

Public Accounts Committee

Oral evidence: [Progress in Remediating Dangerous Cladding](#), HC 406

Monday 6 July 2020

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Members present: Meg Hillier (Chair); Gareth Bacon; Olivia Blake; Sir Geoffrey Clifton-Brown; Dame Cheryl Gillan; Mr Richard Holden; Shabana Mahmood; Sarah Olney; James Wild.

Housing, Communities and Local Government Committee Member present: Mr Clive Betts, Chair.

Gareth Davies, Comptroller and Auditor General, Aileen Murphy, Director, National Audit Office, and David Fairbrother, Treasury Officers of Accounts, HM Treasury, were in attendance.

Questions 1-148

Witnesses

I: Neil O'Connor, Director, Building Safety Programme, Ministry of Housing, Communities and Local Government, and Jeremy Pocklington, Permanent Secretary, MHCLG.



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Report by the Comptroller and Auditor General

Progress in remediating dangerous cladding (HC 370)

Examination of witnesses

Neil O'Connor and Jeremy Pocklington.

Chair: Welcome to the Public Accounts Committee on Monday 6 July 2020. We are here today to look at the issues relating to remediating dangerous cladding off the back of the National Audit Office Report. We all remember vividly the tragedy of the fire at Grenfell Tower three years ago. Since then the Government have announced a total of £600 million to make buildings with ACM cladding safer, and in the Budget this year announced a further £1 billion of funding to extend the scheme to make safe these dangerous buildings. A number of us have constituents who are very concerned and unable to move house because of issues around mortgages. There are also issues associated with the necessary skills and insurance. We want to look at what the Government have been doing with the remediation schemes and how well they have been working, and we want to move on to see what the next challenges are and how the Department is looking to manage those.

Before I introduce our witnesses I should declare that I have a personal interest. I am a leaseholder of an affected block, although, happily for me, my developer is paying for everything, so I am not affected. I know Dame Cheryl Gillan has something to declare as well.

Dame Cheryl Gillan: Yes. I am the owner of a property in a high-rise building that is being investigated.

Chair: So Dame Cheryl and I have skin in the game, but a number of us do because of our constituents as well. It is a big issue in my constituency.

I will now introduce our witnesses. Jeremy Pocklington is the permanent secretary at the Ministry of Housing, Communities and Local Government and has been in post for about a year. Is that right, Mr Pocklington?

Jeremy Pocklington: In this role for four months; I have been in the Department for nearly three years.

Q1 **Chair:** Mr Pocklington was director general for housing, so he has a background in and knowledge of the issue. Neil O'Connor is the director of the Building Safety Programme at MHCLG. Also, I am delighted to welcome Mr Clive Betts MP, Chair of the Housing, Communities and Local Government Select Committee. His report came out on 12 June. Mr Betts is assisting us today. Both our Committees, either jointly or separately, will continue to look at this issue. We have had excellent evidence from a range of people. A lot of the evidence is private because, for various reasons, legal and otherwise, residents have not been keen to have their names and home addresses put in the public domain. Mr Pocklington, we



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may want to share some of that evidence with you once we have spoken to those who submitted it, because some of it raises very pertinent points that we think the Department needs to be aware of as it moves into the next phase.

The evidence suggested people might have information about things that have gone wrong that should be in the public domain. There is a whistleblowing process so, if anyone has information that they would like to share and is watching this, the National Audit Office has a well-worn support programme for whistleblowers. I urge people to get in contact with them—through me, if necessary—to make sure we can follow up on any significant issues and make sure that the Department is aware. I am sure we all want a solution. We will give the Department a tough time with our questions today about how that solution is shaping up, but, in the end, that is what we all want to see.

Before we move on, I want to ask Mr Pocklington about the new burdens on local government. We have touched on this before. You have written letters to Mr Betts and me about this. Have you further updates on whether the things that local government is doing as a result of Covid-19 amount to new burdens, and how will that be covered?

Jeremy Pocklington: I wrote to the Committee following the announcement last week on a further local government finance package. That includes another £500 million extra, which is un-ring-fenced, for local authorities. The Committee will be interested in the allocation of that money. We have not yet determined the allocation of it. That will be by a formula that we will set out more details on shortly. That will include a deprivation element. We have also set out, as part of our broader framework of a response, how we will propose to treat sales, fees and charges income and also tax income. That information is in the public domain, so the Committee will—should—be aware of it.

Q2 **Sarah Olney:** I am hearing from a lot of local authorities that are very concerned that they are not getting back the money that they need that they have spent on Covid measures. Can you tell us what commitments you can make that local authorities will get the cash that they need?

Jeremy Pocklington: We have been very clear, and the Secretary of State has been very clear, that where Government have asked local authorities to take action in response to the Covid crisis, that will be funded. The announcement last week is another step, in terms of our funding, to achieve that, so that is a clear commitment. I have set out to this Committee the range of activities that it includes, and we will continue to review that.

Q3 **Chair:** Obviously, we will keep returning to this. I know that Mr Betts's Committee will as well; he will come in in a moment. But can I just ask about section 114 notices, which we have raised with you before? You have been very clear that you want local government and councils to be talking to you about their concerns and you are in dialogue with them, but I am reading, from what we have had from you before and this serious situation, even with the announcement now—well, my concern is



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that section 114 notices could effectively be delayed rather than prevented, that local government is already having to make tough decisions about its spending, notwithstanding the announcement made last week. As you say, there is still no formula for how to allocate that money, so individual councils do not know what money they are going to get. Can you give us any comfort that you are getting the information and money to them in quick enough time to actually prevent section 114 notices from being issued?

Jeremy Pocklington: We are in very close dialogue with the sector, through the LGA, through councils broadly and through having individual discussions with councils. We will set out details of the allocation shortly. There won't be a significant delay in that process. I have said in this Committee and other fora that I would very much advise local authorities that think they are in a position where a section 114 may be necessary to come and talk to the Department first. It is obviously a decision for local authorities. We have a track record now of taking serious action during the crisis to make sure that local government is being supported through coronavirus.

Q4 **Chair:** You have said this here before: "Come and see us before there is a problem." The problem is that until they know how the new formula is going to work, they are having to work on the basis that they might have to issue a section 114. It is a bit chicken and egg, isn't it? I just wonder: are you having a battle with the Treasury to get the money? Normally, your Department would be really all over this. I'm sure you are all over it, but a lot of councils are potentially at risk of effectively, in normal parlance, going bankrupt; and coming to you just before they might have to issue a notice is kind of late in the day—already, they are right up against it. Do you think you are doing enough, quick enough?

Jeremy Pocklington: We are all over this and we are doing everything we can to support local authorities through the crisis. We are working at pace to set out the formula that will determine allocations for the next half-billion. I think also our approach on sales, fees and charges will provide reassurance to many councils that have been severely affected by what has happened to, for example, car parking fees locally that they will get support from Government for the majority of the losses that they are incurring.

Q5 **Gareth Bacon:** I want to pursue that point slightly further. I am interested in what approach you have. Different local authorities have different levels of starting point on this. They have had uneven levels of funding for some time. They have had to make different levels of spending reductions over the last 10 years or so. So they will be affected differently. Some, which may be in a slightly more advantageous position than others, may still need to come forward with a section 114 notice. What approach will the Department take to that? Will you do any due diligence on the state of the finances of each authority before a section 114 notice is accepted, or are you going to adopt some kind of criteria that have not yet been released?



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Jeremy Pocklington: For the money that we announced last week, we will introduce a tailored formula to determine allocations, which will account for the key drivers of covid-related expenditure. They will be principally population-based, but they will also take account of deprivation, and we will also want to take account of how costs vary across the country.

For councils that approach us because their pressures are unmanageable, we will obviously look at the situation in the round. For some councils, there may be some unique circumstances or some unique aspects of their background that we will need to take into account. I have said before to this Committee that I do not think it is appropriate to adopt a one-size-fits-all approach; we will need to look at each of those situations, if they occur, according to the specific facts of that council.

- Q6 **Gareth Bacon:** I understand that the Department will fully fund covid-related expense and the rumour is that the Department will fund around 75% of covid-related losses, which leaves a gap of some 25% or so. Will there be any move to allow local authorities to capitalise that expense, on the basis that it is a one-off?

Jeremy Pocklington: What we have said for sales, fees and charges, which is where the 75% figure comes from, is that councils will bear the first 5% of losses compared with their budgeted income. That reflects the fact that the income is inevitably volatile from one year to another. But the Government will fund the next 75% of losses beyond that—so, 75p in every pound is the approach that we will take.

For losses on tax—so, losses on council tax and business rates—we have said that we will spread the repayment of collection from deficits over three years rather than it all happening in one year, and we will determine the allocation of irrecoverable losses between central Government and local government in the spending round.

To answer your other question, we have not made any specific commitments in relation to how we would treat the discussions with individual local authorities, should they be necessary. As I say, we would want to look at the circumstances as they present to us.

Chair: I am now moving to Sir Geoffrey Clifton-Brown. And could Mr Betts also be ready to ask questions?

- Q7 **Sir Geoffrey Clifton-Brown:** Good afternoon, Mr Pocklington. Of course every local authority is different, but in some cases local authorities run theatres, leisure centres, libraries and so on. Can you give us any indication of when covid social distancing regulations might allow these facilities to open?

Jeremy Pocklington: No, I have no information to give to the Committee on that issue today.

- Q8 **Sir Geoffrey Clifton-Brown:** The problem is that the longer they stay closed, the more that the local authorities' liabilities are racking up. Some authorities operate such facilities directly; others operate them through



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arm's length arrangements and companies. Nevertheless, ultimately authorities are responsible for these facilities financially. Can you confirm that you are in touch with the relevant Government committees to ensure that the scientific evidence allows these facilities to open as soon as possible?

Jeremy Pocklington: Of course we are; I can give you that assurance. And what we have said for income and for sales, fees and charges, with the exception of that first 5%, is that we will fund 75p in the pound for losses of income beyond that. But I understand the need and the importance, for local authorities and for the country, that as soon as it is safe to do so we reopen these facilities in a way that is safe for everyone.

Q9 **Sir Geoffrey Clifton-Brown:** My local council has written to your Department to ask whether the money left over from the original business loan scheme could be reapplied to the discretionary scheme. What is the position on that?

Jeremy Pocklington: I would probably have to look at the specifics on that. My understanding is that the discretionary scheme is a maximum of 5% of the original schemes for retail sectors, etc. That is a maximum, and it is either funded from within existing funding, where that is sufficient, or it is additional to that.

Q10 **Mr Betts:** My Pocklington, you have been to our Committee—the Housing, Communities and Local Government Committee—too. Two points. You have given both Committees a very general list of things that the Government will fund because of covid. Every local authority has particular circumstances that it has to respond to, and you have basically said that if they go outside that very general remit, you will not pay. What certainty and assurance have councils got that, where they are responding to local needs raised by covid and as long as they are within the general purview of the things that you say in your letter that you will cover, you will actually cover the costs for them? What certainty have councils got?

Jeremy Pocklington: What we have said we will do is fund the activities that the Government have asked councils to do.

Q11 **Mr Betts:** Your list of asks is very general, isn't it?

Jeremy Pocklington: It is a reasonably detailed list that we have set out, but I do understand your point. We have also set out a number of areas of additional specific funding that we are providing. The money is un-ring-fenced so that local authorities can respond to individual local pressures—they have asked the Department to do that. We have shown that we are making a serious commitment—£3.7 billion-worth of un-ring-fenced money and multiple additional sources of specific funding. The Government have made a serious commitment on sales fees and charges and tax to support councils.

Q12 **Mr Betts:** So essentially you are doing cost calculations based on a very general view of what local authorities might be doing, but when you start to add up all the particulars that they are doing to respond to local needs,



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they are not going to get paid for that, are they? That's the reality.

Jeremy Pocklington: I think it is a broader and more comprehensive list that we have set out. We have written to both Committees with that comprehensive list, and there is quite a lot of detail.

Q13 **Mr Betts:** Well, we might slightly differ on that.

One other point. The statement that the Secretary of State made about fees and charges was helpful, in terms of lost income for local authorities, particularly around parking and leisure activities. A number of councils—my own of Sheffield is one, but there are several—have over the years developed leisure and entertainment facilities at an arm's-length remove from the council, using trusts and other things to manage them. They are also losing income, of course, because the services that they provide through that mechanism are also shut. Are you going to cover the loss of income for those councils too?

