

Housing, Communities and Local Government Committee

Oral evidence: Independent review of building regulations and fire safety, HC 555

Wednesday 27 June 2018

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Members present: Mr Clive Betts (Chair); Mike Amesbury; Bob Blackman; Helen Hayes; Kevin Hollinrake; Andrew Lewer; Jo Platt; Mr Mark Prisk; Liz Twist; Matt Western.

Questions 200-314

Witnesses

I: Peter Caplehorn, Deputy Chief Executive and Policy Director, Construction Products Association; Mirella Vitale, Senior Vice President (Group Marketing, Communications and Public Affairs), Rockwool; Richard Burnley, Managing Director (Britain and Ireland), Kingspan Insulation; and Adrian Dobson, Executive Director, Royal Institute of British Architects.

II: Dr Debbie Smith, Managing Director, BRE Global; Claire Curtis-Thomas, Chief Executive Officer, British Board of Agrément; Mark Hardingham, Chair (Protection and Business Safety Committee), National Fire Chiefs Council; and Sir Ken Knight, Chair of the Independent Expert Advisory Panel.

Examination of witnesses

Witnesses: Peter Caplehorn, Mirella Vitale, Richard Burnley and Adrian Dobson.

Q200 **Chair:** Good morning and welcome, everyone, to this Select Committee inquiry into building regulations and fire safety in England. This is one of three panels we have this morning. Thank you for coming to join us. Before we pass over to you as witnesses, I will ask members of the Committee to put on record any particular interests they may have that may be relevant to this inquiry. I am a vice-president of the Local Government Association.

Mr Mark Prisk: I am a fellow of the Royal Institute of Chartered Surveyors.



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Helen Hayes: I am a Councillor (inaudible PTV 9:18)

Bob Blackman: (inaudible PTV 9:18)

Mike Amesbury: I am vice president of the (inaudible PTV 9:19) as well

Chair: Thank you very much for that, members. Now, over to you as our first panel this morning. Can you go down the table and say who you are and the organisation you represent?

Peter Caplehorn: Good morning. I am Peter Caplehorn and I represent the Construction Products Association.

Mirella Vitale: I am Mirella Vitale and I am senior vice president for the Rockwool Group, which is a stone wool insulation manufacturer.

Adrian Dobson: I am Adrian Dobson and I represent the Royal Institute of British Architects.

Richard Burnley: Good morning. I am Richard Burnley. I am the managing director for Kingspan Insulation (Britain and Ireland) but I am here representing the Kingspan Group this morning.

Q201 **Chair:** Thank you all very much for coming. I will make clear at the beginning that this is about looking generally at the whole issue of building regulations and fire safety. It is not to go into the issues of what happened at Grenfell and why it happened; that is clearly a matter for the public inquiry and it would be completely for us to get into those sorts of issues and areas of discussion. If we do, we will have to stop proceedings at that point and move on to the matters that are before us.

We have all, I am sure, read the Hackitt review, a fairly comprehensive review that is subject to a lot of discussion. Do you think really succeeded in setting out the requirements for a sufficiently regulatory regime for the future to ensure that buildings are safe for people to live in?

Peter Caplehorn: May I start? Certainly we feel that the review identified a lot of the key issues. The problem is that the remit was fairly narrow. We do have to look at what the review says in relation to that but certainly the items that Dame Judith teases out are extremely relevant and pertinent. If I may expand that a little, certainly a review of the building regulations system is overdue; we also need a cultural change within the industry and we need to focus on delivering proper outputs that will provide quality buildings that people feel safe in at all times.

Mirella Vitale: I would say that I did not believe that the Hackitt review went far enough but we are immensely encouraged to see that the Government have taken out this consultation to ban the combustible materials.

Chair: We will come on to that specific issue later on in the questions.



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Mirella Vitale: For us, the short answer is no. We do not think it went far enough; we do not think it got to the core of the issues. It did provide some good recommendations for an entire system but we do believe that some prescriptive, solid frameworks are needed and need to be put in place, first and above all.

Adrian Dobson: Our view would be that the independent review is a very analysis of the problems with the regulatory system and the broader industry. There are two areas where we have concerns about whether it will be effective. One is this notion of higher-risk residential buildings. There is a proposal for a new system but it is very, very narrowly focused. In fact, we would like to see that more rigorous regime applied to a broader range of buildings, the sorts of buildings that in another era would have been subject to fire certification, places where people sleep, places where you have vulnerable people—care homes, halls of residence and so on.

The other area where we have a slight concern is that the review itself does state that there is no successful building control system in the world that is either wholly prescriptive or wholly outcomes-based but then essentially proposes a wholly-outcomes-based system. We think there needs to be balance. When the review looks at other countries, it cites Australia and New Zealand for example as having outcomes-based systems, but of course they are the two countries outside the UK that have the biggest problem with ACMP cladding because they have mirrored out system. We would like a better balance and the fact that the Government have announced these two consultations—one on the combustible materials and the other on the so-called desktop studies of assessments—suggests that the Government are beginning to recognise that there needs to be a balance as well, in our view.

Richard Burnley: Kingspan is of a view that Dame Judith answered the brief that was given to her and we would fully support the findings that were in the final report. There are probably two or three things we would raise as key points for us. First, we welcome the emphasis on raising the competence of building professionals involved in the design, construction, inspection and maintenance of buildings. We would most definitely endorse greater oversight on the quality of installation. Finally, we would absolutely agree with stronger enforcement rules and sanctions for those who break them.

Q202 **Helen Hayes:** Dame Judith has, as has been mentioned, proposed a risk-based regulatory framework that places far greater responsibility on industry to identify and manage risk in the construction process. However, she is also clear that the current framework has failed, in part due to a culture of ignorance of the regulations and guidance, motivation to do things as quickly and cheaply as possible and indifference when concerns are raised. Do you have confidence that the industry is going to fundamentally change its whole approach?



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Mirella Vitale: No. I don't think we can allow industry to be self-regulated. As we have been saying, I believe there is a requirement for a framework and a baseline that has a strong, prescriptive outline.

I would like to go back to what Dame Judith also said—she clearly states that the use of non-combustibles or limited combustibility is the lower-risk option. If we were here today representing the aviation industry, you would not be asking industry if we would like to choose between a lower, medium or high-risk option. There would really be only one option—it is about public safety and people's lives—and I believe that the construction industry that I represent needs to be held to those same standards.

Peter Caplehorn: Whenever we have Government taking the lead, identifying the key objectives, and then, in partnership with industry, delivering the performance criteria and taking things forward, that works extremely well. We have seen it in other areas. Dame Judith herself identifies the CDM regulations as being a key cultural change in health and safety and I believe that is a great model for us to take and do the reform that is necessary.

Adrian Dobson: There is clearly a role for Government and there is a role for the industry. The industry has to raise its levels of competence. Speaking from architectural sector, we need to work with our regulator, which is the Architects Registration Board to look at what we do to check the competence of our members, the people who practice, revalidation, and so on.

At the same time, the cultural shift we are talking about is not something that happens overnight and it has to be balanced with regulation. One thing that we would be concerned about is if the sense that regulation needs to be tightened just gets focused on one issue—we would agree with the consultation on combustible cladding but there are other measures that could be taken and that can give those baselines, that assurance to the public, if you like, and clarity for the professions, as to what is acceptable. We would like the Approved Document B really to be opened up to look at things like the role of sprinklers, because we have a history in this country of only using predominantly passive measures of fire protection, so a balance of both. That kind of thing, we think, needs to be prescribed.

Chair: Can I ask all witnesses to speak up? We have to have the windows open because of the heat, and there is a bit of noise coming through. If everyone could just speak up, that would be helpful.

Richard Burnley: Dame Judith made it very clear that industry needed to respond rapidly and strongly, and I believe that all parts of the industry are ready to do that.

Dame Judith referred to indifference—I think that was the term that she used—throughout the construction process, which allows people, or has allowed people, to maybe take their own understanding or interpretation



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of building regulations. That is just not acceptable today. As we go through the review process, that has to be something that is driven as an outcome.

Also, talking to colleagues across the industry, it is absolutely fine for people to set out with the goal of delivering buildings efficiently and at optimised cost, but that absolutely cannot be with any compromise on safety. I think industry recognises that today. Both have to go hand in hand but there must be no compromise.

Q203 Helen Hayes: Thank you. On the issue of culture change, a very broad term that can mean lots of different things and it can result in nothing at all, when you talk about culture change. How, specifically, can culture change be achieved in the construction industry, particularly around this imperative that runs throughout the industry, to minimise costs and maximise profit?

Peter Caplehorn: For me, the key thing there is the fact that we have little respect for compliance, and that in turn is about the complexity of the regulations, but it is also about sanctions. If you effectively get something very serious very wrong, there is very little comeback in the current regime. It is a combination of things. People have to realise that they will be pulled up if they get things wrong and there will be consequences of that. Dame Judith identifies very clearly both the golden thread of information and responsibility and picking up from CDM regulations again, the roles of people who will be in authority but also will be accountable for the net result of the project during their time.

Q204 Helen Hayes: If I may say so, what you are describing is a compliance regime; it is not culture change.

Peter Caplehorn: True.

Q205 Helen Hayes: There has been a great emphasis, Dame Judith places great emphasis, on this issue of culture change. That, to me, is something about values. It is something about the values of every organisation working within the construction industry being different from how they have been in the past. My question, for all the witnesses, is: how and what specifically does culture change mean in this industry and how do you achieve it.

Peter Caplehorn: If I may, I believe you have to start with something to provoke change. Really what I was describing there was the starting point. We have seen it in other areas, where we start with something like that and then you get the cultural change coming. I am very much a glass half-full person and I think, hopefully, that will give us the cultural change we absolutely need.

Adrian Dobson: We do need a prod, though, because we are a very fragmented industry; we have very low margins in many branches of the industry and quite a lot of risk pushed down the supply chain. A great thing in the "Hackitt Report" was to look at the CDM regulations. There



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was a big shift in health and safety culture because very clear duties were put on everybody in the process, from the client, the people who make the design decisions, the people who control the construction sites.

That particular model, which brings statutory duties and actual criminal liabilities, is the kind of prod that our industry really needs. Although we can see why we are having a regime that is focused on some of the higher-risk buildings, the structure of the CDM regulation model, where you give these statutory duties, could be applied to all projects; it does not need to be applied to just the higher-risk projects.

Mirella Vitale: I don't think we can rely on, or even afford to wait for cultural change to happen. We do need that prod and that prod is regulation as a solid baseline, then the regulation will drive a cultural change—I am very confident of that—but I don't think a cultural change or a self-regulated industry is the right approach to this issue.

Richard Burnley: Can I first of all say that Kingspan places a number one priority on safety? That is why we spend a lot of time with people who specify our products, and the people who sell them, in understanding how our products meet compliance and deliver a compliance system. What we have realised, since the tragedy, is that we have to do more than that.

We have to make sure that our channel partners understand their responsibilities beyond our contract with them so we have already started taking steps on how we make sure they track and get us engaged in projects that we would not have otherwise been aware of. We do have to look at ourselves first, when we talk about the cultural change. We have done that. Now we are looking at how we can influence other partners to realise and make sure that systems are compliant.

Q206 **Helen Hayes:** You have all supported a compliance-driven approach. That is very clear. Dame Judith has said that simply banning something from happening is no guarantee of compliance. Could you say a little bit more about what a compliance regime of sanctions, a compliance regime that does lead to compliance, might look like, in your view?

