Government's responsibility regarding the failure of regulation before. At the same time, over the last 10 years we have seen cuts to local authorities as well as fire and rescue budgets. Will taking BRE and BRI back into public ownership be considered? Will the regime of cuts against local authorities and fire safety come to an end, because of the failures?

Michael Gove: Like you, I am looking at the inquiry, the evidence it uncovers and the work it does. There are certainly questions that have been put to BRE. Evidence has emerged about BSI and others that is deeply concerning. I cannot make a commitment that we are going to take them back into public ownership, but I am open-minded about what the best way of fixing the regime is.

We have debated this before. There has been a significant increase in this spending review in local government funding. I know local government is under a lot of pressure in lots of different ways. One thing that the Grenfell inquiry exposed is that the system of building control was flawed. I do not think it is purely a question of resource, but you need to bear that in mind. I quite agree.



Q201 **Ian Byrne:** We are going on to data now. You previously promised to share data with the Committee on the number of buildings requiring remediation. Can you tell us today what those figures are, by height of building and type of defect?

Michael Gove: Yes, I can. I can share the information with the Committee, but I can run through, as an example, that, as of 31 January, if we are talking about buildings with ACM cladding—the greatest cause for concern—there are 481 buildings altogether: 160 are high-rise residential that are in the hands of registered social landlords; 226 are private sector high-rise residential; 56 are student accommodation; 31 are hotel high rises; eight are public buildings. That takes us to the 481 figure.

I can share figures on what we think are the overall additional requirements. For residential buildings over 18 metres, which are non-ACM, I think it is 2,826 private sector and 222 social sector buildings that have applied to the building safety fund. That is not every building, but it is certainly almost all. When it comes to those below 11 metres, I will provide the Committee with figures, but it is a significantly larger number.

Q202 **Ian Byrne:** The estimates for the funding arrangement are a bone of contention. How did you arrive at the £4 billion estimate to be agreed with industry for buildings of 11 to 18 metres minimum height?

Michael Gove: One difficulty, and it has been a source of exasperation for the Department, concern for the Treasury and understandable questioning from those outside, is that it is difficult to be precise. We are saying to the developers at the moment, “If you believe that this figure is an overestimate, please let us know what you think the reasoning is behind that”.

Q203 **Ian Byrne:** Why is it difficult to be precise?

Michael Gove: At the moment, part of the difficulty is recognising the scale of work that is required, building by building. We can make informed, and well-informed, estimates, but we cannot know precisely at this stage, because we have a legacy of poor building control. As we go, city by city or borough by borough, we sometimes uncover a situation that is worse than we imagined.

To be fair, it may be that there are one or two items of cladding on a building, but there is not a systemic risk, because the building is low rise. Even though the material is material that should not have been applied in the first place, nevertheless there is not a significant cost there.

We are working through it and these can only ever be informed estimates, rather than absolute, precise figures. That is why it is better—and, to be fair, the developers have acknowledged this—if, wherever possible, they say, “Okay, we will pay for it ourselves. We have an incentive not to waste money, but we also have an incentive to make



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sure that this building can be guaranteed to be safe at the end of the process”.

Q204 **Ian Byrne:** What data was used when the Government arrived at the £5.1 billion estimate for the building safety fund for buildings 18 metres and above?

Michael Gove: The work that we have done has involved a team within the Department and consultants from outside, in order to make the best-informed estimate of what that cost will be. By definition, with any programme of construction or remediation, you can have a budget. That budget can be based on the best technical guidance and advice, but it is theoretically possible that it could be up or down from where you are.

Q205 **Ian Byrne:** Data collection related to the external wall systems on high-rise residential buildings and materials in use on residential buildings between 11 and 18 metres in height is currently being undertaken. The data is being analysed and will be published in due course. You said that you will make sure to share with the Committee once it is appropriate to do so. When is it appropriate to do so and why is it inappropriate now?

Michael Gove: I do not think it is inappropriate. It is just that one thing about the requirement for EWS1 forms is that that is a decision by lenders. We have been talking to lenders about trying to make sure that the demand can be reduced. In the conversations that we have had with lenders, they say that they expect that, in the end, for 11 to 18-metre buildings, probably only about 5% of those buildings or fewer will require EWS1 forms.