Jeremy Pocklington: A number of councils have approached us in the last couple of days with that specific point, so I am not surprised you have raised it. We are urgently looking into it, and we will clarify that as quickly as we possibly can.

Q14 **Mr Betts:** But you accept that there will be absolute devastation for councils? You rightly responded to those running the services directly, but those costs are just as great because ultimately councils underwrite the services. There will be absolute devastation for the income of some councils if you do not cover them.

Jeremy Pocklington: We fully understand the importance of that to councils. We have work on this happening in real time, and we will update as soon as we possibly can.

Mr Betts: That is very helpful.

Q15 **Chair:** It would be helpful if you could update both Committees, Mr Pocklington. To reiterate what Mr Betts said about the list, you say it is comprehensive, but council finance officers on the ground trying to make decisions need granular detail. Is there any prospect that we are going to get more detail on the list of what the Government will pay for?

Jeremy Pocklington: Chair, I understand, but we have been round this. I have set out the full, comprehensive list that we have in the Department, and we will continue to review it.

Q16 **Chair:** Great. So councils can put into you to help that review and make sure it is detailed enough.

Jeremy Pocklington: And obviously we use the data that councils provide to us, so we are taking this very seriously and responsibly. I haven't got a fuller list that I can give you today.

Q17 **Chair:** Okay. We will keep needling you on it, because we are getting a lot of feedback from councils saying that they are confused about what they are going to be paid for.



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One final point on swimming pools, picking up on what Sir Geoffrey and Mr Betts were asking about. How much notice will you give for some of these facilities to open? Apparently, for swimming pools, it can take two weeks just to get ready to be up and running. We have had very different timetables and different announcements from bits of Government, so what is the plan?

Jeremy Pocklington: The point is well understood—the need to give notice so that sectors can prepare for the safe reopening of their facilities. It is something I will ensure is properly represented in the discussions about that in Government. I have no specific timetable to share with the Committee, but the point is well made and well understood for the advice that we will be giving.

Chair: Thank you. I hope it is understood by the rest of Government as well as by your Department, with these announcements coming out at such a rate. We will leave that there for now. There is always more to discuss about Covid-19, but we have another very important issue before us today, with lots of residents affected, living in unsafe buildings and often unable to move. I ask Olivia Blake to lead on our main agenda.

Q18 **Olivia Blake:** Thank you, Chair. Good afternoon, witnesses. This first question is to Mr Pocklington, if that is okay. Simply, why have all the high-rise blocks' aluminium cladding not been fixed completely by this point, as was the expectation of the Department?

Jeremy Pocklington: Thank you, and thank you for the opportunity to talk about this very serious and important issue, which is of great concern to us all. We have made progress in removing unsafe cladding, but we have not made as much progress as any of us would have wanted. It is clearly unacceptable that unsafe ACM cladding remains on any building three years after the tragedy of Grenfell.

An important distinction that, at the outset, I would draw is between the social sector, where we have made progress—with councils and housing associations—and the private sector, where progress remains inadequate. For the social sector of housing associations and councils, remediation is complete in approximately half the buildings, and the cladding has been removed in nearly another quarter of those buildings. In 95% of social sector buildings, the remediation work is under way. That reflects close engagement with the Department on some still very challenging projects since the tragedy. There has been some strong leadership in this sector.

Q19 **Olivia Blake:** You highlighted the difference in that sector, but I was wondering what more could be done about the barriers and progress going forwards.

Jeremy Pocklington: In the private sector, progress has been inadequate. At the heart of the problem is that too many building owners have not stepped up to their responsibility to ensure that those buildings are safe for leaseholders and residents. That has required Government to step in, in a number of ways.

This has been a challenging exercise for four reasons, and we can unpick each of them in turn. First, in particular for the private sector, identifying the buildings affected was complicated. No organisation had accurate records of high-rise buildings, and complex ownership structures meant that it was hard to identify the responsible person.

The second barrier to resolve has been the funding and financing of the work. Very complex arrangements with leaseholders meant that it has been very hard to establish liability. Under contract law, costs would often fall to leaseholders, which was rightly unacceptable for Ministers, given that it is not a problem of leaseholders' own making. Some building owners have stepped up and done the right thing, and, of the 207 private sector buildings, building freeholders or developers are paying for 84, with warranties and insurance funding another 23 buildings. However, the taxpayer has also been forced to fund as, essentially, the funder of last resort.

The third barrier is that even with the taxpayer providing funding, unfortunately, building owners have not always worked as quickly as needed or had the capability and capacity to manage the work that is required. Government, therefore, have stepped in and are providing more and more client-side, technical and financial support. That means that there is no excuse for building owners not to ensure their buildings are safe.

Fourthly, some of these projects are technically complicated. I do not want to overstate this. For some projects there is major construction work. Reconfiguring buildings is not a simple case of unclipping and reclipping a different type of cladding system on the building. That has meant that some projects have taken a longer time.

Q20 Olivia Blake: Given all those barriers and issues, what are your latest estimates of when all these buildings will have the cladding fully remediated?

Jeremy Pocklington: Focusing on unsafe ACM cladding, our ambition is for work to start on site by the end of 2020 and to be completed by the end of 2021. That is a challenging ambition. We believe it is achievable, but it is challenging. We will need to back up our actions with strong enforcement.

Q21 Olivia Blake: Does that account for the impact of Covid-19?

Jeremy Pocklington: As you would expect, we are monitoring carefully the impact of Covid-19 on remediation work. We know that up to 81 active sites paused work during remediation. More than half of those sites—57—have now resumed remediation work. One of those is completed. Currently, 23 sites remain paused.

We are working closely with those buildings to support a restart and we expect most to return during July and early August. We have published guidance on how to operate safely. Our commercial project managers, Faithful+Gould, are working intensively with experts in the industry to



share best practice. We are clear that work should continue where it is safe to do so.

- Q22 **Olivia Blake:** You described completing the remediation work by the end of 2021 as ambitious. Is that because you feel that some of the private building owners are being a bit optimistic, or are you confident in that number?

Jeremy Pocklington: That ambition requires a step up in the start rate compared to that which we have seen. We are very open about that. We think it is achievable. We are closely monitoring activity on the ground with Faithful+Gould. We will update our figures in the usual way shortly. We know, for example, that a further 16 buildings started during June and the first few days of July.

We are also working closely with buildings most at risk of missing the end-year start date, seeking ways to rescue the timescale, to get quicker mobilisation on site. But that is challenging and obviously there is a lot of uncertainty about what will happen with Covid-19. That is why we articulate this as an ambition. We also need to think about the enforcement we will want to undertake. We are working closely with the protection board, the Home Office and the fire and rescue services to think about what additional enforcement action we should take as we approach the end of the year.

- Q23 **Olivia Blake:** How will you be measuring whether the building safety programme is on track from this point for the remaining buildings on the list?

Jeremy Pocklington: We monitor this very closely through what is now a reasonably sophisticated system in the Department, involving a tool called Navigator that keeps close track of all the 455 ACM buildings that are within scope as part of the programme. We will continue to publish monthly data setting out progress with the fund and remediation on the ground. We have reasonably sophisticated tools and techniques for doing that. We also monitor progress through the different RIBA stages of construction using our construction experts, so we have the experts and oversight needed for a programme of this nature.

- Q24 **Olivia Blake:** Why does it appear that you do not report on the progress of remediation against the target date for all the works to be completed? That makes it quite difficult to know whether you are on track.

Jeremy Pocklington: It is an ambition that we have set out very clearly and publicly. We are very transparent with the information we publish. I am obviously very happy to look at what additional ways we have to strengthen it, but we have deliberately taken a very transparent approach, so Parliament and the public can see what the progress is on this incredibly important but challenging programme.

- Q25 **Olivia Blake:** Moving on to the regulatory system, do you mind if I probe a little bit why the Department was not aware that the system was not fit for purpose in ensuring fire safety?



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Chair: You can be quite brief in your answer, Mr Pocklington; it is a valid question, but we have quite a lot of other information on this, so could you answer Ms Blake's question fairly briefly?

Jeremy Pocklington: Ultimately, we are dealing with a failure of industry first and foremost over many years—over many decades—to take fire safety seriously. But you are right, and, as Dame Judith Hackitt found in her report, there was a failure of the regulatory regime over many years to stop those bad practices happening. The programme is focused on the whole-system reform that is necessary in order to minimise the risk of an awful tragedy such as Grenfell happening again. I am sure we will come on to that during this hearing.

Q26 **Olivia Blake:** Going forward, what accountability do you think you have for ensuring that the regulatory system works?

Jeremy Pocklington: It is a very important role for the Department to lead the whole-system reform of building safety regulation to ensure that we have a regime that is fit for purpose in future. It is ultimately the Department's responsibility to lead the reform to the regulatory framework. The key thing that will underpin that is the building safety Bill that we will be publishing very soon, which will essentially be the legislative underpinning for the new building safety regulator, housed within the Health and Safety Executive. That will be the key means we will have for implementing Dame Judith Hackitt's recommendations.

Q27 **Olivia Blake:** I understand that a number of buildings have been added to the list and continue to be added to the list; I think you highlighted that earlier in your comments. How confident are you that you have managed to identify all the high-rise residential buildings with this Grenfell-style cladding?

Jeremy Pocklington: You are right that over time a small number of additional buildings have been added to the list. In the past six months or so, I think the number seems to have stabilised. That gives us more confidence that we are very close to identifying all the buildings—if we have not already done so. But I am not complacent about that. You cannot rule out identifying a building with some combustible ACM cladding on it. Ultimately, we need a system that requires building owners, managing agents and building safety managers to take responsibility for their buildings and for the safety of their buildings, including on cladding.

Q28 **Olivia Blake:** Do you feel that more could be done in future to identify whether buildings have issues of that type with a different material?

Jeremy Pocklington: We are making good progress with another exercise, which is looking at the external wall systems on all residential buildings above 18 metres. We think there are approximately 11,300 of those buildings, and we have asked local authorities to examine the key building safety features, particularly the external walls, for all the buildings in their areas, to identify those that have other types of unsafe ACM cladding. That will also help us to test again whether there are any buildings that perhaps have ACM cladding—I have no reason to believe



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that there are, but just in case. That external wall system data collection exercise is well under way now and has identified a further 1,700 buildings, not with ACM cladding, but potentially with other sorts of unsafe—

Chair: Yes, we know the numbers. It is nice of you to raise them, but we do not need to list them all. I am not being rude to you, but we have that information.

Q29 **Olivia Blake:** On building control, in how many cases have the people who signed off and approved a building been allowed to go back and sign off the replacements?

Jeremy Pocklington: I understand the question that you are asking. We are putting in place additional checks for buildings that are captured in the fund to do everything we can to ensure that the work is done safely and is consistent with our expectations. We have issued very clear guidance. We require local authorities to check that the work has been completed, as well as building control and the approved inspections.

Obviously, we are moving to a new regime—we want to do so as quickly as we can—where the building safety regulator will take on the responsibility for the regulation of all those high-rise residential buildings of 18 metres.

Q30 **Olivia Blake:** Are you confident in the assurance of that additional check?

Jeremy Pocklington: We have a good degree of assurance. We have technical experts and our delivery partners, Homes England and the GLA, also have a lot of technical expertise in this area. We are doing everything that we can to assure ourselves.

Q31 **Olivia Blake:** On the costs brought about by the not-fit-for-purpose regulatory system, how much do you think it will cost the public purse in total to fix the faults in those buildings?

Jeremy Pocklington: We have allocated £1.6 billion, of which £600 million for ACM and—

Chair: We know the numbers, as we said at the beginning.

Jeremy Pocklington: That is—

Chair: That is a start.

Jeremy Pocklington: That is what the Government intend to contribute. We focused on the highest-risk areas and perhaps also on the lumpiest costs. The estimates for the total number of building safety faults in the country are significantly higher. There is a lot of uncertainty around them, but you will often see estimates of more than £10 billion, including the social sector and the private sector.

Q32 **Olivia Blake:** Are there any potential costs that you see coming from any unidentified buildings, on top of this?