Peter Caplehorn: First, we have to be very clear on what we are banning and what we are trying to get to so there is clarity over the items and over the specification and how that comes together on a building project. Secondly, people have to be aware that the processes they go through will be monitored—that comes out in the proposal for the Joint Competency Authority—following that, that monitoring will lead to some sort of discussion and, if things are not in accordance with the regulations, there will be significant sanctions.

One of the points that we made to Dame Judith was that currently you have quite serious sanctions, if you get things wrong under planning legislation, but there are nowhere near the same sanctions under building regulations, and that give us this attitude, I believe.



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Adrian Dobson: We do need a very clear set of guidance. We are in a slightly strange situation that we have had a review of building regulations but we have not looked at the core guidance document, Approved Document B, so even a year on from the Grenfell Tower fire, we are about to have some form of clarification of that document but not the kind of wholesale review. It is very difficult, in a situation where you have very ambiguous guidance. We need clarity around that initially.

We also then need to recognise that however much we invest in the building-control systems, for the clients and the industry to rely entirely on building control to act as the checking mechanism is somewhat unrealistic, in our view. That is why we do need also those statutory duties built in. That is the other element.

Mirella Vitale: There is a real risk of overcomplicating a system that really needs to answer some very simple question, which is, "Do we allow combustible materials on the outside of our buildings? Yes or no?" In the amount of time we have all spent discussing it, after the terrible tragedy of Grenfell, nobody really understood whether that system was compliant or not or whether it was even allowed or not, because the regulation was so unclear.

Starting with a very clear, simple outline, "Do we allow combustible materials on the outside of our buildings? Yes or no?" put in the simple baseline and then, of course, work with all the recommendations that are looking at the system as a whole—that first simply clarity. I know that the Committee has underlined the situation in Scotland, where that simple clarity seems to work very well.

Richard Burnley: I think the Government's direction of travel on this is pretty clear because of the way that the consultation was written, and also from some of the quotes that have been published in the press. While we would not necessarily agree with that direction, our concern is whether banning things have residents be safer in buildings and deliver what the Government want to deliver. We recognise that it is a difficult situation and that the Government must be seen to respond but going back to compliance, people need that reassurance and they need to know that systems are compliant and that is why we would always say that testing to BS 8414 is that method of giving them compliance. We would ask for all systems to be placed on the outside of buildings to be tested to that standard.

Q207 **Mr Mark Prisk:** I will come on to combustible materials in a moment, but can I follow on with cultural issues first? Part of the construction culture, both client-side and the sector itself, is to go for the lowest price. What can the client, particularly public-sector clients, do to change that culture? Is it about the National Audit Office and the way in which everyone in the public sector is terrified of not going for the lowest price and therefore always pitching at the low end? To change that culture, the client has to change. What can Government usefully do, what can local



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government usefully do, to try to change that part of the culture you have talked about? Mr Burnley, perhaps, as you mentioned costs, may I start with you?

Richard Burnley: Of course, yes. The important thing here is that when clients are looking to build something, whatever that building may be, they need to have in their head the level of quality that they are expecting in that building. Then local government, building control officers, have to make sure that they understand very clearly what quality looks like.

We would recommend, right now, that building control identifies a taskforce that can be trained up rapidly to be educated to see through what are the current regulations, ahead of the review of the regulations, to make sure that they can go to sites and they can make sure that things are being done properly. Can then be confident that what is being quoted for is the right quality. That is the most important thing right now that we could recommend.

Adrian Dobson: I think Members of the Committee are familiar with the "Cole Report" about the Scottish PFI schools, where there was a series of structural and fire-stopping failures. We are talking about parts A and B of the building regulations, the most important elements. The most interesting thing that that report reveals is that there were several different contractors, several different brickworks contractors, several different M&E contractors, and several different architects.

There was not a single supply chain, this was many different supply chains, and yet the same problems occurred on all those buildings. What was revealed was something that was standard industry practice; it was not something out of the ordinary. What Professor John Cole recommended in Scotland was that clients should accept the fact that they are never going to be able to abrogate their responsibility for the quality of what is produced.

The really big thing that we have lost is any kind of independent oversight as to what is actually constructed, what is originally planned and what is constructed. There is wide opportunity for product substitution and or change of design through that chain, which is almost inevitable given that everything is cost driven and unless the client puts in some mechanism to have independent oversight of quality, there is always going to be that risk.

One model that is proposed is the return of a character called the clerk of works, and there may be other mechanisms, but it is certainly to do with how clients view quality, how important they see it is, and the contractual relationships that are then created. In this model that Dame Judith has proposed, of the principal designer, one of the critical things will be that the principal designer will need to have rights and duties during the construction phase, and not be constrained to just the design phase.



Q208 **Mr Mark Prisk:** The project manager is obviously working for the client. Do you see the oversight being separate from that person?

Adrian Dobson: Possibly. The issue is that the CDM model works very well as it stands because you can see that in the design phase it is important that the designer thinks about the safe construction of the building and looks after the people who are going to build it. Once you move into the construction phase, it is clearly right that the contractor is in charge of that site, it is their workplace, so that division works quite naturally in terms of the health and safety of those building the building.

If you are talking about the life safety of the eventual user, you need that continuity through from design to construction, so you are going to have to have access for the principal designers to satisfy themselves that the approved plans are what are actually being built.

Mirella Vitale: In my opinion, if the regulation is setting the bar low, then the race to the bottom is the most natural and human approach. That is what industry normally does. You will very rarely find industry going beyond and above what the compliance requirements are.

Testing has been raised as a possible solution to this. I am not a technical person, so I am really here to represent the voice of the customer, at least our customers at the Rockwool Group. Taking a statement from the many technical experts that have come through the public inquiry, "Tests such as the BS 8414 do not provide sufficient information to be able to reach incontestable conclusions"—for me, incontestable conclusions are the only conclusions we can allow when we are talking about people's homes and people's safety. We can talk about quality, but it is not quality alone, it is safety also so we need to measure up against those safety standards and those safety standards are not regulated in the current system.

Peter Caplehorn: To go back to where we started with this, to procurement, first, in the industry today, we have a really complicated procurement process. Certainly with Government procurement, there are lots of rules and procedures and underlying them, most of the time, this is least cost/fastest time. We need to row back possibly to the regimes that we had in place 20 or 30 years ago. I am not one that is looking at the past necessarily, but in those days we had different forms of contract, different forms of procurement, which did give that oversight and did get that understanding of what actually is built, what actually is on the building.

One of the things that I think many people outside the industry find completely extraordinary is the fact that quite often a building is built and we don't know the components and products that are used, which I think is really a scandal. There are means and ways that we can do that, and certainly the CPA is looking at using digital techniques to help members to make sure that we can identify precisely what products are built into finished buildings. If we can get to that stage, perhaps all the other



things can fall into place, but certainly a look at how procurement works is key. There are several groups across the industry that are doing that at the moment.

Q209 Mr Mark Prisk: What you have in mind is a combination of the next stages of where we are building information modelling, combined with perhaps RIBA's thoughts on an independent client-led oversight?

Peter Caplehorn: Absolutely. Yes.

Q210 Mr Mark Prisk: Does that mean getting rid of the design and build?

Peter Caplehorn: Possibly outside of this discussion, we could pick that up with you separately. The issue to me is contract forms, it is procurement regulations, it is value engineering, and it is pushing responsibility down the supply chain: all of those trends and rules and factors come into the fact that we end up with cheapest and fastest and not necessarily, of course, safest, best value and best quality in the long term.

Q211 Mr Mark Prisk: You will all be aware that Dame Judith did not suggest, or propose, a ban on the use of materials that may or may not be combustible on external cladding systems. The Government have given quite a clear intention, or a steer that they intend to do that, but are consulting on how to do it. In your views—because we are going to be part of this consultation process and want to report back—how extensive, if you think there should be a ban, should that ban be?

I am thinking here not just in terms of the nature of the materials, but their application. Is it just about newbuild or does it go wider? Is it just residential or does it go beyond that? What are your views about the need for a ban and how extensive that ban should be? Perhaps I will start with Ms Vitale.

Mirella Vitale: We fully support the intention for a ban on the use of combustible materials. We have looked at the consultation and are very encouraged by it. We believe that it does cover a lot of the gaps that we felt were left open by the Hackitt review; it is very interesting to see that. We would go further. We believe that it is not sufficient to focus on residential. We are very happy to see that the category of 18 metres has come back into the standard definition of high-rise because I believe it was way too narrow at the 30 metres. It needs to go further than residential because there are other situations, in schools and hospitals or care homes, where people have less possibility, or it is not as easy, to evacuate the building, but of course there does need to be a starting point and we fully recognise that.

We need to face the most high-risk buildings first and then work our way through the entire solution, but we really need to look at that with a lot of caution. We have read the consultation very thoroughly and are very pleased with the direction of travel that it is taking; it is a direction that we as a group have also taken.



Q212 **Mr Mark Prisk:** Do you think the materials should be banned on 16-metre buildings?

Mirella Vitale: If there is one escape route, I would lower it to 12 metres for sure, and I know that many of the residential buildings in the United Kingdom do have only one escape route. If we are going with 18 metres and above, then the entire building should be wrapped in non-combustible materials in order to avoid any kind of possibility that we have elements that can fuel a fire. I think it is a good baseline but, yes, I do agree that it needs to go further than the current proposal.

Adrian Dobson: The simple answer from a RIBA point of view is that yes, we support the consultation and we are likewise pleased that the threshold has been set at the 18 metres. The discussion about what other areas goes back again to the two points I was trying to make earlier. One is: what is the definition of higher-risk buildings? We need to think about what are the buildings that are encompassed in this group of higher-risk buildings. The combustibility of materials is obviously a major factor. It can certainly contribute to external spread of flame. But we are talking about a system of fire-protection measures and that again goes back to the heart of the need to review the whole Approved Document in the round because there are other aspects.

We have already touched upon them: what are the active measures, what are the provisions for means of escape. It is the whole system. It is about saying yes we support that narrow consultation, as we do the one on the desktop studies, and it seems inconceivable that some regulation wouldn't come into place because the public does need some action now, but in the longer-term review, it is about what are this group of higher-risk buildings and what is the total system that Approved Document B is trying to promote. There is more to go.

Mr Mark Prisk: Yes. Thank you.

Richard Burnley: We would agree, Mr Prisk, that the direction of travel shows the Government want to be prescriptive. In terms of why they have set the level proposed in the consultation where it is, that is clearly about statistical analysis of the severity of problems arising from fires and also with high-risk buildings being designated as where people are asleep and there is not necessarily anybody else about in those buildings to recognise that there is a problem.

I also think we should be cautious around looking at newbuild and refurb. Often in newbuild, not always but often, you have more leeway around making other provisions for sprinkler systems, extra exits and stairwells, so newbuild is different and should be viewed differently.

I remain concerned that we draw a straight line between a small-scale test on the combustibility of a material and how it behaves in a multi-component system that is put on the outside of a building, which would bring me back to talk about BS 8414, as that test at the moment, which



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is under review, for giving people the assurance that a system is compliant. There is an independent report being done by Tenos, who are fire engineering consultants. They have compared BS 8414 with tests from around the world, from other regulatory regimes, and indeed found that BS 8414 was the harshest test and essentially can be seen as the gold standard for those tests.

Adrian Dobson: Can I come back on the point of tests? Sometimes we do get a little blinded by science in this discussion. I will lay my cards on the table: we have 300-plus buildings that are now deemed un-fire-safe and I am quite convinced that many of the professional contracting and regulatory teams that have approved those buildings believed that they were compliant with the current regulations, whether that was through test methodologies or the so-called 12.7 route.