Once you have done that work, once one potential lender has said, “You need this work required on this building”, you do not need multiple lenders to do the same. We are trying to make sure that there is a database and an approach whereby that information can be shared across lenders and across the whole sector. We have had two good meetings with lenders so far, where they have agreed the high-level approach. More detail about exactly how we can make that work still remains to be thrashed out with them.

Q206 **Ian Byrne:** What is the timescale on that potential database?

Michael Gove: I would hope that we would be able to do that before the Bill concludes its passage in the House of Lords.

Chair: One of the contentious issues is that leaseholders have already paid bills for this work.

Q207 **Mary Robinson:** Secretary of State, you have said the Government are not in a position to compensate those who have already contributed. I wonder why that is. What do you say to those who have told us that that is throwing those leaseholders under a bus?

Michael Gove: I entirely appreciate those concerns. It is important that, as I mentioned earlier, in response to Ben’s question, for those people



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who have already contributed to waking watch and other requirements, that will be set against any £15,000 or £10,000 limit that they may have to face.

It is also the case that the responsibility on developers to ensure that they deal with the buildings for which they themselves are responsible may mean that some of the money that has already been committed through BSF and other funds can be—I hesitate to say “clawed back”, but we can potentially secure back and redeploy some of the claims developers have made on the public purse.

As I have tried to stress throughout, it is always going to be an imperfect process, because we inherited an unsatisfactory situation. We have been trying to make sure that we can, in the time, with the resources we have available, provide people with as much support as possible.

Q208 Mary Robinson: Do those costs that have already been paid out over the past five years counting towards the cap include both cladding and non-cladding costs? Is it both of them?

Michael Gove: Yes. Our approach is to try to ensure that no one, in the future, has to pay for any form of cladding costs and that the maximum amount for non-cladding is £15,000 in London and £10,000 outside.

Q209 Mary Robinson: The difference will be reimbursed if they have already paid out.

Michael Gove: That is the aim.

Q210 Mary Robinson: You said that you are seeking to ensure that individuals do not face costs in the future. There may be works that have been started or that have been specified but not started and leaseholders have not yet been billed for that. How would you determine whether the leaseholder is protected?

Michael Gove: My sense is that, while a number of demands have been made, had we not acted, the pressure would have been being felt over the next few months and years. We have been able to respond to the concerns that have been correctly outlined to avert people having to pay out massive sums. The situation at the moment is that people have been told that they will be expected to pay significant sums. Some will already have done so, but it is a case of averting a looming crisis. In the curve of where we are, the curve of costs that have been passed on to leaseholders is a coming wave, rather than something that has already hit the shore for many.

Q211 Mary Robinson: Previously, you said, if a freeholder is demanding a sum, that they should just demur really and say, “Wait for the legislation”. Is that the position?

Michael Gove: That is certainly what I would do, yes. We are clear where the responsibility lies and that is what we are seeking to achieve through the amendments. There is one thing I should say to be fair to the



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Chair's point about freeholders themselves. As a result of the amendments we are bringing forward, freeholders will also have additional abilities and powers to pursue developers and others that they believe have landed them in it. It is not the case that they are not being provided with the tools required. I would not want anyone to think that they would have to hand over large sums now, when the whole aim of the legislation is to protect them.

Q212 Mary Robinson: They are in quite a difficult position, because they have all this worry about what has happened to them and then they are potentially going to be coming up against a freeholder who is going to be pushing them.

Michael Gove: Precisely, but if I were advising a leaseholder I would say to the freeholder, "I am terribly sorry; it is your responsibility to deal with this. That is what the Government have spelt out. We are not going to acquiesce to your demands when there is this legislation before the House of Lords that is explicitly intended to support us and that has been brought forward by the Government and backed by the House of Commons".

Q213 Chair: That would cover the situation that Hilary Benn, I think it was, raised with me of a block of flats in his constituency, where they had actually applied for and got, from the building safety fund, the cost to cover the cladding removal. When they started to look at it—whether they even started to do work I am not quite sure—they found lots of other building safety work, which was then going to be passed on to the leaseholders. The leaseholders could not pay. At this point, the building safety fund said, "Can we have our money back, please, because the building is not going to be made safe because the other work will not be done?" In that sort of situation, are those leaseholders going to be completely protected, apart from the cap?

Michael Gove: Yes.

Q214 Bob Blackman: I have a follow-up. One other issue that has been raised frequently is people in leasehold properties who cannot either sell, mortgage or insure their properties because, basically, there is this huge potential liability over them. What advice is being given by the Department now to that? We are in a position whereby some people literally cannot sell their properties and want to move on, but cannot.