Jeremy Pocklington: The funding that we have provided is the funding to deal with the most significant problems, which are ACM cladding and other forms of unsafe cladding. We have no reason to believe that will not be an adequate amount of funding, but we are still making rapid progress with the fund that was announced at the Budget. On the ACM fund, our internal forecast suggests we will not actually need or use all the £600 million, in terms of our management information that we are using. There is obviously still a lot of uncertainty about it, but we think we will have adequate funding for the ACM fund.

Chair: I will ask Mr Bacon to pick up this point, and then we may come back to it.

Q33 **Gareth Bacon:** Mr Pocklington, what happens when building owners fail to co-operate?

Jeremy Pocklington: I will bring in my colleague Neil in a minute, but let me give an initial answer. Of course, our initial approach is to encourage them and to try to identify why they are not co-operating, but we will move to enforcement with our partners in the programme if that is necessary. There are—

Q34 **Gareth Bacon:** Sorry to interrupt, but do you have the powers to do that now, or are we waiting for the pending legislation to give you enforcement powers?

Jeremy Pocklington: We have some powers now, but the Fire Safety Bill currently going through Parliament will strengthen those powers. In terms of the powers that we use now, they are essentially under the Housing Act—the housing health and safety rating system that you may be familiar with. We have funded a joint inspection team, which is essentially established under the LGA, to support local government and councils using their powers under that regime in order to enforce against building owners. That has been used, or is being used, in about 20 cases at the moment. There are also the fire and rescue services, which have existing powers that are being used in about 10 buildings, but we need to strengthen those powers; hence the Fire Safety Bill.

Q35 **Gareth Bacon:** You mentioned in your opening remarks that the public sector buildings were making much more progress than the private sector buildings. I think that is possibly to do with the fact that it is very much easier to identify the building owners in the public sector, but you also touched on private sector ownership being quite complicated. How are you managing to find your way through that? From reading the National Audit Office Reports and speaking to the National Fire Chiefs Council, my understanding is that quite a large number of the private sector buildings are owned overseas by shell corporations and so forth. What sanctions do you have for them if they do not step up to the plate?

Jeremy Pocklington: That is right: we are dealing with incredibly complicated ownership structures, often involving overseas financial investors who do not really have any interest in the welfare of residents or leaseholders. That has undoubtedly been a challenge that we are dealing



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with. Ultimately, under the Housing Act powers and with the joint inspection team, local authorities can enforce against a building, as it were, and can take action to make buildings safe.

Q36 **Gareth Bacon:** If you cannot establish the ownership of the building, how can you enforce against the building?

Jeremy Pocklington: Ultimately, they can take action to make sure that buildings are safe, but a sad reality is that our ability to seek redress from an overseas financial investor is, of course, very limited in this case.

Q37 **Gareth Bacon:** Of the buildings that would be in scope that are in the private sector, has part of the exercise been to do a due diligence exercise in terms of establishing ownership on a building-by-building basis, and how far have you got through that?

Jeremy Pocklington: Yes, we have identified an owner for every building. I do not know if my colleague Neil wants to confirm that.

Neil O'Connor: Yes, that is true. We have a UK contact, a responsible entity, for every building in the programme and, indeed, as part of the fund. An initial stage of the funding for ACM cladding is a bit of due diligence to make sure that the person applying to the fund is the person who has the relevant responsibility for the building. So in many cases where there are freehold owners who may be overseas companies or individuals there will be a managing agent appointed to run the building and to manage service charges and so on with leaseholders. That is usually the organisation, then, that we work with to ensure remediation. They are often also the responsible entity that the fire and rescue service can enforce action against under the fire safety order. As Jeremy says, there have been cases of enforcement by a number of fire and rescue services using those existing powers.

Q38 **Gareth Bacon:** Those people would be the easier ones to sort out wouldn't they, because of course they are the ones who are approaching you looking for funding in order to remit their buildings. It is really the ones who are not playing ball with you that you need to identify and chase, isn't it?

Neil O'Connor: Indeed, but it has turned out that most of the ones applying to the fund are those types of organisations where there is not a large developer or building owner with cash reserves able to get on and pay for this themselves. Most of the buildings that we are dealing with in the fund are buildings with freehold owners who really own the building and that is about it, and it is managing agents or, indeed, in some cases, residents organisations who are responsible for managing the building, that we are having to work with and support. In many cases part of the reason they have taken so long is because they lack the experience and expertise to run what are quite complex construction projects. That has been a big learning in this programme and it is why we have introduced the extra construction consultancy support being offered through Faithful+Gould to help those building owners who are less able to run a construction project and to support them with contracting and



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procurement, and getting the right experts in place to plan and carry out the work.

Q39 **Gareth Bacon:** Approximately how many people does the Department have working on this at the moment?

Neil O'Connor: In my team we have about 200 people. Not all of those are working on building safety. Some are working on other elements of the building regulations to do with energy efficiency and other performance matters like that, but on building safety I would say probably around about 180 people.

Jeremy Pocklington: May I add that this remains a real priority for the Department? Through the crisis we have not deprioritised work on building safety or taken significant numbers of people out of this programme. It has remained a priority for the Department.

Q40 **Shabana Mahmood:** I wanted to discuss with you, Mr Pocklington, some of the issues around public funding for cladding replacement. I wanted to go back to an answer you gave to my colleague Ms Blake. You said you would not need all of the £600 million that is allocated towards ACM cladding replacement. Can you elaborate a bit on that? Are you expecting not to spend all of the £400 million that you set aside for the social sector, or is it that you do not expect to spend all of the £200 million that you set aside for the private sector?

Jeremy Pocklington: Obviously, we have greater confidence around the social sector fund, and we are forecasting that we will spend, at the moment, somewhere between £320 million and £330 million. That is internal management information that I am happy to share with the Committee, rather than anything more than that. For the private sector it is earlier days. We have had 35 applications either for full cost or for tender costs but, again, we think the £200 million there will be adequate. Indeed, we might come in a little bit under that, but it is a little bit earlier during that process.

Q41 **Shabana Mahmood:** Thank you. If you could send that additional information to us it would be helpful. What proportion of this £600 million do you expect to recover from both social and private sector funds?

Jeremy Pocklington: Frankly, a very small amount, to be—

Q42 **Shabana Mahmood:** Could you define a very small amount for us?

Jeremy Pocklington: I haven't got a forecast to give the Committee. My colleague Neil may know how much we have recovered to date. We are seeking to recover the costs, and are asking freeholders to seek to recover the costs, from those who were responsible for the defective works. I will bring in my colleague Neil, who may have the precise numbers in terms of how much we have recovered.

Q43 **Shabana Mahmood:** I know the numbers from the National Audit Office Report. We know you have only got £0.8 million back from private sector and £6.4 million from the social sector. Have those numbers gone up



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since the report was published, Mr O'Connor?

Neil O'Connor: I do not have more up-to-date information than that, but where there is success in litigation or claiming money back, we expect that to take some time. Many of the litigation cases to do with ACM and other types of cladding are waiting for the outcome of the public inquiry.

Q44 **Shabana Mahmood:** Have you made an assessment of what a realistic proportion of cost recovery might look like?

Neil O'Connor: Not at this stage, but we will return to it during the course of the programme.

Q45 **Shabana Mahmood:** Have you set aside some resource in order to maximise cost recovery or are you going to look at that at a later stage?

Neil O'Connor: We have reserved the ability to take over claims for the—

Q46 **Chair:** Mr O'Connor, you have just muted yourself somehow. Can you repeat that last sentence?

Neil O'Connor: Apologies. We have reserved the ability to take over claims on behalf of any of the responsible entities, if that is the right course of action, to recover costs. As I say, we will review that later in the programme and in the light of further litigation.

Q47 **Shabana Mahmood:** What would be the next milestone where you would review cost recovery and viability of cost recovery?

Neil O'Connor: We will want to get further into the programme, and to analyse what costs have been recovered and where we think recovery is possible. Each building owner is required to demonstrate the options and possible routes that they have considered for recovering funding, to demonstrate whether they have pursued them, and to say if not, why not. We would want to analyse all of that.

In the context of other litigation and from the intelligence we are gathering from the legal community and others, a lot of claims are waiting for further progress to be made on the public inquiry before they are pursued. It may not be until that action happens that we will be able to take a realistic view of the potential for recovery.

Q48 **Shabana Mahmood:** Can you tell me how much you think leaseholders have had to pay for waking watch, for example, up to this point, since this scandal began?

Neil O'Connor: We are not collecting information on waking watch costs, which are set between freeholders and leaseholders. However, we are working with fire and rescue services who are assuring the effectiveness of interim measures. As part of Lord Greenhalgh's recent review of waking watch, we are working with leasehold groups and building owners to try and gather some illustrative costs of waking watch. We can then make them more transparent for building owners and leaseholders, so that they can be informed consumers for those services and have a better



understanding of whether the costs they have been charged are reasonable, compared to what others have paid.

- Q49 **Shabana Mahmood:** The more that leaseholders pay, in extortionate funds or on interim fire safety measures, including waking watch, the less they have to contribute to cladding and other remediation works that you will want to see them carry out. Surely the Department has an interest in getting to the bottom of whether extortionate pricing is taking place in this sector?

Neil O'Connor: Indeed, which is why we are going to do more things to make those costs transparent. The Government's view on their funding position has been that the best thing we can do with public funding is to support remediation, which takes away the need for interim measures and the costs of waking watch.

- Q50 **Shabana Mahmood:** But remediation is taking place so slowly that these extortionate costs are going to be paid over an extremely long time, and they could meet some of the levels that will have to be paid out for remediation, in terms of the funding goal. Do you think that just gathering some illustrative examples of a few buildings is enough to add some transparency to the costs that are being paid at the moment?

Neil O'Connor: It is not the only step we are taking. The other thing we are doing is working with the National Fire Chiefs Council to update their guidance on interim measures: that is, the waking watch and all the other types of measures that should be in place where a building has simultaneous evacuation procedures in place. That includes, for example, promoting more cost-effective measures such as automated alarm systems in place of waking watch.

- Q51 **Shabana Mahmood:** What would be the impact of this updating work? Would it make some of the interim measures less onerous, and you expect that to make—?

Neil O'Connor: Potentially, yes.

- Q52 **Shabana Mahmood:** Will you give that direction, though? Presumably, giving such updates the ability to shape the market will require some element of either regulation or enforcement.

Neil O'Connor: It is for building owners to determine what measures they put in place, but they check those, and they are assessed by fire and rescue services. As part of this, fire and rescue services are looking to operationalise the guidance, as it were, to encourage building owners to take those steps. However, we are trying to make the options more transparent so leaseholders can apply that pressure in their consultation with their managing agents about the charges they are facing. Ultimately, as I say, our real ambition is to get remediation completed so that these measures are no longer needed.

- Q53 **Chair:** Can I just chip in there, Ms Mahmood? The issue of fire alarms is an interesting one, because once they are in place, it avoids the very costly cost of waking watch. That is better for leaseholders, but not all



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leaseholders are in a position to have that sort of negotiation with their managing agent or the building owner. Some are having to take the extra cost of waking watch when arguably—in many cases, anyway—the fire alarm would be cheaper. It seems odd that the Department is allowing that to be determined by other sources.

Mr O'Connor, who do you think is, or should be, responsible for making that choice? You seem to suggest it is down to individual groups of leaseholders. Do you not think the Department has some responsibility to provide more information or guidance on that point?

Neil O'Connor: The National Fire Chiefs Council is the provider of that guidance, which is guidance for building owners about how they can meet their responsibilities to keep the building safe. We have worked with the National Fire Chiefs Council as part of that programme.

Q54 **Chair:** That is not my point, Mr O'Connor. The building is safe if you have waking watch; the building is safe if you have a fire system in place. Both of those can be true, but one could be much more costly than the other, so who is there to guard the consumer—the leaseholder—who is having to pay the cost of this? Perhaps either you or Mr Pocklington could answer that, and then I will go back to Ms Mahmood.

Neil O'Connor: The process for arranging interim measures like waking watch is for the building owner to work out what is needed, and to agree that with the local fire and rescue service. As part of that process, they would—or should—consult their leaseholders and explain to them what costs are being put in place and what they are being charged. That is a process in which we are attempting to ensure the leaseholders are more empowered, at least, in understanding what the options are and what more cost-effective options might be. We would hope that between the guidance and the dialogue between fire and rescue services and building owners, those building owners would opt for the more cost-effective options.