Then, when you go to speak to members of the public and say to them, "We believe everything was compliant" but we have taken a vulnerable building, very high, and we have clad it with plastic, they say, "Well, where does commonsense come into this?" There is something to be said for some pretty straightforward prescription when it comes to these high-risk situations. There will always be innovation in our industry and there will always be a place for full-scale testing, but I don't think it is the solution to general problem here. I think we have to be a bit more straightforward about it.

Q213 **Mr Mark Prisk:** Coming back to Mr Burnley, you were suggesting that for newbuild, because there are other things that can be done—sprinklers, and so on, and more modern design—you would see that as potentially a lower risk, or a different risk, than the existing, older buildings, where clearly they have already been refurbished, or they are in need of refurb; you would see those as a higher risk. You would have a differential there.

Richard Burnley: Yes, I would. They can be viewed differently because there is often the chance to make different design choices on a newbuild site whereas with refurb, you are limited by what you have.

I also want to finish off on the testing situation. Going back to BS 8414, there is no evidence that exists that a building that has a cladding system that either has passed or would pass BS 8414 has ever been involved in an uncontrollable fire. We have very recently been given some independent information, which we have shared with Government, and which I am happy to share with the Committee, that is of two failed 8414 tests, which would have what would be seen as a non-combustible cladding system on them, which is essentially a mineral-fibre insulation and A2 cladding panel.

That, in my mind, tells me that 8414 is more robust than just being simply prescriptive. As we saw, had mineral fibre been used with the cladding panel at Grenfell Tower, then unfortunately the consequences would not have been different.



Peter Caplehorn: Going back to the consultation, we think that the general direction of travel is a sensible one. We would say while the current regulation B4 identifies exactly where we should be going with this—ie materials should not promote any sort of spread of fire—some of the issues that are teased out in the consultation are very worthwhile examining. You can come across a simple concept of we need to ban combustible materials, but when we get down to the detail, what does that mean?

Some of the questions in there about balconies, about other fixtures and fittings, which potentially do have a part to play in this, need to be examined very carefully. What we are saying is let's look at the real-world situations and let's figure out exactly what the formula is for that concept going forward. The issue for us, though, is we have to get to a point where people feel safe in their homes and that is about existing buildings, and about newbuild.

We do have, as Richard said, slightly different problems but the issue there is that we need to tackle the high-risk stuff first and get that resolved properly; then we need to go on and look at how newbuild goes forward, and that is a blend of measures. To create confidence, however, clearly to you need to say, "Right, we can determine absolutely the performance of this building" and that is about the materials, the systems, how they are used in combination with other things that are practical and which can never be non-combustible, I would suggest, such as the seals, gaskets, other bits and pieces, glass—laminated glass, for instance is not deemed non-combustible. There is some complexity in there that we need to tease out and that Government should be aware of.

Q214 **Mr Mark Prisk:** But you would err on the side of banning the combustible cladding systems, both on existing and newbuilds.

Peter Caplehorn: Yes.

Q215 **Kevin Hollinrake:** Mr Burnley, can I clarify something? The Government are currently proposing to ban combustible materials in external systems. You say you disagree with that position?

Richard Burnley: I would say that Kingspan disagrees with the position. The Government have made it quite clear that it has that direction of travel in mind but we would disagree with it because we do not necessarily think that being prescriptive will deliver what Government want. If they are adamant that a ban is needed, we would still hold our original position, part of which was that every system should be tested and if we do not think that 8414 is the right test, then absolutely let's review the test and find one that is more demonstrative of how a system can comply. Only through having a system tested, I think, can you give residents that feeling of safety in a building, knowing that the test has been done and that the system is compliant.

Q216 **Kevin Hollinrake:** We had an exchange of letters between the Chair and



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Dame Judith Hackitt before she produced her final report. In a recent letter, she says that there is currently a choice between using products of limited combustibility or undergoing a full-system test and that the former is undoubtedly the lower-risk option. Why would anybody, at this point in time, after what everybody has been through, not least the people involved in Grenfell, consider a high-risk option?

Richard Burnley: That it is higher-risk does not mean that it is not compliant. What I would say—

Q217 **Kevin Hollinrake:** Compliance is not what we are talking about. We are talking about risk.

Richard Burnley: I understand, but honestly speaking, and with a daughter who is not far off going to university, I would much rather she ended up being in an accommodation block that had a system on the outside that had been tested and has passed BS 8414 than a system that was designated as prescriptive non-combustible but actually we are not sure whether it has been installed correctly and to the British Standard.

What is really important here, as we move forward with this whole cultural change that we talked about earlier, is that things do need to be installed correctly, systems should be put up correctly, and there needs to be far more effort put in to making sure that they are. When we buy a car, we don't expect to turn up and be told, "Oh, just to let you know, there is a list of eight things here that need putting right. If you bring it back over the next six months we will sort it out for you". To say that is possible, moving forward, is not acceptable. For me it is down to compliance.

Q218 **Kevin Hollinrake:** Wouldn't a sensible approach be—I do take your point; you identify a system that was deemed as of limited combustibility, which actually failed the test—to be prescriptive and restrict the materials to limited combustibility and have a full-system test; have both those things, a belt-and-braces approach? Wouldn't that tick both the boxes you are concerned about?

Richard Burnley: It would tick both the boxes. I would still say, though, that there are other materials that today, deemed on this combustibility test would still be able to pass that test and be safe and compliant and that would be our argument.

Q219 **Kevin Hollinrake:** But you would accept that that would be a lower-risk option, taking it down that route.

Richard Burnley: Yes, at very least, test everything.

Q220 **Bob Blackman:** A follow up: Mr Dobson, you talked about 300 buildings that you have to look after. In the event that Government decide to ban certain combustible materials for cladding, what would be your approach? Would it be to remove the all the cladding and have no cladding at all? Or is there an alternative material that you would put on? If that is the case,



what are you waiting for?

Adrian Dobson: It is a fair question, isn't it? To some extent, yes, we are talking about a stable door that has been bolted once the horse has left because in reality, I don't think it is realistic that anybody would replace those cladding systems with materials that were not at least the so-called A2 category. I would say there is going to be a big debate within the consultation about A1 versus A2. One of the problems with the A2 definition—my understanding—is that would effectively make the rainscreen cladding build that we were talking about, of having a rainscreen and an insulation layer, pretty difficult to do, so it may well be that we end up with A2. I think you will hear from the insurance sector later on that they are going to push people in that direction. What would be helpful is if the industry did have the absolute clarity that that is the solution that is now required.

Richard has raised an interesting point. We do have two different categories of problem here. We have a series of problems that relate generally to tower blocks built in the mid-60s, early 70s, which have been refurbished to extend their lives, and have a series of quite complex issues around them. They generally tend to be about that particular type of design. What is the right thing to do with those buildings, some of which may be coming to the end of their serviceable lives anywhere and some of which have other issues—you have probably heard speculation about the large-panel systems, where there are some structural problems with some of these buildings as well? You have to solve that problem.

We also have a concern, though, about the new generation of high-rise buildings, some of which are much, much taller than that earlier generation of buildings, which have been built during this period when we have had this more relaxed regulatory regime. We have to think about going forward in that generation of stock as well. There are probably different answers in different places. Our view, where the older stock is going to be retained, it should be at least materials of limited combustibility and we are talking about the insulation as well as the external cladding. You cannot change the fundamental designs of those buildings—they are going to be single-staircase buildings—so you are probably going to need some kind of active protection as well and that probably means retrofitting a sprinkler system. Obviously, that is going to make the economic case around the viability of those buildings more complex.

Mirella Vitale: Can I add a point of clarity? A product that is classified as non-combustible has already been thoroughly tested so it is not that a product is self-declared as being non-combustible; it goes through a classification system that is widespread across Europe; it is a tested product. When you take a non-combustible product in isolation and you add it to additional non-combustible product on the outside of façade, it does not change the fact that they are two non-combustible products. I



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am not aware of any failures of BS 8414 test, if these have been submitted.

Unfortunately, the BS 8414 tests are never made public, so it is very difficult to know what is a pass or a fail, or how many times the tests have been rerun, so I am not aware of that, but of course I would be more than pleased to look at that information and see if we could check and understand why.

I would also caution against removing cladding completely because leaving combustible insulation exposed is actually a much higher risk so we should be cautious about how we do the replacements.

Q221 Chair: On testing, we are going to come to multiple options in just a moment. Two quick follow-ups.

Richard Burnley: Are you coming on to testing because I want to make a very quick point.

Chair: We will come on to testing in a moment. A question directly to you, Mr Burnley: you made a statement earlier, which I think members of the Committee were slightly surprised at, that you would be prepared to have that higher-risk option. Are you effectively saying that Kingspan, the company you are representing here, are prepared to put their profits before public safety?

Richard Burnley: I am really sorry; I did not hear the first part of the question.

Chair: You said that you were prepared to accept a higher-risk option. That is what you said to the Committee a few moments ago. Does that mean that your company is prepared to put its profits before public safety?

Richard Burnley: Absolutely not. I was only responding to Mr Hollinrake, who referred to the lower-risk option and the comparison. We do not believe that our products, used in this application, are of any greater risk than a mineral fibre system. It is purely over this deemed combustibility that the issue would exist. Combustibility is a measure of organic content. Without getting into too much technicality, our product is never going to be seen as being non-combustible because it is all, bar the facings, organic.

Q222 Chair: The term is limited combustibility. We will come on to the testing in a minute.

I have two points about existing buildings for Mr Dobson and Mr Caplehorn. Hardly ever are building regulations made retrospective but if the Government decide that certain types of materials, which are not of limited combustibility, are not safe to be put on new buildings or refurbishment schemes, does that effectively mean that we have to take them off every existing building to make the public safe?



Peter Caplehorn: If I may, yes, actually. Part of the work that has been going on since last summer through the industry response group—that is the committee set up, chaired by MHCLG with representation from CPA, Build UK and CIC—has been looking at how that can work; what advice can be offered to building owners. It is complicated because clearly there is risk, clearly there is a concern with existing buildings, but there is also a financial and liability issue, which is hugely complicated in quite a few of those instances.

Q223 **Chair:** I presume if Government legislates to say that owners have to take the materials off, Government are going to have to pay, are they?

Adrian Dobson: We probably do not know the answer to that question. As you say, it is very difficult to retrospectively legislate and people may well claim that they complied with the system as it was in place. I do not feel qualified to comment on who pays, ultimately, but it does seem that this particular combination of cladding on these particular types of building; we just have to change it, haven't we, because it clearly is not safe?

Kevin Hollinrake: I want to clarify this point, Mr Burnley. You did say, a few minutes ago, that if you restricted the materials to limited combustibility, possibly in conjunction with a full system test, that would be the lower-risk option.** possibly in conjunction with a full system test. That would be the lower risk option.

Richard Burnley: In discussion about what would be an acceptable solution for the Government?

Q224 **Kevin Hollinrake:** No, what is the lowest risk option?

Richard Burnley: The lowest risk option would be to have a system that has been tested to BS 8414 and passed. That would be the opinion of Kingspan.

Q225 **Kevin Hollinrake:** The vast majority of evidence we have seen—and I think your evidence is an outlier—including from the Hackitt review and all your fellow panel members here, accepts that the lowest risk option is to ban combustible materials. Everybody is saying that, including Dame Judith Hackitt. You don't accept that position?