Michael Gove: This is the discussion that we have been having specifically with the lenders, because, ultimately, it will be their decision as to whether they would be prepared to write a mortgage for someone buying that property. In order for them to do so, they would need to feel that the property had a value that was not reduced by the liabilities for safety. That means that they need to be certain that we, the developers and others are going to take on that responsibility.

We have said to the lenders, "We have introduced the legislations we said we would. It is in line with everything that we discussed that you thought



would be prudent". They are holding fire for the moment and I think that is entirely because they want to make sure that this legislation makes its way on to the statute book. I am hoping that they will then be in a position, if not beforehand, to say, "This is good. We have the assurance we need. We can now lend and get the market moving again". Ultimately, and this is an argument I have made not just to the lenders but to the developers, it is in no one's interest for the market to be frozen in this way.

Q215 Andrew Lewer: We have heard in our evidence sessions that one in 10 new affordable homes will not be built in the next five years because of building safety costs. On top of that, as we have already heard, your Department's budget is now supposedly the backstop, in case funding arrangements are not secured with industry. What assessment have you done of the impact of the proposals on building new social homes?

Michael Gove: Specifically because of the concerns that have been raised by the sector, we had a roundtable meeting last Friday. I was not chairing it, but my colleagues were. That was with the major registered social landlords in order to assess what the potential impact would be. I do not dismiss the fact that there might be an impact. We obviously want to reduce that.

In the spending review, £11.5 billion was made available in order to ensure that we could support affordable housing. We are working with RSLs at the moment in order to identify what impact, if any, there might be on supply. I think that they understand that it is the Department's view, and it is perfectly possible to disagree with it, that safety comes first and supply second. We do not want to be in a position where we do not fully understand the concerns that they have.

Q216 Andrew Lewer: We have not come across anyone in the sector suggesting that safety did not come first, but they were very adamant about the reduction in potential to build affordable homes. It sounds like you and the Department are questioning that assertion that one in 10 homes would be not built as a result of extra costs for building safety.

Michael Gove: We just want to understand the figures. I am not saying that I think that that is totally wrong, but nor would I say that it is an accurate assessment. It is understandable. Were I the chief executive or the chair of an RSL, I would want to make sure that the Government were aware of what I considered to be a reasonable worst-case scenario. We have a responsibility to interrogate that and understand why they are making that judgment. I do not dismiss it, but I think it is one of those cases where we need to kick the tyres to assess exactly what the impact will be.

Q217 Andrew Lewer: I suppose they may respond that it is in the Department's interest, equally, to suggest that their figures are not quite as robust as they believe that they are.



Michael Gove: They could equally well say that. I am not trying to cast aspersions. I want to be in a position not to definitively endorse a figure until we have had a chance to interrogate it more deeply.

Q218 **Andrew Lewer:** Moving on from building to maintenance, has the Department done any impact assessment on the maintenance of the existing stock of social homes?

Michael Gove: Since we last met, the levelling-up White Paper was published. In it, there is a commitment to improve housing quality overall. We are looking at exactly how we can make sure that we meet that mission at the moment. That is part of the work that we are doing in advance of what we hope will be the publication of our social housing Bill, which we hope will be in the third session. We hope that that Bill will be before the House of Commons in May or June of this year. We are working at the moment to see what the requirements are on the Department in order to make sure that that Bill and the requirement to maintain social homes in a decent way can be met.

Q219 **Andrew Lewer:** Speaking of those commitments, one of them would be the affordable homes programme at its current level. Can you commit to protecting that affordable homes programme at its current level if the Department is not able to recover funds from industry to fix those building safety issues?

Michael Gove: That is it—£11.5 billion. That is committed to the affordable homes programme, yes.

Q220 **Chair:** The affordable homes programme will not be the fallback to have money taken from it if you cannot raise enough money from the industry to pay for these works.

Michael Gove: We will do everything we can to protect it.

Q221 **Chair:** That is not quite a guarantee, is it?

Michael Gove: I have learnt that you can never give a cast iron guarantee. You can only commit to best endeavours. If, for any reason, I have to resile from that, I will come and let the Committee know.