Chair: We will leave that there for now. Back to you, Ms Mahmood.

Q55 **Shabana Mahmood:** Given the tens of thousands of pounds being paid out by each of my constituents who are caught up in this, I think that is a somewhat forlorn hope, Mr O'Connor. When did you say that National Fire Chiefs Council guidance would be updated?

Neil O'Connor: It is very imminent. I am not sure exactly when, but within weeks, I believe.

Q56 **Shabana Mahmood:** Thank you, that is helpful. Can you tell me how many buildings across the country are currently without any buildings insurance whatsoever because their premium has grown exponentially to an unaffordable level?

Neil O'Connor: I am not aware of any that are without any buildings insurance, but that is not data that we collect systematically. I am aware of buildings, including one in Birmingham, where there has been trouble



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securing insurance. As far as I understand it, a partial solution has been achieved there.

- Q57 **Shabana Mahmood:** I can tell you about that building, because it is in my constituency. Your Department is well aware of it because I have written to you many times over the past few weeks, and it is without any insurance whatsoever. Again, I am surprised that you do not collect any data on this, because it does matter if buildings are without insurance. Who in Government has responsibility for oversight of the way in which buildings are struggling to get insurance?

Neil O'Connor: Our Minister has been meeting the insurance industry to talk about these issues and to examine what can be done. Indeed, some of those discussions were around finding solutions for the building in Birmingham, which I am not naming because of residents' confidence, but there are engagements going on with the insurance industry. It is our understanding that insurance is available, although premiums have risen. It is part of the engagement that the Department is having with the insurance industry at the moment to look at why those costs have risen and what can be done to ensure that insurance is available: both buildings insurance and professional indemnity insurance for construction professions and so on, where premiums have gone up.

- Q58 **Shabana Mahmood:** Professional indemnity is having difficulty on how quickly the work can take place on buildings. I can tell you the reasons. Insurers are more risk averse and are not giving any credit to leaseholders for the compartmentation, fire alarm and waking watch work that they are all paying a lot of money for at the moment. It is not just that the premiums have gone up; they have gone up to some £530,000 for a building that used to pay something like £30,000 before their insurance premium came up for renewal. These are not small sums of money, Mr O'Connor. Beyond conversations with the insurance industry, if your Department has taken over responsibility for this matter, what practical steps are you going to take to help leaseholders stuck in this terrible bind of unaffordable premiums that leave them without any insurance cover whatever?

Neil O'Connor: The most important thing that the Department can do is to run a remediation programme to address the risks that are causing these issues and this risk aversion. That is what we are doing, as well as the more comprehensive reform of the regulatory system that we are bringing in. As Jeremy said at the start of this session, these are issues that have arisen from 30 or more years of industry failure to build buildings safely. It is going to take a while to put that right, but that is what we are determined to do.

- Q59 **Shabana Mahmood:** On industry and regulatory failure, you say that the best way to fix these problems is to get on with the remediation, which in the end is the best way to deal with the problem, but, after nearly a year since the private sector funding scheme was announced, you have only paid out £1.4 million, which is less than 1% of the total fund. Why is that?



Neil O'Connor: The applications and the funding for the private sector cladding fund will move as quickly as the building owners are moving to plan and conduct the work. We have approved £33 million from that fund already. We have got applications from all 94 buildings that are in scope, and we have approved funding on 35 of those so far. Since the fund was announced in May last year, we have gone from around 30 buildings in the private sector that had completed or started remediation to 81. Most of that increase has been in the last few months, so it is having an effect, and we believe it is a thing that will enable us to meet the ambition that Jeremy talked about earlier to get all buildings started by the end of this year.

Q60 **Shabana Mahmood:** The pace of that has been very slow indeed. How many more millions did you say have been committed to the fund beyond the £1.4 million that we know of from the National Audit Office Report?

Neil O'Connor: It is £33 million to date.

Q61 **Shabana Mahmood:** So you have vastly improved the number of approvals in the last how many weeks? Two or three weeks?

Neil O'Connor: In the last two months.

Q62 **Shabana Mahmood:** And do you expect to keep up that pace of approvals?

Neil O'Connor: Yes. We can see more applications coming through the pipeline. We are tracking this very closely with our delivery partners, Homes England and the GLA. We have fortnightly funding approval board meetings where we look at data on the pipeline of applications and the different stages they are at. Again, as Jeremy has said, Faithful+Gould are also engaged to go and work with those who seem to be making the least progress to support them and to speed up the work that they are doing.

Q63 **Shabana Mahmood:** Is this new pace on approvals and the system that you have now got in place the basis on which you think you can get the new Building Safety Fund of £1 billion paid out within the financial year?

Neil O'Connor: Certainly we have learnt from the process of running the ACM funds in both the social and the private sector in designing the Building Safety Fund. We have already opened a registration process for that fund and have had several hundred building owners registering to apply. We all want to apply the best rules and processes that have worked in the ACM funding to the Building Safety Fund, to meet our ambitious aim to allocate that funding by the end of this financial year.

Q64 **Shabana Mahmood:** You say that you have learnt from the experience of your previous funds. Is that learning the basis for saying you could pay this new £1 billion fund out within the financial year?

Neil O'Connor: It is partly that. One of the biggest changes we have made over the past few months has been the additional construction expertise, the consultancy support, to help building owners progress their plans. We have been surprised—as have our delivery partners, Homes



England and the GLA in London—at the lack of expertise and competence among building owners to conduct the projects. If there is one big difference, it is the additional technical support for building owners that we have built into the fund. That will be a feature of the Building Safety Fund.

Q65 Shabana Mahmood: May I move on to a question specifically on the Building Safety Fund? Why did you decide to go with a first come, first served basis for pay-outs from this fund?

Neil O'Connor: The main aim of the Building Safety Fund is to increase the pace of remediation. We believe that that is setting tight timescales for applying for the funds, and being able to demonstrate the ability to start the work quickly. That is a key part of that, which is why we have designed it in the way that it is designed.

Q66 Shabana Mahmood: First come, first served will obviously disadvantage many ordinary leaseholders who have management of their building, as against others who are up and ready to go. Have you taken any account of the numbers of people who will miss out, because you have decided to go for first come, first served, as opposed to the risk or ability-to-pay routes?

Neil O'Connor: Part of our assessment is that, if we had tried to allocate on the basis of risk, we would be required to make that assessment, and it could only be made on the basis of information being provided, so it would not really have served the purpose of pace—it might actually slow things down and make it impossible to administer the fund quickly, or to drive pace. It is a difficult area. We will keep this under review. We have yet to see whether the number of buildings coming forward, even on a first come, first served basis, will take up the full £1 billion that is available, or not. We will keep that under review. When we get to the end of the registration process at the end of this month, we will have a much better idea of what the pipeline of demand looks like, and how that will go.

Q67 Shabana Mahmood: Many of us expect the £1 billion to prove not to be quite enough, but thank you. What will be the operative date on the basis of which the first come, first served allocation is understood? Will it be when the application is made, or when we are in the tendering process? What is the operative date?

Neil O'Connor: We will proceed on the basis of keeping the registration scheme unlimited until the end of July, so as many buildings as want to register can. The limitations on allocations of funding will be applied to applications and the levels of funding identified in those applications.

Q68 Shabana Mahmood: Does that mean that feasibility study, design process and tender all have to take place concurrently? How does that work? Once you have done your registration, what do you next need to do in order to fall within the first come, first served rules of this fund?

Neil O'Connor: That design and detail is being worked through at the moment. It will be set out at the end of this month, when we formally open the scheme for applications, rather than registrations.



- Q69 **Shabana Mahmood:** Okay. Have you given some thought to, and can you us some indication of, what would happen under this scheme if, for example, an application is made for £3 million-worth of works but, once those works begin, it is discovered that the work is more extensive and will now cost £7 million? Will the approval extend to the additional costs discovered once work has started, or will it be limited to the initial estimates of, in my example, £3 million?

Neil O'Connor: Cost overruns, or the potential for cost overruns, will be one of the things that we have to take account of in calculating the demand and the extent to which the fund is allocated, or fully subscribed.

- Q70 **Shabana Mahmood:** You do have many examples already of cost on various projects all over the country, Mr O'Connor. Surely you have taken that into account. Can you give us some more detail?

Neil O'Connor: We will be looking at our experience of the ACM funding, and the information we get from registration and applications. A lot of this will depend on what we are facing as we open applications—the number that we expect and how close we expect that to take us to the total cost. We have a lot of data from the ACM fund about average cost per building, potential cost overruns and so on. All those things will be used to inform our thinking about the Building Safety Fund.

- Q71 **Shabana Mahmood:** On that point, have you considered what happens when an evacuation of a building is required and people have to move out not just for months but for years? Does that feature in your planning?

Neil O'Connor: If that is essential, it would be taken into account. Fortunately, it has not proved to be necessary in very many cases so far. I am aware of three buildings where ACM was involved that had to be evacuated. In one case, plans for demolition are in place because the building had other structural issues that meant it was no longer viable. The occasion of it being so severe as to require decanting has been very small.

Chair: Thank you very much, Ms Mahmood. I now turn to Sir Geoffrey Clifton-Brown, and Clive Betts can be on standby.

- Q72 **Sir Geoffrey Clifton-Brown:** Mr O'Connor, it is now three years since the dreadful events of Grenfell. The percentage of remediated private sector buildings is still very low, yet people could be living in extreme danger. How much longer are you going to allow the private sector to go on unremediated?

Neil O'Connor: We fully agree that it is unacceptable that buildings are not remediated at this stage, three years on from the Grenfell tragedy. No one would have wanted that. It is not something that we think is acceptable.

It is the case that all these buildings have interim safety measures in place that make them safe for occupation, but they are interim measures—the very name suggests that they should be temporary, not permanent. Permanent remediation has to happen as quickly as possible. As Jeremy



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set out earlier, our ambition is to work with the building owners who have not started to ensure that they are on site and starting work by the end of this calendar year. We are also in discussion with the Home Office's protection board, which is a fire and rescue service board, to look at how we can co-ordinate enforcement activity for those that do not meet that ambition.

- Q73 Sir Geoffrey Clifton-Brown:** One of the things that the public sector did very well was to prioritise the buildings with the most serious problems. The problem is that we cannot get to a prioritisation system in the private sector until all buildings have been tested. What is going to happen about making sure all buildings are tested so that we know where the most serious problems are?

Neil O'Connor: We know where the ACM cladding is in the private sector, and we have identified the buildings with unsafe ACM cladding. We are working with those buildings to make sure they start remediation. Those are the ones recorded in our monthly data releases. They don't require any further testing. Screen testing was available to the private sector within a week or two of the Grenfell tragedy, as it was for the social sector. Building owners could send samples of their cladding to the Building Research Establishment to identify which type of ACM cladding they had and what degree of combustibility the core of the cladding had.

- Q74 Sir Geoffrey Clifton-Brown:** What is the remaining block, then? You are offering them the money through this cladding fund, but the problem is that the landlords have responsibility for looking after the main structure, but the leaseholders, who haven't got the money, are responsible for paying for it. It isn't just the remediation of the ACM cladding; it is also the other aspects that get found when you take the cladding off—voids, fire doors and all that sort of stuff. What is to be done to resolve the fact that leaseholders in some cases are arguing about paying? Would it be possible for the Government to have a loan fund for those leaseholders, so that when they come to sell the flats, that money is recovered from the sale price?

Neil O'Connor: On ACM, the Government's position is to pay for the remediation in those cases where leaseholders would be charged, so we are protecting leaseholders from the costs of the remediation of the ACM cladding. That, by and large, is the highest risk issue with those buildings and it is also likely to be the highest cost issue, excepting that leaseholders are facing some other costs, including interim measures, which can be burdensome.

- Q75 Sir Geoffrey Clifton-Brown:** This, as I understand it, is what is holding up the remediation in some cases: the leaseholders are unwilling to pay those other costs. This is why I say: could the Government have a loan scheme that would enable them to pay those other costs, so that we could get on with the remediation as soon as possible?

Neil O'Connor: I am not aware that that is a barrier to the remediation work happening.



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Q76 Sir Geoffrey Clifton-Brown: Well, the Association of Residential Managing Agents certainly told me, in a phone call last week, that it is and that they have been talking to your Department about it.