Richard Burnley: There are two things here. First of all, I think there is the direction of travel of the Government on this and, as I said before, when you look at the way the consultation has been written, the quotes that have been put in the press, there is a clear direction in their minds. As a company, we would say that the only way today of being confident that a rainscreen facade system is compliant, and will mitigate any fire, is to have it tested to BS 8414.

Q226 **Kevin Hollinrake:** Okay. As we said before—and I thought we got to the same place—if you, first, said what everybody else is saying in terms of limiting it to combustible materials and having a full system test, that



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would be the lower risk option. You agree with that?

Richard Burnley: I am really sorry if I did not make myself clear. Given that the Government have to do something, and given that they have identified this grouping of buildings that they have defined as high rise, high risk residential, we would agree that if they are determined to ban combustible materials and limit the insulation and cladding to being low combustibility—

Q227 **Kevin Hollinrake:** Sorry, that is not the question I am asking. Is it the lowest risk option or not? Forget what the Government think. I want to know what you think. Is limited combustibility, together with a four system test, a lower risk option?

Richard Burnley: We would not agree with that, no. You are saying it is the lower risk option, no.

Q228 **Kevin Hollinrake:** You do not think that is a lower risk option?

Richard Burnley: No.

Q229 **Kevin Hollinrake:** Despite the wealth of evidence that this Committee has seen, including Dame Judith Hackitt saying exactly that to us in a letter, you do not accept that?

Richard Burnley: Again, I am sorry; I am clearly not making my position very clear. I would agree that, if you were to use non-combustible materials and have a full scale test on it, you could be confident that the building was going to be fire safe.

Q230 **Kevin Hollinrake:** More confident, that is a lower risk?

Richard Burnley: No, more confident as opposed to not having it tested.

Q231 **Kevin Hollinrake:** You don't think there is any difference between having materials that are combustible or non-combustible on the outside of a building?

Richard Burnley: If the systems have been tested to BS 8414 and have passed, residents can be confident that the systems are compliant.

Q232 **Kevin Hollinrake:** Just a very quick question. I realise that you make a lot of combustible materials, that I might describe as plastic in terms of insulation, is it not the case that plastic is not banned by this consultation, is it? It is about combustibility of the material. You could—and I think you have done already—develop products that are plastic, described as that, whether that is the right description or not, and limited combustibility? You have those products or you could develop those?

Richard Burnley: Yes. I think there is a little bit of a misconception as well, so I welcome the question. We sell products that range from non-combustible to combustible, and, just to remove all doubt, with regards to this application and the products that we sell into it, we are talking about something that significantly less than 1% of our group turnover.



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This is not about commercial benefit. We just have a very strong stance about what is compliant. We view that this test is the method of giving people confidence.

Q233 Andrew Lewer: More on testing. One of the most quoted elements of the Hackitt report is her assertion that, "Testing regimes are inadequate" and also, leading on from what we have just been discussing now, "The whole system of product testing needs to be looked at again". Do you accept those assertions?

Peter Caplehorn: Yes, we do, in that we have quite complicated designs for external facades and, to ensure that all those components work as designed for each particular situation, each building is potentially quite different, then you do need to test to identify exactly how those things work together, particularly in fire situations.

The issue though, also, is about we have a number of test regimes that have grown up through various standards and they are accepted norms, but it is welcome that 8414 is under review because we can perhaps put to rest some of the criticisms that have come out. It is important that we look upon everything at this time from a realistic point of view and say, "Do these do the job that we need going forward?" This is part of the whole package that we were talking about earlier about cultural change but also about delivering quality and certainty.

Mirella Vitale: I think the tests are totally inadequate. They don't reflect real life conditions and we don't use the test to test to the extreme, the worst possible scenario. They take place in a warehouse. The installation is perfected, the cavity barriers, the fire breaks are all put into perfection and, as we have all been discussing, in real life the installation is very different to what is reflected in the test. I don't think we can ever set up a test regime that is going to reflect how people in reality use their buildings and use those walls.

I mentioned earlier that there have been so many technical experts that have been submitting into the public inquiry, and all of them have stated that the test regimes are inadequate and that they need to be looked at. Building public confidence, which again everybody is aware, is something that we need to do immediately. We need to do it now. We can look at the test regimes and we can work on better solutions but right now, today, we need to create that public confidence.

It is not achieved by the tests because the tests have allowed combustible combinations on our high rise buildings, and that is what we are discussing. They have enabled combustible materials to pass those tests. Tests, by the way, that have never been disclosed to the public, not to the building owners and definitely not to the residents. Start with that prescriptive baseline, and then at a later stage we can look at the tests and see if there is still room for them in the system.



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Adrian Dobson: We have a very similar and simple position: we would much rather see this addressed through limitation of the use of combustible materials. That seems to be the safest measure. The figures I have are from the University of Central Lancashire. To put it into perspective, the particular combination that we think was on the Grenfell Tower, the fuel being provided into that fire by the ACMPE was 122 megajoules per metre squared and the PIR insulation was fuel of about 82 megajoules per metre squared. Both components are adding fuel to that spread of flame, so I think asking for materials of limited combustibility is the safe option.

Where you have testing and you are relying on testing, you really have to be talking about proper full scale tests. That is about testing the actual construction of the building. That includes putting the window openings in, the ventilation openings in and testing the actual construction. If you are talking about that, then that is a route to innovation. If someone wants to do genuine innovation and they are prepared to do a full scale test that makes sense, but to rely on these fire engineering approaches for a baseline measure does not seem the right approach.

Q234 **Andrew Lewer:** Is a full scale test setting fire to a building?

Adrian Dobson: It is taking a proportion of a building construction and testing it, storey height or whatever, which is common practice in North America and places like that.

Richard Burnley: Mr Lewer, if I may, I would just like to go back to a point I wanted to make to the Chairman earlier because my colleague on the panel did raise a very good point about test reports not being made available. We discussed cultural change earlier and how, as a company, we could take leadership on this.

We made the decision very recently that we would now publish all of our reports for BS 8414 tests on our website, and they are now available on there. Just some numbers: we published, maybe two days ago, 16 passes to BS 8414 and those reports are available; we have three failed tests, the reports of which are available; and we are awaiting results on five further passes from third parties who conducted the tests and paid for them. We don't yet have permission but when we have those permissions those five reports of passes will also be published.

If I can come back to the suitability of the test, I have referred a couple of times that 8414 is under review and so we would welcome that. It is also worth understanding what BS 8414 is designed to do. First of all, the building regulations are written to assume that, should a fire break out in a dwelling and not be treated, then that fire will, after a period of 15 to 20 minutes, have broken the window and reached the window on the level above and then start to breach that window. BS 8414 is designed to make sure that the cladding system on the external wall does not accelerate the movement of the fire up the wall once the window is breached.



I absolutely agree, clearly, we cannot build a building twice but there has to be a test that is representative of a system being used. If it is not BS 8414 then let's find one that is. It is definitely not acceptable to say that it is too difficult or too hard to find the right way of making a test that shows systems are compliant.

Q235 Andrew Lewer: Let's develop that a little bit because BS 8414 seems to be a particular focus of discussion and I am picking up possibly disagreement as well. The Fire Protection Association and the LGA have said that BS 8414 is inadequate and does not reflect these real world conditions that you have been talking about. I touched upon this earlier. It wasn't a flippant question because I hear what you are saying about it won't reflect the building because the joints won't be perfect and things will age and so on, I wonder what all of your views are about what a product testing system could be that would, to some extent or another, reflect a real world situation. How would you do that?

Peter Caplehorn: How would you do that? First of all, we don't have nearly enough research. A lot of tests have been put out in the media obviously since this has all come to the fore but if you look at that, in terms of testing that is done in other industries, it is fairly limited. More research to give us a body of evidence that would help with some of the core bits of science, which are still fairly remote, shall we say. We have a few experts but not enough. Another thing we need to do is potentially work out: where are the key factors in the real world that make a big difference? We can do that.

I am sorry but I want to harp back to times gone past where for every big building we would build a complete bay of the facade and test it. That was just in the industry and that happened as a matter of course. It would not do any harm for particularly big projects if that was always factored in now. It would certainly give everybody a great deal of confidence. It is a challenge. It is not insurmountable but we have to get on with it and figure out what the right approach is. Certainly, big parts of the industry are now coming together to figure that out.

Mirella Vitale: It is extremely difficult to build confidence around a test that has been so deeply flawed. Yes, we can work on trial and error and we can activate some research programmes but the only way to guarantee people's safety is to avoid the use of combustible materials on the outside of our buildings.

I am going to use Mr Dobson's expression on the fuel load but in layman terms, because I know it was difficult for me to understand when everybody was discussing megajoules, but for a tower the size of Grenfell we are talking about the equivalent of 30,000 litres of petrol on the outside of the building. The question is: do we allow that or do we not allow that? Does a product burn or does it not burn? It sounds very simplistic but I think it really is as simple as that. Something either burns or it does not.



Q236 **Andrew Lewer:** Is that true? If you get to a certain temperature anything burns.

Mirella Vitale: It melts, which is different. Are we going to test concrete walls and bricks? Will that be part of the test regime? I understand that it would be part of the test regime because concrete is non-combustible and bricks are non-combustible but then we would have to test them in order for them to be compliant, if we are going to talk about compliance. We will be setting up a test regime where brick walls and concrete walls will also need to undergo a BS 8414 test, because that is what I am hearing.

Adrian Dobson: It is fairly straightforward to do material tests as to what the combustibility of the materials is. It is probably safer to rely on that to guide you what materials to use in the construction. Peter makes the point that you can do true large scale tests, and there used to be more of a culture of doing that, but obviously that is dependent on the size of the project, whether it is worth that investment for the design and construction team, so it wouldn't be the common route. The common route would be more what was prescribed.

I am going to steal something from Chris Cook on "Newsnight" who I think does have a good understanding of this issue. I think one of the problems we have in the UK is that a lot of our fire engineering goes back to the Fire of London, where there were not very many deaths but there was huge damage to property because the fire spread so rapidly from building to building. One of the problems with Approved Document B—which I am sure we will not get into today—is that is still there in its heritage. We have not talked today, for example, about unprotected areas on facades that are allowed, areas that don't have to meet any particular standard because you are allowed unprotected areas.

After the Fire of London, they insisted on non-combustible construction and, as Chris Cook said on "Newsnight", it was very clear, it was very common sense and you could tell if your neighbour had complied. You could look at what they had replaced their building with and say, "Is this a stone or brick building or is it a timber framed building?"

Chair: I am conscious that we have other panellists to come, so if we could just keep our answers a bit more precise from now on.

Adrian Dobson: I think keep it simple would be our plea. Sometimes these things are made out to be more technical than perhaps they need to be on some levels.

Richard Burnley: We are very keen that the test can be improved and we are working hard to provide information and working with the people involved in that to make sure that the test is improved and more representative of real life. My last point, though, on this combustible issue, is I would point everybody to the evidence given by Professor Bisby, which is publicly available, and as a core participant I want to



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make sure I am going giving anything that I should not be. He shares a very simple piece and his words are along the lines of, "Just because something can burn does not mean it will burn". He compares a block of wood with wood shavings and exposes a flame to the block of wood and it chars and the shavings set alight. The point he is making is: it doesn't mean something will burn given a certain set of circumstances.

Q237 Andrew Lewer: Moving on from the test to the testers—snappy answers then from all of you—do you think that testing should always be undertaken by independent and third party approved organisations?