Q222 **Chair:** Is there not still something slightly unfair about two residents living side by side, one of whom, fair enough to them, has been able to buy their property from their social landlord and they are now going to get all the costs of remediation paid for through the Government's scheme, and next door is a tenant who is maybe not quite as well off, but is paying their rent, who is going to have to pay for their works out of that rent? They are not going to get the same help. Is there not some unfairness in there?

Michael Gove: Let me reflect on that. I absolutely take your point, but one reason why we have taken the steps that we have is that we are seeking to ensure that those with the broadest shoulders and the greatest responsibility in the private sector pay. Inevitably, every



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landlord or developer has to take responsibility for the state of the buildings for which they were the developer in the first instance or the continuing owner.

Q223 **Chair:** They may not always be the developer in the first instance, but it is still the tenant's money that probably they were thinking is going towards their new kitchen in the future that is now going to be used to pay for the cladding.

Michael Gove: Yes, I take your point. Overall, we are keen to make sure that RSLs—I do not want to criticise them because they do an amazing job—are better held to account in the way in which they serve their tenants. Some of the steps that we are proposing to take in legislation will mean that, if you have RSLs that have been less than fair in how they allocate their resources with respect to their tenants, that can be identified and action taken.

Q224 **Chair:** It does not really deal with this problem, though, does it?

Michael Gove: No, I take your point.

Q225 **Chair:** Moving on to the withdrawal of the consolidated advice note, which you clearly explained in your statement, there is the indication that EWS1 forms therefore were going to disappear. We had quite a bit of evidence that the PAS 9980 form—even more of a mouthful to try to get out—would not actually have an immediate impact, recognising that it is sensible in that, as I understand it, that fire risk assessment will be done as a one-off, not for each sale. It will be done for the property and would apply to all similar properties in the block. It is obviously sensible for the future, but there is a view that, because it would take some time to get round all the buildings, you are still going to have a lot of EWS1 forms required in the meantime. That is what we were told.

Michael Gove: It all depends on what one means by “a lot”, but it will not lead to the elimination of EWS1 forms overnight. As I mentioned earlier, the sector's estimate is that 5% of properties 11 to 18 metres may still require EWS1 forms at the moment. That will diminish over time for precisely the reasons that you mentioned.

We are also looking at other ways in which we can provide guarantees about the fire safety or otherwise of buildings, as well as simply allowing a process of market discovery to do that.

Q226 **Chair:** As for the PAS 9980 forms, it was said to us that there is going to be a real challenge there, because of the limited number of specialist fire engineers who can go and do this work. Priority was going to be given according to whether owners thought that that form of risk assessment was necessary. There is a lot of concern that owners who are not qualified in these matters should be the ones. There had been quite a bit of evidence to us that it actually ought to be the regulator that laid the standards down and decided.



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Michael Gove: There are several things there. First, in terms of meeting the need for trained personnel, we have provided nearly £700,000 worth of funding to RICS to help train more assessors. There are now 1,000 additional candidates in training in order to do this work.

On the point about the responsibility as to whether it should be the owner or others, we are working out at the moment, with HSE, how the new Building Safety Regulator should work. We are looking at how we can make sure that the market works more effectively in order to discover and mitigate risk, but we are considering other means as well, because we cannot rely on the market alone.

Chair: You at least recognise that there is an issue there that needs resolution.

Michael Gove: Yes.

Q227 **Chair:** The other thing that was raised with us, again perfectly reasonably, was that the new professional indemnity insurance scheme, which has generally been welcomed, would cover only EWS1 forms and not the PAS 9980 assessments. Is that not something that needs rectifying?

Michael Gove: We are reviewing that as we speak.

Q228 **Chair:** No doubt, on those matters where you are still looking at them, you will be able to let the Committee know what your conclusions are as soon as you have reached them.

Michael Gove: Yes, absolutely.

Q229 **Ben Everitt:** Has the Department tried to calculate how much leaseholders have already paid for this crisis?

Michael Gove: Yes, but I do not have the figures to hand. I can come back with a judgment. It is more about mitigating a future wave of costs than dealing with a significant amount that has already been paid. We will try to give you our best estimate of what has been committed. We will work with the leaseholder groups as well, in order to make sure it is not just our figure plucked out of the air.

Q230 **Ben Everitt:** I am sorry; this sort of follows up on a theme that I did not mean to generate here, but, picking up on the language used, the announcement last week about the cap for non-cladding costs said that leaseholders would be protected from exorbitant costs. Now, 10K outside of London and 15K within London feels exorbitant.