Neil O'Connor: It had been in the past, before the fund was announced. Part of the purpose of having the fund is to remove that blocker of having to negotiate and wait for leaseholders to organise their finances and so on to meet those costs. It is possible that they are talking about the wider issues of other unsafe cladding, non-ACM cladding, where, again, the Building Safety Fund is designed to step in and pay for remediation in those cases where otherwise leaseholders would have to pay and where that is a barrier to remediation.

Q77 Chair: Isn't the point, Mr O'Connor, as Sir Geoffrey highlights, that a lot of leaseholders cannot pay—it is not so much won't but can't, although maybe some of them won't as well—and that there is a bottomless pit of money that the Department may have to consider funding in order to get this work under way, because of the other, attendant problems that are uncovered once cladding is investigated? It is a bit of a bottomless pit, isn't it?

Neil O'Connor: I understand the point; I'm just not aware that it is acting as a barrier to remediation of ACM cladding—

Chair: Okay, for ACM particularly. We need to move on to Clive Betts, and I will bring Sir Geoffrey back—

Sir Geoffrey Clifton-Brown: Can I just say this? Will you please have a discussion with the Association of Residential Managing Agents, who are pretty professional in this field, about this problem? Thank you.

Chair: Thank you, Sir Geoffrey. I will bring you back in later. We will now hear from Mr Clive Betts.

Q78 Mr Betts: Mr O'Connor said, with a fairly straight face, a few minutes ago that the delays in dealing with these problems three years after Grenfell were unacceptable, so I will put this to Mr Pocklington now. Isn't part of the reason for the delay, which the Department has to hold its hands up and accept responsibility for, the fact that until this year the position of the Department was that non-ACM cladding, which is of limited combustibility, was okay to be left on existing buildings but not to be put on new buildings? The Department's position for a long time was actually that it should not be taken off existing buildings, wasn't it?

Chair: Mr O'Connor, or Mr Pocklington.

Jeremy Pocklington: I think the question was directed to me. That is not correct in term of the Department's position. We published advice as early as December 2017 that was very clear that other types of unsafe cladding, including unsafe high pressure laminate or HPL cladding, should be removed from residential buildings, particularly residential buildings over 18 metres.

Q79 Mr Betts: But the Department conducted a review to see whether that



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cladding was dangerous and should be taken off, didn't it, after that date? Why were you conducting a review if you had already decided?

Jeremy Pocklington: We set out very clear advice based on the advice we received from our Independent Expert Advisory Panel and based on some testing that was done in the period following Grenfell. We have subsequently undertaken further testing, which I think you may be referring to, in the latter half of last year and into this year, to further improve our understanding around the safety risks surrounding certain types of non-ACM cladding: other metal composite cladding and different types of—

Q80 **Mr Betts:** And it was at that point that the Department's position changed, didn't it, about getting this cladding off?

Jeremy Pocklington: No, the Department's position was set out in December 2017. The guidance was further updated in December 2018 and new consolidated advice was published at the start of 2020. What did change was a recognition that, while our testing had shown that unsafe ACM cladding is the most serious risk, it remains the case that other types of cladding, such as certain types of HPL cladding, need to be remediated.

Q81 **Mr Betts:** Right. So we came up with the Building Safety Fund, which was announced in the Budget. How was the £1 billion calculated?

Jeremy Pocklington: It was calculated in the usual way, based on estimates that we have around the cost of remediating the cladding, which I know we have talked to your Committee about. The total cost of remediating types of unsafe cladding other than ACM we think might be in the order of £3 billion to £3.5 billion, although that is an estimate. We are not funding the remediation of all types of unsafe cladding on every building above 18 metres; we are focusing the funding where the affordability for leaseholders is the greatest barrier.

Q82 **Mr Betts:** Wait a minute. You just said a few minutes ago that you were not looking at lists and things, but that it was first come, first served. You have just thrown something else in there about different sorts of cladding. My understanding is that you were going to pay for the removal of all non-ACM cladding that was not of limited combustibility. That is true, isn't it?

Jeremy Pocklington: Very clear. The new fund is deliberately focused on all types of unsafe cladding that the Expert Panel has indicated is unlikely to adequately resist the spread of fire on buildings over 18 metres. That is a first come, first served fund, as we have discussed. The funding is open to buildings in the private sector with leaseholders; we will also support the costs that would fall to private leaseholders within social sector buildings, and we will fund social sector buildings where viability—

Q83 **Mr Betts:** We will come on to that point in a second, but you have already said that the costs could be £3 billion to £3.5 billion if all the buildings were going to be dealt with. You have £1 billion. You have allocated the money first come, first served. What happens to the rest of the blocks? Do you leave them there unsafe?



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Jeremy Pocklington: We are continuing to work with freeholders and developers to ensure—

Mr Betts: Come on, Mr Pocklington. We know that is not going to work. We have been here for months and years now, trying to argue the case. We have already explained that freeholders often do not have the wherewithal to pay. Leaseholders cannot pay either. We know that is not a route forward, so essentially what we are saying is that you have a fund here of £1 billion that is only going to do one third of the job. What happens to the rest of the people living in the rest of those blocks?

Jeremy Pocklington: First of all, if I may, for the ACM fund we talked earlier about the fact that, in 84 cases, freeholders—

Chair: We are not talking about that.

Mr Betts: We are talking about the non-ACM fund now—the Building Safety Fund. That is what we are talking about.

Jeremy Pocklington: But it is important to establish the principle, Chair, that freeholders and developers may contribute. They have contributed to the ACM fund, so they may contribute to this fund as well. That is an important principle. The second point, which we are coming on to, is that about half the 1,700 buildings will be in the social sector. Many social sector landlords and housing associations are already getting on and doing the right thing in remediating those buildings. We are focusing, on a first come, first served basis, on buildings in the private sector.

Q84 **Mr Betts:** You have just said that that is the social sector, so how many buildings in the social rented sector are now having work done to have non-ACM cladding removed?

Jeremy Pocklington: We don't have—

Mr Betts: You said they were getting on with it, so you must surely have a figure.

Jeremy Pocklington: I don't have a figure. We know that there are responsible landlords in the social sector who are remediating that, but I don't have specific data to share with the Committee. We only collect that very granular, specific data on the progress of specific remediation for ACM buildings.

Q85 **Mr Betts:** In terms of the social sector, there is a little caveat there that the Department will consider applications to this fund as long as the social landlord cannot afford to pay. What does that mean?

Jeremy Pocklington: The principle is that if paying for the remediation would affect the viability through well-established processes that the Department and the regulator have, we will fund the remediation of that.

Q86 **Mr Betts:** Can you explain what "viability" means, so that we can understand it?

Jeremy Pocklington: It means the financial viability of the housing association in question.



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Q87 Mr Betts: So if a housing association has got money, but that money is allocated for the future building of new homes or the maintenance of other properties—the same for a council—you would say, “Go on and spend that money, and don’t do that other work,” would you?

Jeremy Pocklington: Housing associations are a complex range of bodies. They can have a range of different sizes and a range of different balance sheets. Some housing associations will be able to afford it and will have spare capacity on that.

Q88 Mr Betts: But the question is very simple. If an association or a council can show that the only money it has is money that would otherwise be devoted to building new homes or maintaining existing homes, would that count as not being able to afford to pay, or would you say, “You can actually transfer that money over to those other projects”? Which is the way forward?

Jeremy Pocklington: For councils, we have deliberately said that you can use borrowing within your HRA cap, having lifted the HRA cap. That is a mechanism that can be used.

Q89 Chair: For housing associations?

Jeremy Pocklington: For housing associations, where they cannot afford it and risk being unviable, we will fund it. We have been very clear that they should come and have a conversation with us, if that is the case.

Q90 Mr Betts: But that means they would probably have to transfer money from other projects, if they can.

Jeremy Pocklington: As I say, housing associations have a range of different financial positions. Many of them will have the capacity to fund this. As you know, in the Budget and last week we confirmed £12 billion for the affordable homes programme.

Q91 Mr Betts: Most of that is not for social rented housing, as you know, Mr Pocklington; only a small amount is. You said councils can go and borrow the money through the HRA. That means you are basically saying that is an extra cost on the HRA, so other council tenants are going to pay while people in the private sector will get their work funded. Council tenants will have to pay through increased rents—is that what you are saying?

Jeremy Pocklington: No, I am saying it is a source of funding that is available for councils, and that will need to be funded in the usual way. That is all I am saying about councils.

Mr Betts: That is a yes, isn’t it?

Q92 Chair: Can I just go back to the point you raised earlier, Mr Pocklington? In response to Mr Betts, you said that some private developers are paying the bills themselves. As I said at the top of the session, I am one of the lucky leaseholders benefiting from that. Has the Department done an analysis of the likelihood of builders doing that—the size of the developer, whether they still have balance sheets that are big enough, and whether they have the capital receipts or capital resource to fund



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that? Surely you have done some analysis of the likelihood of getting the builder to pay, and you know where that is not likely to be possible.

Jeremy Pocklington: I will bring in my colleague Neil in a moment, but we know from our experience with the ACM fund that it is possible to recoup money from some freeholders and developers that have the balance sheets. We have also seen it with some other fires and incidents that have taken place. We have seen developers continue to do the right thing and remediate buildings that, even when they have not got the—

Q93 **Chair:** I know we all want to see the right thing being done, but my question is very clear: have you done an analysis of where that is a possibility—where you can perhaps put pressure on and where you can name and shame, or where, frankly, the developer is so small or it was such a long time ago that it is not a realistic prospect? Have you done that analysis? If you cannot answer that in detail, maybe Mr O'Connor can.

Jeremy Pocklington: I will bring in Neil on our plans on that.

Neil O'Connor: We are doing that analysis; we have started it. We have based it on buildings that we are aware of, and on who were the developers. We have engaged with a number of the larger developers to seek their confirmation that their plan is to remediate those buildings and not to draw on the fund. We have had that confirmation in a number of cases. We are following that up in writing, to get that more formally recorded. As part of the registration process, we are asking people who are registering for the fund to confirm what options they have considered for funding this themselves, and we will test that. Part of our analysis of registrations and applications will be an analysis of whether those building owners or developers should be able to fund this themselves. We are not at the stage where we could say to you, "There are X buildings in that position," but we will get to that point.

Q94 **Chair:** If there is a large, respected developer that has had receipts from Government for various funding and tax relief programmes and that does not step up, will the Department name and shame?

Jeremy Pocklington: We have not yet made a commitment to name and shame for the Building Safety Fund. It is an approach we have used for the ACM fund.

Q95 **Chair:** But are you considering it? Is it still on the table?

Jeremy Pocklington: It is very much still on the table. We are not at that stage yet, though.

Chair: We have heard what Mr O'Connor said.

Q96 **Mr Holden:** Mr Pocklington, you said that you are considering naming and shaming. Apparently, five hotels have ACM cladding. Have you considered naming and shaming them, seeing as it is now three years on?

Jeremy Pocklington: I will bring in my colleague Neil, who knows the detail with the hotels better than I do.



Neil O'Connor: Those five hotels believe, based on expert advice, that they do not need to remediate the ACM cladding on their buildings. In some cases, the cladding is fairly limited in extent. Their argument is that because they are set up differently, as hotels—they have sprinklers, staff present in the building and evacuation procedures—they are not in the same position as a residential building. We have referred the case to the fire and rescue services, to work with those hotels to confirm that position and to consider using enforcement powers. That is the stage we are at. Ministers may be prepared to name and shame depending on the progress we make through those discussions.

Q97 **Mr Holden:** Mr O'Connor, that sounds similar to a lot of other developments. Plenty of other buildings might have sprinkler systems or permanent staff on site, so why are hotels being granted a special exemption?

Neil O'Connor: They are not. They are going through a process to determine whether they are safe. It is really for the fire and rescue service to take a view on whether it feels it can enforce that based on an assessment of the risks and mitigations present in the building.

Q98 **Mr Holden:** Three years on, are you saying that you are still unsure whether these buildings are unsafe?

Neil O'Connor: No, the view of the Department and the Expert Panel is that unsafe ACM cladding should be removed. That is our starting point. It is very much for the building owner to demonstrate that is not the case. It will be for the fire and rescue service to consider whether it should take enforcement action. We are in discussion with them and we will want to understand the outcome of that process.