Peter Caplehorn: In a word, yes.

Mirella Vitale: Yes, absolutely.

Adrian Dobson: Yes.

Richard Burnley: Absolutely.

Q238 Andrew Lewer: Finally, another issue that has had a lot of attention was about desktop studies. Dame Judith's report calls for the use of desktop studies to be "severely restricted". However, do you think she should have gone for a complete ban on desktop studies?

Peter Caplehorn: No, because we do need some extrapolation. You cannot identify all situations. After all, desktop studies are used in other areas, bomb blasts, doors, paint verification in terms of aging. Those are all systems that work.

Mirella Vitale: An absolute complete ban. There is no other country that I am aware of that allows the use of desktop studies.

Adrian Dobson: Our view is that they don't have a place in this particular element of fire safety. There are other uses of desktop studies in other elements of regulation but not in this context.

Richard Burnley: We would agree with Dame Judith that there is a need for major reform on desktop studies. I would agree with Peter, the number of permutations of building materials and designs are infinite so there has to be some translation available. However, we would like to see a far more scientific approach taken where there is evidence used from some sort of standardised smaller scale test, and only then where a higher risk combination has been through and passed a full scale test.

Q239 Matt Western: You may have covered it already but I picked up Mr Caplehorn saying that you do far fewer real product tests than you used to. Can you explain why or what the reduction is?

Peter Caplehorn: That wasn't quite what I was intending to get over because there is lots of product testing. I would not want to give you the impression that that is not the case. Most product manufacturers test their products very severely before they leave the factory. The point I was trying to get over was the fact that, in the industry, for each project



we used to build a test bay of all the products that were needed for that particular design. That was unique to that particular construction project.

Matt Western: Now you don't.

Peter Caplehorn: Times have now moved on and that is not seen as value and reasonable cost.

Matt Western: That is a helpful clarification, thank you.

Q240 **Mike Amesbury:** I will start with Mirella first with this one. Are there any specific areas in which urgent changes are required to the building regulations that were not addressed by the independent review, which will assure residents of the safety of their buildings?

Chair: If you have details on this and you want to write to us as well, that is fine.

Mirella Vitale: Exactly, so I will not go through the details. I am really encouraged by the consultation paper because I see that it covers many of the gaps that we believe the independent review left behind. There is great encouragement and we fully support that consultation paper and the intention to ban combustibles. We can submit, and we have submitted, to the Committee the full list of issues that we find with the independent review.

Peter Caplehorn: The key thing we would think about in addition to the other recommendations, and emphasising a couple of them, is about the system. It is about making sure that the system works and that it picks up what people have to do, but also identifying clarity of intent. One of the things that I think is difficult for people right across the industry sometimes is to identify: what do they need to do? What is the regulation talking about? That would be key, so it is either end of the process.

Adrian Dobson: When it comes to multiple occupancy residential accommodation, we would propose a single staircase-type of format and the introduction of sprinklers. Navin Shah's work under the Assembly Government, there has been a very useful report on that. He has done quite a lot of work on the economic viability of sprinklers. A relatively simple measure, which I think would help the fire brigades, is addressable fire alarms that you can change your policy from a defending place policy to an evacuation policy and you can signal it very clearly to the residents.

Q241 **Mike Amesbury:** The introduction of sprinklers where structurally possible?

Adrian Dobson: Also addressable fire alarms, yes.

Richard Burnley: I would just reiterate the point I made earlier, we would like to see building control identify a taskforce for a group of people to receive accelerated and advanced training, particularly in fire safety and particularly around these higher risk high rise buildings, so



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that the residents in there can see a visible presence of people who have the knowledge to give them the reassurance that their buildings are compliant.

Q242 Mike Amesbury: Finally from me, the proposed new regulatory regime framework is focused in the first instance on multi-occupancy higher risk residential buildings that are 10 storeys high, so approximately 30 metres. To put safety centre stage—which I think Matt Wrack of the FBU has called for—should it apply more widely? We will start with Mirella.

Mirella Vitale: Yes. We obviously believe that it should apply more widely. The current system that England is running right now makes England an outlier in the negative sense. There is an opportunity after a terrible tragedy to at least bring England on par with most of its peers in the European context, but even go beyond that. Going beyond that is to extend a ban on combustibles materials on all high risk buildings. I am not sure why a person sleeping in a hotel should feel less safe than a person sleeping at home. There are hospitals that are high rise. There is student accommodation that is high rise, so definitely extend it to all high rise buildings and high risk buildings.

Peter Caplehorn: Absolutely, we would go along with that. I believe the intent is quite clear from Dame Judith's review, in that we start with the most at risk situations first. I started out by saying the remit for the review was fairly tight in that respect, and so it answered its own question from that point of view. Clearly, we need to move on and consider other buildings. That is fundamental in how we take things forward, definitely.

Adrian Dobson: I would concur and say it is the higher risk group is where you have risk of a large scale loss of life or particularly people with mobility issues and so on. It is that group where we lost the connection with the fire brigades, the fire brigades having a significant influence over the full plans' application. It is that connection that used to be done through the fire certification regime that we need to recreate. Obviously there is going to be a limit to how far you can expand that more sophisticated regime. The point we would make is that the basic model of this principal design and principal contractor client duties, that could be applied universally. The CDM regulations are not just applied to construction sites that seem particularly risky, they are applied across the piece. There could be two elements to this, really.

Richard Burnley: We recognise the reason for the type of building that has been identified and the heights to which it applies. We would say that we think that is probably enough at this stage, and we should be very careful before we start raising concerns of other people in other buildings that we would suggest could probably be demonstrated to be fire safe.

Q243 Mike Amesbury: Surely, if you were to basically have a cultural shift then this would be the right direction of travel.



Richard Burnley: What I would say is that we are confident that systems—and I am sorry to go back to the point—that have been tested to BS 8414 can give residents the assurance that their buildings are fire safe, based on the cladding systems that is being used. We have to be very careful that the Government do not go down a route that would set them up with a task of almost failing before it is started. I understand why they have started where they are. I think we should think very carefully before it is extended any further.

Chair: That is probably a point of disagreement between you and the rest of the panel but never mind. We will finish on that point, which we have probably been through at length. Thank you all very much for coming to give evidence to us today. We will move on to the second panel.

Examination of witnesses

Witnesses: Dr Debbie Smith, Claire Curtis-Thomas, Mark Hardingham and Sir Ken Knight.

Q244 **Chair:** Thank you all for coming to give evidence to us today. If we could just go around the table and say who you are and the organisation you are representing.

Dr Smith: Good morning, I am Debbie Smith and I am the Managing Director of BRE Global.

Claire Curtis-Thomas: Good morning, my name is Claire Curtis-Thomas. I am the Chief Executive of the British Board of Agrément.

Mark Hardingham: Good morning, Mark Hardingham. I am here representing the National Fire Chiefs Council.

Sir Ken Knight: Good morning, I am Sir Ken Knight and I chair the Independent Expert Advisory Panel at MCLG.

Q245 **Chair:** We have you here as a panel of experts and, unlike some I think, we do take notice of experts on this Committee, and so we are pleased to have you with us and to hear what you have to say to us.

Essentially, Dame Judith was talking about a change of culture in the industry, a change of industry itself deciding that things could be done better and less prescription. Do you generally agree with that approach or do you think she has the balance wrong?

Claire Curtis-Thomas: In terms of changing the culture of the companies who are actively involved in this market, it is going to be incredibly difficult without prescription. Having heard the evidence that has been presented by other individuals this morning, I was very concerned that they did not reference the role of the main contractors



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and highlight the procurement process far more significantly because there is a real problem here, in my view.

If you just look at the main contractors that have been involved in the procurement of those particular retrofits and these particular constructions, by and large, these companies are distressed. Their profit margins are absolutely minimal. Most of the work that they undertake I must assume that they do so at a loss. Looking at the figures, if you just look at Kier, who are a main contractor working in this area, their current profitability, net profit before tax, is 0.6%. That means on a £1 million contract, they are up for £6,000 profit as they start a job. Standard retrofit and recladding a building is going to cost you £1 million. As they start that project they know they only have £6,000 available before they are running at a loss. That is not typical to Kier. That is typical to many of the main contractors.

The big issue I have at that point is to make this job work they have to make that money or they have to make cuts somewhere. That is where my clients come into it. My clients provide products. They would invariably have provided tenders or submitted for work against that contract. What happens once the contract has been won is that these main contractors go about subbie bashing. They go to each other's subcontractors and say, "We don't have a lot of margin here. How are we going to make the margin up?" My clients have been told, "Well, we asked you originally to provide us with this system but what we would like you to do now is potentially swap that for another system that is a bit cheaper. By the way, the system that we said we were going to buy from you, we are now going to take a bit of that system from you but we are going to substitute parts of that system with another bit of product that we have bought from somewhere else that is a bit cheaper".

You can understand it all when their margins are so tiny. They have to make the money somewhere and good companies are complicit in poor outcomes, not because they want poor outcomes, it is because the money on the table is so very little that that is the way that it all ends up. Some of these companies last year made a £9,000 loss on every £1 million job they took. They start with a loss-making position and they have to recover the funds.

Unless you address procurement, which is the absolute fundamental problem here, then you can talk about standards all you like because there is going to be all sorts of things happening in the process that secures a good return for the main contractors. Unless you sort out the procurement you can do anything else you like but it is still going to go wrong. If you are working with companies that are effectively running at a loss before you start you have to ask yourself, "What if something goes wrong? Where are the means to address it?"

Q246 Chair: A simple question and I will then come back to the other witnesses on the general point. Very briefly, how do you sort out



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procurement then? How do you prescribe that to make it work?

Claire Curtis-Thomas: At the moment, procurement is being undertaken either by local government or other Government agencies, and it is very clear that individuals involved in procurement do not really understand the complexity of what it is that they are seeking to procure.

Q247 **Chair:** It begins with the client?

Claire Curtis-Thomas: It begins with the client, absolutely. They would normally start with a position of: let's get the best price rather than the best quality. I spoke to a client yesterday—it was a client from Scotland—who said, "We bid for work last week; one of eleven tenders submitted. We were second on price, first on quality". They lost out to a company that was top on price and last on quality, and this is post-Grenfell. What is the price quality in the job?

Sir Ken Knight: Returning to your original question, I don't think Dame Judith was talking solely about culture, of course. As you know, she was talking about a whole range of other issues. What she did was to expose the complexity of that end to end, from building design through to compliance, to sign off, and through the whole life of the building. As Claire said, through that she certainly talked about the issues of procurement. Helpfully, she did not see any one of those as the simple fix and, therefore, drew this together with her golden thread of the cultural change.

Importantly, she recognised in that culture change as well the importance of engaging with residents. She talked about the residents' voice and making sure that they are better informed and how they are involved. That is not a regulatory area; that would be just good practice to ensure the residents not only know what to do, how to do it, and what risk and fire risk is about, but also their responsibilities in where they live. She probably did get the balance right with culture, but it is not solely culture she was talking about.

Q248 **Chair:** The problem is that—again, to cut costs—some companies will not bother to consult residents. The ones that do have good practice will end up costing more and, therefore, not be able to win the tender. Isn't the relative prescription there essential as well?

Sir Ken Knight: Claire makes a good point about the procurement because, particularly from my experience, I see some of the weighting of the procurement—in the public sector particularly—talking about a 60% price decision and 40% quality. For general goods and services that may be fair but for safety-critical work it probably should be reversed so the frameworks are not based on a price but based on quality, and that is defined better. Claire makes a very good point about the procurement exercise being weighted towards the quality for safety and the safety-critical areas.