Michael Gove: It is certainly not insignificant, no. The reason we adopted that is that that is the Florrie's law principle that has been inherited. It seemed to us that that was an accepted and acceptable level, but, obviously, if I could, I would want to spare any leaseholder from having to pay anything.



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As we have discussed, we can go to developers. They, in turn, can go to some of their subcontractors. We can go to construction product manufacturers. We can get freeholders to go after developers and so on. At the end of this process, as you have gone over all those hurdles, our legal advice is that making it clear that, in extremis, leaseholders will play a part helps us to make sure that freeholders live up to their responsibilities.

Q231 **Ben Everitt:** We covered insurance earlier, but would sharp rises in insurance premiums be included in the cap?

Michael Gove: It is an intimately related issue. It is one that is of profound concern, not least because Jeremy Clarkson articulated that concern in the pages of the *Sunday Times*. Helping Jeremy with his insurance premia is not the most important issue facing me at the moment, but he has highlighted the way in which it affects other people. That is one of the reasons why I mentioned, in response to the Chair's question earlier, that Stephen Greenhalgh is talking to the ABI about what we can do.

Q232 **Ben Everitt:** Say a leaseholder cannot get up to the 10K or the 15K, because they simply cannot afford it. Is there any support that the Government can offer to people who just cannot afford it?

Michael Gove: We would want to look at specific cases. As you mentioned earlier, even with the best will in the world, there may be some hard cases that are not caught and that we want to look at the legislation for. It may be that there are some people who are genuinely in very difficult circumstances. We would want to look at that.

Q233 **Chair:** Coming back on the insurance point, I know we had a discussion about it before. Mary was raising the issue that, quite rightly, we have asked the insurers to give us information about the extent to which premiums have been raised since Grenfell and the extent to which payouts have increased. We suspect that the two have not risen to the same degree. There is not really any reason, is there, why the insurance industry more broadly should not make some contribution towards these costs?

Michael Gove: That is a very fair point and I will just say two things. First, as the Committee knows and has consistently argued, there is no single locus of responsibility for resolving this situation. It is a chain. It is a matter of working out which link in the chain can bear the most weight.

Secondly, exactly as you have pointed out, there have been incentives at certain points for certain actors to say, "We want to extract more cash out of the system". I do not want to beat up on any particular sector, but the point you make is a very fair one.

Q234 **Chair:** Back to the product manufacturers, you have said to developers, "Where you are responsible for developing a particular block, you ought to put that right". Should the same responsibility not be put on product



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manufacturers, where they have contributed to failings in a block by their poor products right at the beginning, rather than the general scheme, just putting that building right?

Michael Gove: Yes. Ultimately, again, if we are going to get things done, we need to have a responsible actor and the developer seems, to us, to be the best port of call. Yes, there is a responsibility on construction product manufacturers and others. Ultimately, it will have been the developer who will have sought to satisfy building control that its building was safe.

Q235 **Chair:** In terms of the scheme you are trying to develop with both the developers and the product manufacturers, do you have any idea of the proportionate amounts that the two should pay, or are you still in discussions about that?

Michael Gove: We are still in discussions. For reasons I mentioned earlier, because, to use the phrase, they are at the apex of the responsibility tree and also because of the nature of the relationship they have with not just the buildings they have built, but also the buildings they will want to build in the future, the developers are our first port of call. All the arguments the HBF have made seem to me to be fair, even if I do not agree with them in every particular. That is why we are working well together.

Q236 **Mary Robinson:** We have spoken a few times about Florrie's law. This is just a quick question. Is Florrie's law still fit for purpose, or is it failing?

Michael Gove: I do not believe it is failing, but I would be more than happy to look at any evidence of ways in which it had not been effective. It is a broadly well-understood set of principles. If it is the case that where we have drawn the line or set the benchmark for any reason is inequitable or wrong, I would be happy to look at that.

The whole point about bringing forward our amendments was to ensure that they could be appropriately scrutinised in the House of Lords. I hope I said on the Floor of the House of Commons that we wanted to come up with a package that was suitable and appropriate for the scale of the crisis, but also to recognise that it could of course be improved on.

Chair: Secretary of State, thank you very much for coming and answering some very detailed questions. We appreciate that there is still some work to be done and that you are open minded on at least some points as to how we might improve the package still further. Thank you very much for that.