Q99 **Mr Holden:** Mr Pocklington, the Government state that these buildings are not safe, and the building owners say they are safe. Three years down the line, when will we see action? People are back in hotels already and some might not know whether they have ACM cladding on.

Jeremy Pocklington: I agree that the position is unacceptable. That is why we are engaging through the protection board with the fire and rescue services to ensure that we are taking as strong and quick enforcement action as possible.

Q100 **Mr Holden:** Three years is not exactly a short period of time. Mr O'Connor, in answer to an earlier question, you said that we now know where the ACM cladding is, but the hon. Member for Sheffield, Hallam pointed out that 11 new buildings have just been added to the list. Are we sure that there are no other buildings with ACM cladding that we do not yet know about?

Neil O'Connor: As Jeremy said earlier, we would not say absolutely that there is no chance of any new buildings being identified with ACM cladding; it is possible. That is why we have kept the fund and our programme open; we are not closing it to buildings with ACM. It is high-risk material that needs to be remediated, and we will deal with any new building that comes to light. However, we believe that we have reached a



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position of reasonable confidence that the vast majority of such buildings have been identified. We have no reason to suppose, and there are processes—

Q101 Mr Holden: The vast majority are over 18 metres, Mr O'Connor. How many buildings in that medium-risk category of 11 to 18 metres in height do we know have this ACM cladding? Has anything been looked at in those buildings?

Neil O'Connor: We do not know. Our programme has been based on prioritisation and on the basis that higher-rise buildings are higher risk, particularly where they have ACM. But the advice has been clear that building owners with buildings below 18 metres should also be considering the safety of their buildings, and where they have unsafe cladding they should be removing it.

We are about to start an exercise to collect better data on buildings under 18 metres, but when you move to the number of buildings below 18 metres, you are moving to a much wider number of buildings, and the logistical challenges are huge.

Q102 Mr Holden: I am aware of that, Mr O'Connor. Do you know how many buildings there are that you will have to look at that are between 11 metres and 18 metres?

Neil O'Connor: Yes. There are 11,300 over 18 metres. We think that between 11 metres and 18 metres, you move out to about 88,000 buildings.

Q103 Mr Holden: If it is roughly the same number as on the other buildings—the 18-metre-plus buildings—you are looking at about 15% of those buildings, or potentially about 10,000 buildings, that could have ACM cladding on, between 11 and 18 metres.

Neil O'Connor: We do not have enough information to understand that. As to whether cladding is as common, or at the same proportion, on lower-rise buildings, there have been indications from various stakeholders that cladding is less prevalent on lower-rise buildings.

Q104 Mr Holden: These are 11-to-18-metre buildings; these are not low-rise buildings. They are not your normal, average house development, are they? They are still substantial—

Neil O'Connor: Up to six storeys.

Mr Holden: Exactly. Earlier on, you said there had not been an issue—this is counter to some of the issues that we have had raised with us—about the number of surveyors or fire safety people looking at the buildings themselves. However, we have lots and lots of evidence from RICS and others that one of the major issues that they are facing—I think you just highlighted this huge new wave of buildings that you will be looking at—is the lack of people who are able to look at and survey these buildings. Is that something that you are looking to address?



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Neil O'Connor: Yes, it is. We are working with the Fire Industry Association and the Institution of Fire Engineers to look at both short-term measures, to see whether we can tackle some of the insurance barriers that prevent the existing fire engineers from conducting this work, and future pipeline strategies to increase the number of qualified fire engineers.

Q105 **Mr Holden:** Because, Mr O'Connor, it is not just about people doing a quick survey of these buildings and saying, "Yes, it's got ACM cladding"; a survey to consider how you will do remedial works takes a huge amount of time. Indemnity insurance is also a major issue. Having spoken to RICS, I know that a huge number of people are very concerned about it, because it is very restrictive.

What is the Department doing? Are you doing anything from the technical side to work with the insurance industry, to see what can be provided, so that we can get proper surveys of these buildings and know whether they are safe?

Neil O'Connor: Yes, Lord Greenhalgh has been engaging with the insurance industry and has asked them to come up with some solutions to the professional indemnity insurance issue, so that fire engineers can conduct this work. The changes going through Parliament at the moment—the Fire Safety Bill—will require more comprehensive assessments of blocks of flats, including the cladding of blocks of flats. We are working with the Home Office, the National Fire Chiefs Council and other stakeholders in the fire industry to look at how we can improve the available guidance on cladding assessments to give practical and pragmatic approaches.

Q106 **Mr Holden:** All those measures will add even more time to every survey—quite rightly, to ensure public safety. This has been ongoing for the three years since Grenfell. Mr Pocklington, what discussions has the Department, through Lord Greenhalgh, had with the insurance industry and what has come of them? Three years on, what has the insurance industry done?

Jeremy Pocklington: We continue to engage totally with the insurance industry, through Lord Greenhalgh and as officials. There is a series of issues here. There is the professional indemnity insurance issue that you have highlighted—we need to increase availability. Part of what we are seeing here is a wider contraction in the professional indemnity market—there is a sort of cyclical factor as well as an industry-specific factor.

Then, as we touched on earlier, there are broader questions on the future of building insurance. We are working closely with the sector to see what further solutions are available that could mitigate some of the costs on leaseholders, but that is a very challenging area. We are not sat here today with a solution that is ready to go, but we are in very close dialogue with the sector to see what further avenues should be pursued.

Q107 **Mr Holden:** You talked about cyclical factors. For the last few months, we have seen a huge downturn in the housing market, so a large number of



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surveyors are probably available. Has anything happened in the last few months to speed up some of those insurance issues while the market is flatter in other areas and will probably remain so for some time?

Jeremy Pocklington: I understand your point. I think the specific shortage there relates to expert fire engineers, who have remained in high demand. As Neil says, we are working with the sector to do more. You are perhaps right to say that, as a result of wider economic factors, there might be more capacity in the market. We will do everything that we can to pursue that.

Mr Holden: I would urge you to get the professional indemnity issue sorted as quickly as possible because it is brought up time and again by the industry.

Q108 **Gareth Bacon:** Mr Pocklington, the Department's Independent Expert Advisory Panel acknowledged that the most dangerous form of cladding—ACM cladding—is dangerous on any building, regardless of height. It also acknowledged that buildings that contain elderly and vulnerable people are particularly at risk. I note that the Department does not have figures for the number of care homes under 18 metres. Is there any particular reason why?

Jeremy Pocklington: You are correct about the expert panel's advice being that unsafe ACM cladding should be removed from any residential building. The Department does not have data on care homes, which is obviously a very important, sensitive and topical area. Care homes already come under stronger fire safety regulation than residential properties—under the relevant fire safety regulations, they often have protections in place, whether they be sprinklers, being staffed at night or different evacuation procedures—but we are under no illusions about the importance and sensitivity of that sector.

Q109 **Gareth Bacon:** That is good to hear, but three years after Grenfell, it is slightly surprising that you do not have that data and have not made it a priority to find out. Is there a reason for that?

Jeremy Pocklington: We work closely on that with the Department of Health and Social Care. We have some information regarding the overall stock, which my colleague Neil can give you. I would stress that care homes already have stronger regulation around fire safety than residential homes, but I think Neil may be able to say a little more about the nature of the care home stock.

Neil O'Connor: We are not aware of any over 18 metres obviously that have ACM. We do have data on a number of care homes and sheltered housing and hospitals and so on, and places where vulnerable people live, where the fire safety order applies more comprehensively to the regulation of those buildings and the fire safety measures they have to have in place, so they have a higher level of protection to start with compared to residential blocks of flats. We know that there are around 40,000 properties in total that are either care homes, sheltered homes or hospitals, but of those 98% are less than 11 metres in height, so they are



low-rise, typically. That is less than four storeys. They are basically mostly low-rise buildings. There is only a very small number that are anything higher than that.

Q110 Gareth Bacon: That is good news. When you are dealing with people who may be immobile—even in a four-storey building—we saw the pace at which the fire moved around Grenfell, on the outside of the building. That was because of the ACM. The fact that we don't know how many care homes, regardless of height, have ACM on them is quite worrying, isn't it?

Neil O'Connor: We have been clear in our advice on these issues and building owners, particularly in more vulnerable institutions, should have been paying attention to that, but we are about to launch an exercise on buildings below 18 metres to try and get a better sense of what is out there and the extent of cladding issues. As I was saying to your colleague earlier, you move out to around about 88,000 buildings in total. It is very difficult to do a detailed data collection on precise cladding materials that are on each and every one of those buildings, but we are going to look at sampling in key areas where we know there are particular types of building. So, we will be improving our understanding of this, but we don't have a clear sense at the moment.

Q111 Gareth Bacon: I am sorry to interrupt you, but we are very pushed for time. Improving your understanding is good, but clearly what we want to do is not establish a great list that we can look at. We actually want to get the cladding off the buildings and fix them, because we don't want a repeat of what we saw three years ago. If it were to happen in a building where there are vulnerable people that would be doubly problematic. I suppose what I am getting to—the key question—is who is in charge. Mr Pocklington was saying that some of this is maintained by the Department of Health and some of it is being maintained by the MHCLG. Who is holding the whip hand? Who is making things happen?

Neil O'Connor: The responsibility on ensuring that a building is safe sits with the building owner, just as in the case of myself as a homeowner I am responsible for the safety of my home. That is the case for all buildings. The system is based on that responsibility. What the Department has done is prioritise identifying risks, providing advice on what could be done to address those risks, and making sure that that is available to building owners. It has gone further to intervene and provide funding and to track remediation on the highest-risk buildings—high-rise buildings, particularly those with ACM. That has been our approach. But the responsibility sits at the building-owner level and building owners face the consequences of inaction if they don't maintain the safety of their buildings.

Q112 Gareth Bacon: Yes, I accept that, but I think the general public are expecting the Government to take a much more proactive line in making sure that buildings are safe. Obviously, the responsibility lies with the building owner and we had some discussion earlier about the difficulty and the complication in establishing ownership in some cases, particularly



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where those buildings are privately owned. My question really is what action the Government is taking to make sure that we know where the problem areas are. For example, in the National Audit Office Report, as well as identifying care homes as a particular problem, there were nine hospitals that were within scope—two have been remediated, but seven are not. What is happening there?

Neil O'Connor: On hospitals, there are now only a relatively small number—I think five—and three of those have started. So, actually, it has taken too long, but actually is happening. In all those buildings that have been identified, fire and rescue services have been to visit to make sure that interim measures and the right procedures to keep the occupants safe are in place. They have been back to reassess those measures and make sure they are being sustained, so there is a constant process of assurance on those buildings. They must be remediated, and we have been clear that it is unacceptable that it is taking this length of time.

Q113 **Gareth Bacon:** We set a limit of 18 metres on some of these buildings, and it turns out that quite a large number of buildings are just under that, so you put a 30 cm tolerance on that. How many of your buildings are now going to be working to scope with that 30 cm tolerance?

Neil O'Connor: For the Building Safety Fund? We don't know precisely, because we don't know the number of buildings yet. Our rough estimate—the National Audit Office refers to this—is that it would extend the number by about 45 buildings. That may or may not turn out to be right, but it doesn't feel like an unreasonable estimate.

Q114 **Gareth Bacon:** And you are confident that the Building Safety Fund is going to be sufficient to enable those buildings to be remediated?

Neil O'Connor: Yes, on the basis that Jeremy has been setting out. We have an expectation that those who can afford to pay will do so.

Q115 **Gareth Bacon:** That is not the question I asked, though. My question was whether the Building Safety Fund would be sufficient to address the buildings that are within scope.

Neil O'Connor: Yes, within the eligibility terms of the Building Safety Fund. It is on a first come, first served basis, as has been set out in several answers. Our expectation, and our assessment at this stage, is that it will be enough to cover those that are eligible, where the building owners or developers cannot afford to pay, cannot claim on an existing warranty or are not social landlords who can afford to pay through their own borrowing capabilities. That is the basis on which we are operating this fund. We will keep it under review.

Q116 **Gareth Bacon:** Okay. How often are you reviewing it? My concern is that, now that private buildings realise that they could be within scope, you may have a sudden influx of people coming your way and the money that has been set aside may prove to be inadequate. How often are you going to be reviewing it, and what chances are there that there will be more in the fund as it goes along?