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Mark Hardingham: We welcome Dame Judith's attempts to fix the system. We think there are a number of points that have been raised in the review that are extremely positive about clear and accountable duty holders, digital recording systems and improved sanctions, just to name a few.

Picking up on some of the points that Claire was talking about, we do agree that Dame Judith Hackitt has referred to repairing a broken system. Concepts like value engineering, design and build, gaming the system, things like that, have led to an environment where we have ended up with lowest-cost options, leading us to the position we find ourselves in now, as opposed to coming up with what is the safest reasonable outcome for a building.

Coming to the point about cultural change versus a more prescriptive approach, I think they have to go hand in hand. Our view is that we do support the need for a significant cultural change across the sector from the lessons that we have learned. At the same time, we don't think the Hackitt Report went far enough in terms of some underpinning legislation and regulation to act as both a catalyst for that cultural change and then as a means to embed that in place in the medium to longer term.

Dr Smith: Yes. One of the things that has not been mentioned yet, which really is core to underpin any cultural change, is the competency gap. It has clearly been identified that there is a lack of competence throughout the construction sector. People are not able to deliver the buildings that are needed. It is not always by design; they just do not understand what it is they are trying to do and how to do it. There is no excuse for that. I think, as a whole, the construction sector has a big task to do to improve the competence throughout. There are efforts already underway that are being led to try to move that forwards, but I don't think we should underestimate the importance of that in the considerations here.

Q249 **Chair:** One follow up to the BRE: Dame Judith has also said that the guidance around the building regulations is very confusing. She has accepted that. Given the BRE has helped write that guidance, do you feel in any way culpable for this?

Dr Smith: BRE does not write Approved Document B.

Q250 **Chair:** It advises the Government on guidance, though, does it not?

Dr Smith: No more than any other organisation advises the Government.

Q251 **Chair:** That is the sort of transferred responsibility and lack of willingness to accept it that, surely, Dame Judith was criticising the whole industry of, isn't it?

Dr Smith: No, not really. We play our role. We are a company that is contracted to undertake work under competitive tenders. We win some of those, but we don't win all of them, of course. We carry out the research and then we provide the technical evidence in the form of reports, which



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are then used and considered by the Building Regulations Advisory Committee in preparing their versions of the approved documents that are then sent out and consulted on publicly. BRE does not write Approved Document B.

Q252 **Chair:** You advise?

Dr Smith: BRE provides technical evidence that is then considered; research evidence.

Q253 **Chair:** At any stage, did you raise concerns about the problems over paragraphs 12.6 and 12.7 of the guidance, which clearly confuse everybody, about whether cladding of limited combustibility is allowed?

Dr Smith: To us the interpretation of 12.6 and 12.7 was not confusing.

Q254 **Chair:** It is not confusing?

Dr Smith: No.

Q255 **Chair:** You are probably the only organisation that is not confused, from the evidence that we have had.

Dr Smith: I don't believe that to be the case, and I think other colleagues have views as well.

Sir Ken Knight: I want to support Debbie on her last point, Chair. I think Dame Judith does draw out the people conflating the building regulations requirement; the absolute functional requirement with the approved document, the guidance. You know my background. I am not a structural engineer or a chartered fire engineer, so I came to this again and afresh a year ago and looked very carefully at that. The functional requirements of the building regulations are very clear. There are 16 words. They say, "The external walls of the building shall adequately resist the spread of fire over the walls." I cannot imagine anyone that saw those horrible pictures on 14 June believed that that would meet that description in the building regulations. Certainly, it would fail the building regulations.

You are right in saying that, when you come to Approved Document B 12.6 and 12.7, there is some very good information, not least in the evidence of the current inquiry for Colin Todd. I noticed there is one on your own website that you obviously asked for a month ago from Dr David Rush, Lecturer in Structural Engineering, which for me captures all of that information. Dame Judith has said, and I think she is right—and by the way, that is because—

Q256 **Chair:** She said it was confusing.

Sir Ken Knight: Approved Document B, of course, was not—as the first part was—written for the person on the Clapham omnibus. This was written for the technical person. It was written for, maybe incorrectly, the structural engineer and the chartered fire engineer. She is right in saying that there should be some clarification of that document, but I can honestly say that I have not spoken to a chartered fire engineer or a



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structural engineer who finds it other than it is saying at 12.6 that you should have zero class spread of fire and the sixth floor and above you should have a limited combustible—

Q257 **Chair:** The wording at 12.7 is different to the wording in 12.6.

Sir Ken Knight: Yes. If you look at David Rush's letter on your file I think he helpfully says exactly that, much better and more eloquently than I have. That is not to say that all guidance should not be reviewed and tidied up. She said that, and I am sure that is what will happen.

Q258 **Helen Hayes:** Dame Judith told us that the testing regimes are inadequate and that the whole system of product testing needs to be looked at again. Do you agree with that statement?

Dr Smith: For a start, I would like to make the point BRE is an accredited test laboratory. We are accredited by the United Kingdom Accreditation Service, who is the independent body appointed by the Government to carry out independent audit and review of all test laboratories covering all sectors within the UK. As part of that, of course, we have views and we have opinions. I agree that we cannot ignore the findings from the Dame Judith Hackitt review. That said, the framework to deliver the outcomes that Dame Judith wants, in my view, is in place.

The key thing that we need to be clear about is: what are we looking for? It is very important to realise what testing is. Testing is only a snapshot of a product, or system, or material's performance on the day that it arrives at a test laboratory for test. The results from that test are given to the sponsor, the person paying for that test, and it is then their responsibility how they use that in practice in the market to support their product. Once they have finished with the test, whether it is BRE or any other test laboratory, they might disappear and we might never, ever see them again.

There is a difference between testing. If we want to have visibility of what has been tested, and what the outcomes of that were, and proper descriptions of the systems, and the materials, and the products, and we want to have some quality assurance around how those products and material systems will perform in practice and continue to perform in practice, then the option is to go down the route of third-party certification of products. That would provide all of those things. It would also provide and put all of that information into the public domain.

Certificates would be published, and then what you have as well is an ongoing relationship between whoever the third-party certification body is and the producer, the manufacturer, or whatever, of that product, system or material. That ongoing relationship involves going in and checking the factory; checking the processes and the procedures within which the product is made on an ongoing basis. At any point the certification body is in a position then to either suspend or withdraw that certification. Immediately you have a check, you have a third-party check on what



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people are doing, and you have more transparency, and you have the ability to audit through the lifetime, and you have records. That can then be tied up with something like the BIM models of the building, so you would have a proper information pack of all of the different component parts within that building.

The one important thing that I think you would have to do, in some way, is that would need to be mandated because, as things stand at the moment, third-party certification schemes do exist in the UK but they are all voluntary. I would say in the construction sector the take-up is really quite low because we are in a position where people only have to test and provide test evidence in support of their claims. As a consequence the response from people is, "Why do I need to do more than I am required to do?" because there would be some additional cost to the manufacturers and producers. That would answer a lot of the criticisms and comments that have come in regarding the whole framework and testing regime.

Claire Curtis-Thomas: We would agree with that. The point that Debbie makes is that we would look for third-party certification for all the systems that are being provided to properties, but also produce an additional caveat so that, when the contracts are written, if there is any substitution of a product that is resubmitted for testing by a competent authority. It cannot be by somebody who thinks they understand the products, or they have seen the products before. It has to be by a competent authority that can say, "Absolutely, the system that you thought you were getting is still the system that you are getting, despite the fact that there may have been a swap out of materials".

We see materials swapped out all the time, and we don't know about it, but that goes on. The presumption is that people have said, "You are going to get a system that saves you so many tonnes of carbon". That is the primary purpose for most of these interventions. It is about energy saving. "The tonnes of carbon saved by this system is X", but of course they have not described the system that is going to achieve that. They can say, "Okay, let's play with the numbers. We will still give you the carbon saving, but it may be an entirely different system". The current arrangements leave the market open and contractors open for that type of abuse, and we would say it is absolutely unacceptable.

Mark Hardingham: I broadly agree with what has been said, and I will not repeat some of the detail of the points. What I would say is that we welcome the points in Dame Judith Hackitt's review around proposals and recommendations about the testing regime. At the same time, we believe that the regime we have in place is quite strenuous already and compares favourably to elsewhere.

One thing that I don't think has necessarily come up so much this morning around the testing regime is that competence and cultural point again that exists around that. The tests themselves are an element of



that systemic process. The competence of the application of the tests, and the interpretation of the test results, and what organisations then do with that information, and the culture that governs the sort of decisions that are made with the information that comes out of the tests is, for us, extremely relevant and needs to be wrapped up in whatever happens in the future around a review of the testing regimes.

Sir Ken Knight: I will add to that: I think the importance of the testing regime is that each test is reproducible independently in various locations with different products. It does not fear or favour a particular product. It is independent of that that the outcome can be achieved. That requires not only the accreditation of the test place itself, but across the piece, so that you can trust the worthiness and the credibility of the test, wherever it is carried out, that it was both a reproducible and an independent test that was undertaken.

Q259 **Helen Hayes:** We had quite a bit of discussion of BS 8414 in the previous panel. Is it your view, based on what you have just said about the need for a comprehensive change to the testing regime, that BS 8414 is not fit for purpose and should not be relied upon by those who are specifying and procuring materials as a reliable statement of the safety of those materials, even though they might be compliant under it under the current regime?

Sir Ken Knight: I am happy to start. I think it is a very high-bar test. I have personally seen the test undertaken many times. It is a very well-respected test. It is undertaken throughout the UK and throughout the world. Mark will know as well, from the Fire and Rescue Services' experience: I don't think any of the 300 buildings that have the wrong cladding on at the moment have undertaken or passed that test. There is no evidence that it is a failure of the test, as you suggest, and it is a reproducible test. It simulates a 3-megawatt fire coming out of a window, which is like a flashover in a flat, and rolling up the face of the building. It is a high-bar test but, of course, it is a test that is a British standard test. It is reviewed very frequently. It is being extended again at the moment and reviewed, and I am sure it will be in the future.

Lastly, of course tests like that are produced by a series of technical experts. That particular test was produced by technical experts in the industry—the insurance industry and the Fire and Rescue Services—and it then had a public consultation before it becomes a useable test. I am not sure that the credibility is as in doubt as you might suggest.

Mark Hardingham: I am happy to come in next. Sir Ken referred to the number of buildings that we are currently focusing on that have cladding that they should not have. We are not seeing evidence of any of those having passed the 8414 test. There has certainly been discussion about the application of the Scottish approach to cladding on buildings where the 8414 test is considered an appropriate part of that regime. We welcome the review that is ongoing at the moment, but, no, I would not say we think it is a fundamentally broken test at all.



Claire Curtis-Thomas: We concur with that view.

Dr Smith: One other point that I would like to make, agreeing with all of the points that have been made so far, is that the main element of concern relating to the fire at Grenfell Tower last year was obviously the external cladding system. The tests that were carried out last summer, in July and August, clearly showed that the category-3 aluminium composite material element of the cladding system—which is the very outer layer, the thin outer layer that has the polyethylene sandwiched between two thin aluminium sheets—behaved catastrophically when tested in the BS 8414 test, irrespective of what was behind it.

It raced from the bottom to the top of the rig in between six and six-and-a-half minutes, and that was independent of whether you had a combustible insulation behind it or a non-combustible insulation behind it. It is worth reflecting on and reiterating that, and reiterating the point that that system had not been BS 8414 tested. Had it been it would have failed and would not have found its way in situ.

Q260 **Helen Hayes:** Thank you. Why is it that the Fire Protection Association and the LGA have both said, in their view, that BS 8414 is inadequate because it fails to adequately reflect real-world conditions? What might be done to create a testing regime that more realistically reflects those real-world conditions?

Dr Smith: Basically, as has already been alluded to, a review has been commissioned to relook at BS 8414. That is right at the start of its process and, as part of that, there will be a call for technical comments to be made to the standard. At this stage, it is perhaps a little bit preliminary to try to second guess what issues might be put to the committee to consider. What will be asked for is a full explanation of what the concerns are, what the suggested solution to those concerns is, and then the technical committee will look at the evidence, and consider it in its round. It is a good representation of all the key stakeholders across the industry that will have a view.

Then the BSI process is that it works by consensus to move forward to develop a draft that, as has already been said, would then go out for public consultation. It is a bit preliminary to start second guessing what people might submit to that.

Sir Ken Knight: I will just add that anybody can submit evidence of a review of the British Standard test at any time, and then the process is exactly as Debbie outlined. The committee sits, looks at their evidence and considers whether it is relevant and how it is relevant. My understanding is, as Debbie has outlined, the report that came from the Fire Protection Association has now gone to BSI to commence that process.

Q261 **Helen Hayes:** Thank you. Dame Judith called for the use of desktop studies to be severely restricted. Should she have called for a complete



ban?

Mark Hardingham: I am happy to kick off on that one. We responded to the consultation that came out from the Government recently on the future for desktop studies. Our view is that where desktop studies are well prepared assessments in lieu of tests, and it is based on primary test evidence, there is a place for desktop studies in the building and regulations environment in a similar way that there is a place for well-informed fire engineering solutions. We do think that there are circumstances where, provided it is applied in a practical and proportionate way, it is a way of linking primary test evidence to the circumstances that are going to be different from one building to another.

However, we think for us the key objective is to make sure that the analysis is undertaken and applied correctly and that what we have seen as poor practice to date in desktop studies is eliminated. In the future we would make a key objective around high levels of competency and ethical behaviour, in terms of how desktop studies are carried out and then how the information is used as a consequence of that. We want strict controls around those assessments and the guidance that comes with those assessments, and then also importantly sanctions in place where desktop studies are used in a way that is considered to be inappropriate.

Sir Ken Knight: Can I add to that? I personally dislike the phrase "desktop studies", although Dame Judith used it, because it does not appear anywhere in building regulations or in part B. It feels to me as though it is the back of a cigarette packet, where of course in the building regulations they are called "technical assessments". It is widely used in the building industry, in the bridge-building industry, in the wider construction industry. It would be impossible to do physical destruction tests all the time and, therefore, a structural engineer will do a technical assessment.

I think Mark is absolutely right; the key is not to say technical assessments are not appropriate. They are appropriate providing they are rooted in primary test evidence from which you draw that and, indeed, the person doing it should have the appropriate accreditation to be able to do that test in the first place.

In the fire area, for example, you may go through some testing of a series of five doors and then the manufacturer says, "Actually, I want to change the letterbox". It is reasonable in many of those circumstances that they might do it via a technical test, not go through a £10,000 or £15,000 test on the whole door again because they have changed the letterbox. It is quite important to recognise that throughout the construction industry technical assessments are used but, in my view, they do need to be rooted in a primary test.

Dr Smith: I would agree with everything that has been said so far. I would also say they have not just been used in the context of external cladding systems. They have been used for many decades in relation to



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fire-resistance performance, and reaction to fire performance also. One of the key elements that have not been touched on yet, where they are used in fire resistance, is for elements of construction that you cannot physically test because there is not a test facility that is big enough; there is not a furnace large enough. Most furnaces might be 4 metres by 4 metres. If you make a door that is bigger than 4 metres by 4 metres you have to have some means to demonstrate its fire resistance performance. There are well-established engineering principals that underlie what you can and cannot do in that regard.

They are also adopted and adapted now, and published as extended application standards within Europe. There is a precedent. There is a good way of doing things, and we just need to make sure that the term "desktop studies", which has obviously been misused and used in a very loose sense, is curtailed. It needs to be brought back into line and it needs to be a much more disciplined approach.

Claire Curtis-Thomas: We agree with that. The BBA routinely use desktop assessments, but there is a very strict criterion about when that is appropriate. For instance, if we are looking at a range of emulsion paints and somebody says, "We would like you to test our midnight blue", we test the midnight blue emulsion paint. If they come back and say, "We want it to be a lighter shade of midnight blue", we don't need to retest, because the colour of the paint does not affect the performance of that particular product.

However, if we were invited to answer the same question for cementitious render, and people were saying, "We have a yellow render approved by the BBA. We now want a pink one", we would say, "Absolutely, you have to have another test". The colour of the render does affect the performance of the render.

As Ken rightly says, you have to have people making the judgments who understand what the changes mean for the performance of the product, and, if there is a concern that the performance of the product may be disadvantaged as a result of the change, you have to take more tests. That is why you have a very limited range of external render colours and you have hundreds of thousands of colours that you can paint your home, and that continues. You have to have that balanced approach. If you do not have that balanced approach and you say, "Absolutely, you must test every emulsion", what you will do is severely curtail innovation in this area. It simply will not happen because it will be too expensive and we will all be down to just five colour ranges, just in the colour platform alone.

Q262 **Chair:** It is very important, then, that one uses these tests in very particular circumstances, understanding all the issues and consequences.

Claire Curtis-Thomas: Correct.

Q263 **Chair:** That comes back, does it, to having independently approved



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testing organisations?

Claire Curtis-Thomas: Absolutely, yes.

Q264 **Chair:** Is it true at present that some companies go around different testing organisations trying to find the ones with the lowest failure rate to try to get their products assessed by them rather than somebody else?

Claire Curtis-Thomas: I think it is fair to say that some organisations are known for being pretty tough and other organisations are known for being less tough.

Chair: I know you used to be a politician, but that was a politician's answer you gave.

Claire Curtis-Thomas: I will speak for my own. We are known for being positively draconian, so if you want a tough time you are going to come to us. If you do not want a tough time you might go to other companies.

Q265 **Chair:** That has to be stopped, does it?

Claire Curtis-Thomas: I would say absolutely. I am very privileged to share my daily life with 160 engineers and scientists and technologists who are highly competent in their area of work. It takes a long time to get people to a level of expertise that you need who you can absolutely trust in these areas. When you get other organisations—like the whole of this—you need to look beyond. You need to look at the people, you need to look and see whether or not they are competent to make the judgments that you are inviting them to make on behalf of the public. You have to be able to answer that question.

Like Debbie said, the BBA is a UKAS-approved authority and they come and they ensure we are fit for practice, and our judgments are professional judgments and they are not bought by our clients. Disappointingly, half of the things that we look at we fail. It is an expensive business.

Q266 **Chair:** Would it be better if all that was made public, all those tests, the failures and well as the passes?

Claire Curtis-Thomas: I absolutely agree with that, yes, I do.

Sir Ken Knight: That is why—and Claire has mentioned it—organisations such as the United Kingdom Accreditation Association, UKAS, are really important to maintain their standards and their pressure on those test houses for that independence.

Q267 **Chair:** One issue about fire before I pass over to Kevin. Some concern has been expressed to us that some fire authorities and some off-duty fire officers, acting in an independent way or maybe working for commercial companies, are doing fire-risk assessments that may eventually conflict with their responsibilities as a fire authority. Is that happening and are you concerned about it? Some fire authorities set up trading arms to do this work, as I understand it.



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Mark Hardingham: It is not something that we endorse, as the National Fire Chiefs Council. We are in discussions with our membership across the country, if this is happening, to identify it and to put the NFCC's view across quite clearly that there is a potential conflict of interest in there, depending on the circumstances in which it is happening.

Sir Ken Knight: I should declare a small interest in that I am currently doing some work with a company called Grant Thornton, who you may know are auditors, who are auditing what are the commercial companies that are wholly owned by fire authorities. There are 15 of those commercial companies run by fire authorities. Having declared that interest, that report is not out yet and it is in gestation. It has been commissioned by the NFCC and the Fire Industry Association.

This is a personal view; it is not an expert panel view. We have never discussed this. While I agree with the NFCC, I personally do not agree that the fire authority should be doing risk assessments from its wholly owned company in an area where it is also the enforcing authority. I think it offers an opportunity for potential conflict. That is a personal view I have. It is not in my gift to talk about the expert panel.

Q268 **Kevin Hollinrake:** Debbie Smith, the previous panel said that the BS 8414 tests were not publicly available to the public or the industry. Why is that and should they be?

Dr Debbie Smith: The BR135 classifications, we have a site on our website where a number of those are published.

Kevin Hollinrake: Did you hear the evidence from the previous panel?

Dr Debbie Smith: Yes, but that is the BS 8414 systems that have passed the test.

Kevin Hollinrake: That is not publicly available.

Dr Debbie Smith: It is on our website.

Kevin Hollinrake: What was it that RIBA was saying, on that basis? It was saying that these tests—

Dr Debbie Smith: I could not quite hear what RIBA was saying.

Kevin Hollinrake: Perhaps we could write to you.

Chair: I think it was the ones that did not pass the test that are not available.

Q269 **Kevin Hollinrake:** Is it the ones that did not pass the test that are not publicly available?

Dr Debbie Smith: Yes, those are not publicly available.

Q270 **Kevin Hollinrake:** Why not?



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Dr Debbie Smith: Because that is customer practice across the entire testing sector.

Q271 **Kevin Hollinrake:** Do you think that should change? Do you think it would be sensible so that the public could see and the industry could see?

Dr Debbie Smith: It is not really for me to say.

Kevin Hollinrake: This is about fire safety, which is obviously within your remit.

Dr Debbie Smith: Yes, but one of the reasons people test is to see if their products meet the relevant standards or not.

Q272 **Kevin Hollinrake:** Is there any reason why not? Is there any reason why you would not publish them?

Dr Debbie Smith: Not from my perspective, but from the perspective of industry I can see why there may be nervousness around that. There are commercial sensitivities around it. If you are developing a new product or system, a new kettle, a new bike helmet, you submit it for testing. It might fail the first time.

Q273 **Kevin Hollinrake:** Our primary interest, and yours, I think, is not the industry interest, it is about public safety. Therefore, would it be sensible for us to make a requirement—I accept that might not be within your gift—that these failed tests are publicly available?

Dr Debbie Smith: You would have to consider how far you went with that. Would you cover everything to do with life safety? Would it cover all of the fire areas, would it cover all the structural areas? You have to be very clear about what it is you would want it to cover.

Q274 **Kevin Hollinrake:** They are fair considerations but we could limit it to this area.

Sir Ken Knight: I think it is a very fair question and it something that came across from the expert panel earlier on. I can only reflect the conversation in that it is quite a difficult commercial area. It is common, of course, in a wide range of products. For example, a car manufacturer will go through an R&D process and look at modifications and look at changes and will not necessarily, of course, publish the failures of those.

Q275 **Kevin Hollinrake:** Those are internal tests. This is an external test.

Sir Ken Knight: It will want to modify the product until it puts it on the market. My guess is there also a commercial sensitivity about how it achieved its objective of putting this product on the market rather than the route through the R&D process. I am not making a case for or against. It is a very fair question but I suspect it is wrapped up in that commerciality.