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Neil O'Connor: We have only just started. It was announced in the March Budget, we published the prospectus in May, and we opened for registrations in June. The registration process runs until the end of July, so that would be the first point at which we would feel that a review of the likely demand and what it meant for the size of the fund would be possible. It is not possible to anticipate that at this stage.

Gareth Bacon: I think I will stop there, Chair, and let others come in.

Q117 **Sir Geoffrey Clifton-Brown:** Mr O'Connor, can you tell us a bit more about those who can afford to pay and the BSF fund? A lot of leaseholders are capital rich but income poor and cannot afford to suddenly fork out this huge amount of money. Will the fund cover those people?

Neil O'Connor: Yes. I am talking about the ability of building owners, freeholders or the original developers to pay, not the individual leasehold owners of flats within those blocks. The Building Safety Fund is designed to prioritise leaseholders and protect them from having to raise those costs, because we see that as a barrier to the pace of remediation.

Q118 **Sir Geoffrey Clifton-Brown:** The trouble is that the leaseholders are sitting there in a possibly unsafe building. They can't sell the long leaseholds on those flats until they get a certificate saying that the building has either been remediated or hasn't got this cladding in it. The leaseholders are in a pretty invidious position, aren't they?

Neil O'Connor: Yes, but, if I might say so, they are in a better position with £1 billion of Government funding to solve the problem.

Q119 **Sir Geoffrey Clifton-Brown:** True. My colleague Mr Holden has pointed out that we may not necessarily have bottomed the entire problem with those buildings over 18 metres, but certainly under 18 metres. Under 18 metres is under 60 feet, so some of these buildings are still quite tall. There is a huge number of them out there, potentially. Can I come back to the issue he raised of professional indemnity? There are quite a large number of surveyors out there who would be prepared to do a lot more of the work to identify where the problems are but cannot because their professional indemnity will not cover them. The insurance industry needs to sort this matter out. It really is a logjam in the whole system. Surely the Government could be working with the insurance industry to sort out the problem of professional indemnity, so that at least we can get surveyors out there to try to find out where the problems are.

Neil O'Connor: That is what we are doing. That is what Lord Greenhalgh has been doing, and I am pleased to say that members of the insurance industry and the insurance brokers we have been dealing with have shown willing to come up with solutions. We have yet to see them actually emerge, but they are working on solutions to reduce the number of restrictions that are being imposed on fire engineers and others in doing this work.

Q120 **Sir Geoffrey Clifton-Brown:** What concerns me is that we have had



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three years, and a lot of work has been done in the public sector—good work, important work—but these problems are only just emerging in the private sector. Do you think it will take another three years for the private sector to get to where the public sector is now, even for buildings over 18 metres? Would that be acceptable?

Neil O'Connor: This is a set of problems that has grown up over decades of poor construction work, and the reforms we are bringing about through the building safety Bill are there to bring in a much stronger system.

Q121 **Chair:** Forgive me, Mr O'Connor, but that is the bit we know. What Sir Geoffrey is driving at is this issue of professional indemnity insurance. You have talked about the industry being very positive, but when they gave evidence to us, they were very clear that they felt the Government should resolve this. They seemed to be washing their hands of the issue of who is providing insurance, both buildings and professional indemnity insurance. Sir Geoffrey, do you want to pick up on this and then Mr O'Connor can answer, or have I covered what you were driving at?

Sir Geoffrey Clifton-Brown: What I was really driving at is that Grenfell happened three years ago, and it does not make a lot of difference whether you live in a public sector building or a private sector building. Mercifully, through the efforts of the Government, councils and social landlords, the public sector has done a lot of work in the past three years, but sadly, for one reason or another—we have been over a number of them in today's session—the private sector is nowhere near the same level as the public sector.

What I am asking is, if you are a resident in a private sector building, is it acceptable that this whole problem is going to take another three years to resolve? What sort of timescale are we looking at to get to the same stage in the private sector as we are now in the public sector?

Neil O'Connor: For ACM buildings, we are looking at a year and a half, based on our ambition to have all sites started—those in the private sector as well as those further ahead in the social sector—by the end of this calendar year and remediated during 2021. For the wider issues of building safety and non-ACM cladding, it will take longer, and I am afraid that at this stage I am not able to give you a well-evidenced comparison between the social and the private sectors.

Q122 **Sir Geoffrey Clifton-Brown:** I am interested in the ACM problem primarily. Getting that problem resolved in the next year and a half is a fairly ambitious target. Even if you have identified the problem with the surveyors and the fire safety officers, are there sufficient contractors out there to be able to do this work in the next year and a half?

Neil O'Connor: We believe there are, and this is one of the things that Faithful+Gould, who are providing consultancy support to those projects, are doing. They are engaging directly with industry and have revamped our industry response group to look at supply chain issues and make sure the contractors, suppliers of materials and so on are geared up to respond to that challenging timescale.



Sir Geoffrey Clifton-Brown: I will leave it there, Chair.

Q123 **Mr Betts:** Picking up again on the point about the Building Safety Fund being there to pay for blocks where the owners cannot afford to pay, Mr O'Connor, you just talked about not wanting leaseholders to pay to protect them. I think everyone would be supportive of that, but you also said that those who might be able to afford to pay would be developers or freeholders. If someone has developed a property in the past four or five years and has been responsible for building it, and still owns it, I think everyone would agree they ought to be held to account for that. However, many freeholders have just bought the freehold. They are not going to be able to afford to pay, and in most cases, they have no legal obligation to do so, have they?

Neil O'Connor: For those freeholders you are right. Perhaps they are the types of building owners who are more likely to apply and be able to meet the eligibility criteria for the fund, but we are engaging with developers who, although they are not necessarily freeholders, as the original developers they may wish for reputational or other reasons to take a morally right approach and step in and fund the remediation works. A number of discussions are going on around that as well.

Q124 **Mr Betts:** That is right. Everyone would want to see those developers pay if they are responsible for putting up an inadequate building. Do you think there might be some cases—certainly the Housing, Communities and Local Government Committee drew attention to this—where, because of the urgency of these matters, the Government should just get on and do it and then seek to recover the money from those who might be able to pay, such as developers, in due course, rather than spend two or three years or four years in legal processes first?

Neil O'Connor: The fund is the answer to that. It is designed to enable the works to proceed quickly. We have looked at a number of different options in designing this and the private ACM cladding fund, and concluded that providing money to the existing responsible entity to get on with the works while applying recovery conditions, which are still in place, was likely to be the option that most increased the pace.

Q125 **Mr Betts:** Coming back to the affordability to pay off social landlords, would the Department collect information about the costs to social landlords of having to pay for the removal of non-ACM cladding, and has the impact on their other activities and their rents been assessed? It seems reasonable that you should at least collect that impact information.

Neil O'Connor: It is not something that we are doing at the moment. Certainly a lot of social landlords—the G15, the National Housing Federation and others—have given us information and evidence.

Q126 **Mr Betts:** But could you not collect it so that we can all be aware of what the consequences are?



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Neil O'Connor: We are considering what further monitoring we do of the overall programme, not just those we are funding with non-ACM, so that we can see what is happening and understand it.

Q127 **Mr Betts:** Right. I have a simple question. We talked about the buildings that are high rise but below 18 metres—the 11 to 18 metres—and the fact that many of those will have dangerous cladding and therefore the buildings themselves are inherently unsafe. Can you give us a timeline for when you will have done an assessment of how many buildings there are, and what should be done about them?

Neil O'Connor: Not at the moment. We are kicking off an initial study to look at sample areas. We are also investigating whether there are other digital data techniques that we can use to get this type of information, but it is the start of a research project. It will only be through the early stages that we get a sense of what more is achievable.

Q128 **Mr Betts:** Is it likely to be six months? Twelve months?

Neil O'Connor: I think there is an initial phase of about three months, which will then give us a better indication. We are not setting out here to establish a comprehensive database of every building under 18 metres and what cladding it has. That does not feel very achievable at this stage, but we will see what the initial work tells us is feasible.

Q129 **Mr Betts:** Does the Department not have responsibility to make sure that people are safe in their homes? If dangerous cladding is still on high-rise buildings, should not the Department do something about it?

Neil O'Connor: Yes, and it is.

Chair: Mr Pocklington, did you want to come in?

Jeremy Pocklington: Yes, and it is. The key thing happening here is the Fire Safety Bill, which will make it clear that external parts of a building are included as part of the Regulatory Reform (Fire Safety) Order 2005, so future fire risk assessments for buildings below 18 metres will need to include cladding and all the common parts and internal doors [*Inaudible.*] What we are not doing, as my colleague has said, is running a bespoke remediation programme for those buildings. The fire safety order will strengthen arrangements around that, and building owners need to take action to make sure their building—

Q130 **Mr Betts:** Let us come back—I am sorry, Chair, to go over previous ground. So you do a fire risk assessment and the assessment is that there is a risk of fire and something needs to be done. You are back to the same problem. You have freeholders with no legal obligation to pay and leaseholders who cannot pay, and nobody wants them to pay, so where does that leave them? Again, we are back to the same problem. Are the Government going to step in?

Jeremy Pocklington: Ultimately, the question that the Committee is driving to is, where do you draw the boundary in terms of what is the appropriate level, nature and use of taxpayer funding?



Mr Betts: Yes.

Jeremy Pocklington: Your Committee has recently put out a recommendation suggesting that the taxpayer should meet the full extent of the cost. That is not, so far, the Government's approach, which is to focus taxpayer funding on the highest and lumpiest costs. We would hope that three years on from Grenfell, managing agents are appropriately managing more buildings and that they are building up sinking funds to ensure that remediation work can be undertaken.

Q131 **Chair:** Sorry, Mr Pocklington, I have to interrupt you as a constituency MP. I will take my hat off as Chair, for a moment; I wear it both ways. There are many people who are facing life-changing bills of up to £80,000 to do remediation work. It takes more than three years of a sinking fund, from a group of already stretched leaseholders, to pay for that. This is a complete system failure, which I don't think anyone—you, us or anyone—disputes. You are not giving Mr Betts the answers. I recognise that Government haven't got an answer as to how to fund this yet, but do you accept the premise that Mr Betts has outlined?

Jeremy Pocklington: To be clear, the very lumpy and unacceptable costs, in the tens of thousands of pounds, are a key reason why we are funding the remediation of ACM and other unsafe claddings. We are acutely aware of the position of your constituents, which you have highlighted.

The question is, what is the appropriate funding model for other building safety risks, over the longer term? It is a hugely challenging question and I am not in front of the Committee with an answer to it. What is the appropriate balance between what should be funded by the taxpayer and ultimately, in due course, alongside wholesale system reform, what should be funded by the leaseholder? What residual responsibilities should remain with the developer?

As part of the whole-system reform that we are undertaking, we will make sure that there is clearer accountability and clear duty holders that have greater responsibility for the safety of these buildings. It is an incredibly challenging question, in terms of how to get that balance right. Are there any other ways that it can be done to help mitigate the costs for leaseholders? We have talked about insurance, but maybe there are other methods out there.

Q132 **Chair:** I am going to go back to Mr Betts in a moment, but the Oxford case threw up that owners cannot even go into the premises of leaseholders legally, if the leaseholder refuses. The system problems that led to this have been compounded by system problems in dealing with this. There is not an easy answer—we know that—but the solution provider of last resort has to be the Department. There is nowhere else that you can take it.

Jeremy Pocklington: We agree that a whole-system reform of the building safety system is needed. We absolutely agree that there is a role for Government as funder of last resort, to deal with the biggest risks that



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are creating the biggest costs for leaseholders. That is why we have taken the action that we have. The difficult question is, as we move to the new system, based on safety cases that are updated, what is the appropriate funding model for the future?

Chair: Mr Betts, last question and then I will go to Dame Cheryl Gillan.

Q133 **Mr Betts:** Mr Pocklington, you probably have the feeling that you are in the firing line today. Colleagues across the House are getting a real feeling that a lot of our constituents are living in buildings with dangerous cladding. So far, unless you happen to be living in a particular sort of very high-rise building with a particular sort of cladding, there is no one there to help you. Do you understand that feeling?

Jeremy Pocklington: I do, and I am acutely aware of the position of residents and leaseholders in buildings that, although there are interim measures, still need to be remediated. I have heard, as you all have done, the powerful evidence from residents and those affected. In this Department, we are committed to doing everything that we can. That is why we have 200 people working incredibly hard to tackle these challenges, but some of them do not present simple solutions, unfortunately. Ultimately, that is the debate that we need to have. Some of it is a wider debate that is for Government rather than for officials, but I have tried to set out to the Committee why we have taken the action that we have done and the work that we are doing in the Department to try to tackle—

Chair: Mr Pocklington, I do not think anyone is in doubt about what you have tried to do so far, some of which is in the right direction. It is just that huge gap between where we are now and what needs to be done. On that point, I will hand over to Dame Cheryl Gillan.

Q134 **Dame Cheryl Gillan:** Just a couple of questions about the property market. Mr Pocklington, you are probably best to answer this. You will probably be aware that, in some instances, property owners are struggling to re-mortgage or sell their properties until they have a statement of compliance, which is proving to be quite arduous in some cases. In the vast majority of cases, there is insufficient technical information available to assess whether a building reaches the standards required by some of the lenders. Do you have any sense of the size of this issue as a knock-on effect of the cladding and of the problems that you have been facing?

Jeremy Pocklington: This is another very important and sensitive issue. Again, we are all very aware of the impact on those affected by the issue of the availability of mortgages for those in flats with cladding. We do not yet have a clear quantified evidence base surrounding this issue. We know that many lenders are lending on flats with cladding, but obtaining the paperwork is unfortunately taking time. As you would expect, we are engaging strongly with lenders and involving the Treasury. We are strongly encouraging a very pragmatic approach, particularly on the issue of re-mortgaging. It is clearly unacceptable that just because someone is unfortunately in a flat with unsafe cladding, they have to move on to some



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higher interest rate until the cladding is remediated. Particularly on the issue of re-mortgages with the same lender, we are strongly encouraging the sector—I believe it is moving in that direction—to enable that re-mortgaging to occur.

We are also—Lord Greenhalgh is having a lot of engagement on this with lenders—encouraging lenders to take a pragmatic approach. The external wall system form, to which you refer, is not intended to be used for all properties, so we do not want lenders to be using blanket requests on this; there has to be a purpose and a role. We and RICS—the Royal Institution of Chartered Surveyors—are now working six months into that process to clarify the role and purpose of the form, and to engage with lenders in order to unblock this issue as much as we can.

Q135 Dame Cheryl Gillan: I would hope that you may be able to provide people with a list of those lenders that are not putting barriers in the way. I notice that the MHCLG has issued a list of professional bodies that are qualified to issue the statements of compliance. There are some 21 of them, including things such as the Royal Town Planning Institute, the Institute of Environmental Management and Assessment, and the Association for Project Safety. Are you satisfied that you can ensure that there are the same standards across all those certificates of compliance and the investigations that all these bodies make?

Jeremy Pocklington: We are confident that we have put the right bodies on the list, but I will bring in my colleague Neil on the specifics that you have raised.

Neil O'Connor: I think the list you are referring to is a longer list of sources of qualified support for remediation work more generally.

Q136 Dame Cheryl Gillan: No, these are professional bodies that are qualified to issue the statements of compliance, as I understand it.

Neil O'Connor: That is not my understanding. If you are talking about the EWS form, it may be that the RICS has put out a different list.

Q137 Dame Cheryl Gillan: Could you clarify that point in writing?

Neil O'Connor: Okay. On your general point, we are clear that where cladding is present, a more qualified fire engineer is required to undertake the assessment. Other general surveyors may be able to provide initial assessments where cladding is not present. Broader work is ongoing with industry to improve the competence of all the professions involved in building high-rise buildings. That is part of the reforms going on following Dame Judith's review, and it will be touched on in the new building safety Bill and the new regime.

Q138 Dame Cheryl Gillan: Can I just say, for re-mortgaging and sale purposes, the current demand, as I understand it, for services of suitably qualified experts to produce these statements of compliance is excessively high. I have been told that there is a wait of six to 12 months or more. Are you looking into this and can you speed it up? With the economic situation as it is, people might need to move for work and



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would find this to be a huge barrier. What can the Department do to speed this up?

Neil O'Connor: That is part of the work that is going on. This is an industry issue. Lenders and surveyors have decided that they need to be more diligent in considering mortgage valuations, because of the risks that have been identified since the Grenfell tragedy. RICS has provided the EWS assessment form process as a way for valuers to enable lenders to make mortgage offers. We are supporting and facilitating them in trying to smooth that process and to make it work as quickly as possible, as Jeremy was indicating. That is all part of that work that is mainly led by the Royal Institute of Chartered Surveyors, to its credit. We are supporting that in as many ways as we can.

Q139 **Dame Cheryl Gillan:** The wait period is six to 12 months. This was a foreseeable consequence of the great sadness of the Grenfell tragedy. I am surprised to find that people face that wait, simply to get a certificate of compliance, which would enable them to re-mortgage or move. That could be critical to the economy at this time. Can you not speed this up and do more work on it?

Neil O'Connor: We are. I have heard of speedier examples. Some developers are taking a proactive position in hiring fire engineers that they are contracting to support them to provide these assessments for their buildings, to make it easier for residents in those buildings. We would like to see more of those actions. That is the type of work that the RICS work is encouraging, along with, as Jeremy was saying, more pragmatic approaches from the lenders themselves, particularly around re-mortgaging.

Q140 **Dame Cheryl Gillan:** My last question, to Mr Pocklington, is on the old, thorny question of devolution. How are you dealing with the responsibilities for buildings that were built before devolution under the England and Wales regulations, as they were?

Jeremy Pocklington: In the Department, our focus is on the buildings in England, which is where the great majority of these buildings are. We are in contact with the devolved nations. Neil leads on that, so I will bring him in on that.

Chair: We want an answer. It doesn't matter who gives it.

Neil O'Connor: We are in regular contact with the devolved nations on these matters. We have regular contact on the building regulations.

Q141 **Chair:** You are in contact, so what is the outcome of that contact for those properties that Dame Cheryl has just highlighted? They were built under an old regime and are now under a new regime.

Neil O'Connor: I see. I was talking more broadly about contact on the building safety programme in relation to the legislation we are bringing forward, the remediation we are doing and the building regulation. On the mortgage issues there has been contact. RICS, which is leading the work



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on mortgage issues, with our support, has also been engaging with the devolved nations, particularly Scotland.

Chair: Dame Cheryl, do you want to repeat the question? It is not about what chats you are having with the Welsh Government; it is a bit more than that.

Q142 **Dame Cheryl Gillan:** I was asking what effective action was being taken, but I think that through you, Chair, I should probably be asking Mr O'Connor if we can get RICS to write to us about what action they are taking. Clearly, with the time pressure today, we are not going to get a full answer. Mr O'Connor, could you arrange for RICS to write to us and tell us exactly how they are handling the situation?

Neil O'Connor: We can ask them to give you a report.

Chair: We can pursue this in writing. Clearly, these are some of the issues around devolution that were not expected at the time. I thank our witnesses for their time. Mr Pocklington, you will pick up a certain frustration from the Committee on behalf of our constituents—I am sure you and officials share it—about the issues. We, our constituents and the leaseholders affected need answers.

Q143 **Sir Geoffrey Clifton-Brown:** Mr Pocklington, I have two final questions for you to try to get some clarity on this matter. For the first, let's stick with buildings over 18 metres that have ACM—the most seriously affected buildings for which the Government has kindly provided the £1 billion Building Safety Fund. Your colleague, Neil O'Connor, said that these will all be dealt with within 18 months. Can we take it from that answer that your Department will get tough with the laggards that are not remediating their buildings? After all, people are living in these buildings in a highly unsafe position. Can we absolutely take it that your Department will do everything it can, including issuing building notices to remedy, if they are not done within 18 months?

Jeremy Pocklington: Yes. Strong enforcement is an important part of the strategy. To clarify, £600 million of funding is for ACM-clad buildings. We have also separately provided £10 million of funding for the protection board—it is our money, but it is with the Home Office and the fire and rescue services—to strengthen enforcement, and we will use the new powers in the Fire Safety Bill. We are providing the money and the technical expertise, and we are backing that up with really strong enforcement to drive these final buildings over the line.

Q144 **Sir Geoffrey Clifton-Brown:** The other category of buildings are those that either have HPL or are below 18 metres, which you are dealing with in the Fire Safety Bill. How long will it take before all those buildings, which are technically unsafe to live in, are remedied, and what is the mechanism?

Jeremy Pocklington: To be clear, I need to divide that into two categories. First, there are buildings above 18 metres, or thereabouts, with unsafe cladding that is not ACM. That is what the Building Safety



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Fund is focused on, and our ambition is to have allocated that money this financial year. We haven't yet set a deadline for how long that work will take. We need to see what the applications are before we can set a taut but realistic deadline for that. How long does building remediation work take? It depends on the complexity of the site. It can be a small number of months, but it can take longer. We will focus on that.

Secondly, for buildings below 18 metres, the Department is not running a specific remediation programme, but we have strengthened the obligations on building owners through the Fire Safety Bill, and we are strengthening enforcement as well. It is for building owners to take action on those buildings.

Q145 Sir Geoffrey Clifton-Brown: Those are great words, if I may say so, but how long will your Department tolerate a situation in which people are living in buildings that have cladding, of whatever sort, in whatever height of building?

Jeremy Pocklington: I don't tolerate this at all. It is unacceptable that these buildings still have cladding on them. We need them to be remediated as soon as possible. I do not have timescales for you for the buildings below 18 metres. As I say, we are not running that as a programme with parameters around it, but we obviously want to see that happen as quickly as possible.

Q146 Sir Geoffrey Clifton-Brown: "As quickly as possible" can mean an awful lot. We haven't really got to the bottom of this in this hearing. We have been hearing that the problem is quite sizable out there. Mr Pocklington, can you write to the Committee with information about how long you expect it will take to get all buildings in this country safe for people to live in, in terms of cladding?

Jeremy Pocklington: I am happy to write with more detail. In that letter I will not be able to give you a programmatic timeline. We are taking actions to create the framework to place stronger obligations on building owners to remediate their buildings. Let me set out more detail in a letter.

Q147 Chair: Mr Betts's Committee—the Housing, Communities and Local Government Committee—has put in quite stiff timelines, so there will be a response to that, which you will be responding to in due course.

Thank you for your time. You will have picked up the deep frustration, which is not just about ACM and HPL cladding. There is now a raft of issues and, from the evidence we have received, we clearly see that the insurance industry has a big part to play. We are looking for strong guidance from the Department.

My final question to you is, given you can give guidance, do assessments and collect the data, and we have had a long discussion about those issues, do you need any legislation to ensure that you can get money back from owners? Is there anything planned? I am not talking about leasehold reform, which is important too. Is there any legislation that you may need



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to request in order to make sure that you can resolve some of the issues we have discussed today?

Jeremy Pocklington: Not that I am aware of, beyond the Building Safety Bill and the Fire Safety Bill, both of which will be important. I will see if my colleague Neil wants to add anything to that.

Neil O'Connor: Within the Building Safety Bill, we are proposing to amend the Building Act to extend the time period in which building regulations non-compliance can be prosecuted, from two years to 10 years. That will significantly improve the ability of agencies to track back the original constructors for faulty work.

Q148 **Chair:** That is good, because perhaps that stops it in future. We all have examples of companies who have given people the runaround beyond the two-year period; I am thinking of Regal in my constituency. What about going back? Is there any retrospective element to any legislation that you would like to see implemented, but that has not already been done? This is a chance for you to bid for us to make a law or for you to give us a wish list.

Neil O'Connor: It is clearly desirable for more of the costs for all this work, whether they are for cladding or for wider fire safety defects, to be recovered from those responsible for making the defects in the first place. It has yet to be shown if the existing laws are capable of achieving that to a significant degree. It will take some time yet for that to be proven. It feels tough—much tougher than it should be—as the law stands.

Chair: I think many residents would reflect that that is accurate, but an understatement, for what it feels like for them. We all recognise that challenge for them.

I reiterate that we continue to be keen to receive information about this subject. We will produce a report in the next few weeks, but it may be published in September because of the timescales involved. Between this Committee and the HCLG Committee, we are committed to continue to watch this issue and, if necessary, to gather more evidence. We will be calling back the Department to look at progress between our Committees over the coming months, and possibly years, given what we have heard today.

Thank you for your time. I remind colleagues we have a further meeting in private after this meeting. Order.