Claire Curtis-Thomas: Yes, and I would like to add a point. Fundamentally, we believe that tests should be published if there is a



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failure. However, a company should be able to carry out those tests related to the development of a product without that information being published. When it has reached the point that it is satisfied with the product, it brings that product to market and any test that is then carried out should be made public.

Q276 **Kevin Hollinrake:** That makes sense. Does that not happen at the moment?

Claire Curtis-Thomas: No, but it should happen, we believe.

Q277 **Kevin Hollinrake:** If all products were specified as being limited combustibility, would a test then be required at all?

Dr Debbie Smith: As things currently stand?

Kevin Hollinrake: No, in a new world, if everything is of limited combustibility on the outside of a building, would there be any need for a BS 8414 test?

Dr Debbie Smith: We heard this morning that there is some test evidence, based on BS 8414, which I have not seen, where a system made up of limited-combustibility components has failed the test.

Q278 **Kevin Hollinrake:** Your answer is yes?

Dr Debbie Smith: Yes, if that is true, but obviously we would need to review that.

Sir Ken Knight: Can I add one point? The important point is it is not just about the product, it is how it is fitted and whether it is safe. It is not just about the product.

Q279 **Kevin Hollinrake:** No. Back to the point you made, Debbie Smith, earlier on, about the devastating consequences of the external cladding on Grenfell. Is it your understanding that ACM is currently banned or not under currently regulations?

Dr Debbie Smith: My personal view? Yes.

Sir Ken Knight: ACM-3, as we have called it now, the bad cladding, not ACM more generally, where it is non-combustible. The ACM with the polyethylene core that we saw of the type on 14 June on 300 buildings, absolutely, yes.

Q280 **Kevin Hollinrake:** Why is it banned? Under what part of those building regulations is it banned?

Sir Ken Knight: It is banned in the building regulations, the 16 words that I read out, absolutely. Then in part B, B4 of the requirements of building regulations, and it is banned because 12.7 says that all buildings over six floors shall not have that level of combustibility on its makeup of the wall.

Kevin Hollinrake: It mentions the filler, does it not, 12.7?



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Sir Ken Knight: It mentions a whole range of things, but it is about the wall makeup, yes.

- Q281 **Kevin Hollinrake:** Your position is in conflict with Dr Barbara Lane's position. In 11.10.7 of her report, she says, "I do not consider ACP panels to be insulation nor their core to be filler". That was how I understand the Department is currently saying these panels are banned.

Sir Ken Knight: It may or may not be. It certainly is not in conflict with another expert witness to the inquiry, Colin Todd, or indeed the letters I referred to on your own website from Edinburgh University.

- Q282 **Kevin Hollinrake:** You accept that Dr Barbara Lane does not accept the position of CLG that these panels are banned?

Sir Ken Knight: I think the point you made is absolutely right, and indeed Judith Hackitt raises it, that if there is a section that is not clear, it needs to be clarified, absolutely.

- Q283 **Kevin Hollinrake:** You said earlier, Sir Ken, that the problem was these rules were clear but they were not supposed to be read or understood by the person in the Clapham omnibus. However, it is clear that the industry itself is not clear. These regulations are clearly ambiguous, would you not agree?

Sir Ken Knight: I was not being derogatory to the Clapham omnibus folk or indeed the jobbing builder who does kitchen extensions, or indeed the non-chartered fire engineer, but these are very complex building constructions—that I am sure Claire will want to talk about—that require the very best expertise, whether it is the chartered fire engineer or whether it is the structural engineer. They are not simplistic constructions.

- Q284 **Kevin Hollinrake:** Yes, but the point is even they do not understand it. They point is surely the conclusion we must draw from this, because where the rules are clearer in Scotland, no council building had ACM on the outside, where our rules are less clear in England, lots of buildings have ACM on the outside.

Sir Ken Knight: That is not necessarily the case. There were ACM in Scotland as well that they currently are still using.

Kevin Hollinrake: The point is no high-rise council buildings failed the Government's fire-safety test in Scotland, compared to over 300 failures in England.

Sir Ken Knight: I think the ones in Glasgow are private sector, you are right, but they have ACM on them.

- Q285 **Kevin Hollinrake:** Do you accept that there is an ambiguity in these regulations?



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Sir Ken Knight: There clearly is, from Dr Barbara Lane and others who have said so. I accept if there is ambiguity it will need to be clarified for the future, and rightfully so.

Mark Hardingham: I would agree with that. I think the guidance is difficult to interpret and in places there is ambiguity. When you overlay that with the issues around competency and culture within the system, it opens the door for a situation that we currently find ourselves in.

Kevin Hollinrake: It is both those?

Mark Hardingham: Yes.

Claire Curtis-Thomas: I would say that you can have non-combustible materials but, if you have poor installation of that product, you can still have the situation that you have seen in Grenfell. Some of the buildings that currently have had the cladding removed we have been working to photograph those buildings with a specialist contractor. We have looked at 32 and we have analysed those buildings. They have had ACM panelling removed and two of them have had that panelling replaced. However, the substrate that is supporting that panelling does not comply with the fire regulations, not one of them. Not one of them. We have two buildings where we think they have serious structural issues as well.

The people who are carrying out the remediation work are either completely ignoring what they are seeing below the cladding that they are removing or they do not understand what they are looking at. That goes to the points that have been made here. The lack of competence on the ground to determine, first, whether the job has been done properly is woeful. Secondly, the people who are designing these systems either are complicit in doing a bad job or they are also suffering with rank ignorance.

Q286 **Kevin Hollinrake:** We accept that it is covered heavily in the Hackitt review about the chain of custody, effectively, for the installation and the specification of products, but the key thing we are trying to look at is the ACM itself. I am sorry to ask this, Sir Ken, but we have some evidence to say that a personal signature exists on test certificates allowing the use of ACM products—your personal signature—above 18 metres. Is that not correct?

Sir Ken Knight: Sorry?

Kevin Hollinrake: We have some evidence that your personal signature exists on test certificates allowing the use of combustible ACM on products, over 18 metres.

Sir Ken Knight: I don't think that is quite the case. It is somebody's signature as the chair of an independent scrutiny body that every test house requires for UKAS rules, where every one of those members of the committee, including myself—I am paid to ensure there is a fairness of product testing, and therefore the chair of that scrutiny committee goes



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on to that. It was not, as I recall it, a test about above 18 metres either. It was about a Class 0 surface spread of flame test, which is required as well as combustibility above 18 metres. That is the 12.6 requirement, not the 12.7 requirement.

Q287 **Kevin Hollinrake:** Your signature did not endorse ACM cladding?

Sir Ken Knight: No, absolutely not. No, not the ACM that has polyethylene core that fails the test. Absolutely not, no. That is not what the test was about.

Q288 **Kevin Hollinrake:** Moving forward, what should we recommend in terms of prescriptive guidance in terms of ACM? Should it be a complete ban on what, on combustible materials on the outside of buildings?

Mark Hardingham: I am happy to start that off and we will be putting in a response to the consultation that is currently out there. In general terms, we are supportive of it. If it improves the safety of a building and for the people inside that building, then we are going to be supportive of that. Our view, as we sit now—and I am conscious it is early in the consultation process and we will take a wider view across NFCC—is that we believe the combustible ban should apply to new high-rise residential buildings over 18 metres.

We believe that where that is the case then it should apply to the whole of the wall of the building, including below 18 metres. We believe it should be extended beyond just residential high-rise buildings and look at other buildings where the evacuation of vulnerable people is problematic due to the nature of their circumstances: specialised houses, hospitals, student accommodation, and many other examples.

Q289 **Kevin Hollinrake:** Motels and offices, for example, as well?

Mark Hardingham: Not necessarily. For me, it would be more around the high-risk groups where you have typically vulnerable people, some of those examples I spoke about earlier. We also think it should be applied, on a risk-based approach, retrospectively to existing buildings. There will be some consideration about where that applies and where it perhaps might not apply. Where we have existing residential high-rise buildings that are over 18 metres that are served by a single staircase, for example, we think we should look at retrospectively applying the outcome of the consultation.

Q290 **Kevin Hollinrake:** On the basis that this is a proscriptive approach, why not retrospectively on anything? In the future you will not be able to build a building with combustible materials. Why should you let some buildings—above 18 metres, potentially—maintain a position where they have combustibility?

Mark Hardingham: From our perspective, it comes down to a proportionate approach that looks at the risk in those particular circumstances. For example, I talked about a single staircase over 18



metres. I would extend that and say for buildings over 18 metres that have more than a single staircase, the ban should be applied when the next major refurbishment of that property is carried out. I am not saying just for those single-staircase buildings over 18 metres. I think there are other risk-based approaches that you could take, but they should be proportionate and not simply apply to every building across the UK, as it currently stands.

Sir Ken Knight: I want to add to that. After consultation, of course, this matter may well come to the expert panel for review, so I don't want to conflict the subsequent discussion—the expert panel may have public consultation—except to say, in the absence of it being clear, it is not already banned and you know my view on that already. I can see why the Government would wish to make it absolutely clear.

It does go back to culture. Just banning stuff does not mean to say people will do it if the culture is wrong. Of course, it is not a binary question. The nuance in the consultation is really important. Are we talking about whole-wall systems, including balconies, including window frames, including laminated glass, or are we just talking about the cladding, and indeed the more modern living walls with plants on the outside? There is a whole range of wall structures that need to be—

Q291 **Kevin Hollinrake:** What is your view on all of that? What should it relate to?

Sir Ken Knight: I think the villain of the piece we saw, and have seen, has been ACM cladding with polyethylene core on the outside of buildings. I do think that is very sensible to start to discuss, as the consultation does, high-rise residential buildings, which Dame Judith has talked about as being the risk. I would be cautious about it applying to all types of buildings or, indeed, all building systems because that is a much wider question about windows, glass and so on.

Claire Curtis-Thomas: We would certainly concur with that view. It seems to be incongruous to say that you should make an element of the external side of the building non-combustible and not include them all. If we are assuming that everybody within the process is utterly incompetent and incapable of making informed professional judgments on the information that they see, then you should make everything non-combustible because that is going to give the safest outcome for occupants, but we do not believe that is necessary. We believe that you can use existing tests and you can carry out assessments to determine that the proposed facade option is safe. Why should you not do that if you have competent individuals making those judgments?

Q292 **Kevin Hollinrake:** Because, I suppose, the wealth of evidence is that it is a lower-risk option, as Dame Judith Hackitt herself acknowledged. Are you saying that the Government are wrong and we should not ban combustible materials on the outside of buildings?



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Claire Curtis-Thomas: Where those combustible materials are limited products of limited combustibility—

Kevin Hollinrake: No, those are two different things. Are you saying we should not ban combustible materials on the outside of buildings?

Claire Curtis-Thomas: I am saying that, where those products have been through tests and have been able to demonstrate that they are in compliance with the standards, then why should you take those products off the side?

Q293 **Kevin Hollinrake:** Sir Ken, you alluded to the fact that you thought we should perhaps ban the external cladding as being combustible but not the insulation. Is that what you were saying?

Sir Ken Knight: I was not trying to conflict myself in what might be a subsequent discussion. There has been quite an informative debate, because there is an international issue going on here, and there is a very good report from Victoria in Australia where they have had this issue going on since 2013. They have just concluded, as their Government view, not to ban cladding but to go back to a robust test. They already use 8414.

Q294 **Kevin Hollinrake:** Do you disagree with the Government's position? You think we should allow combustible materials as long as they are tested properly?

Sir Ken Knight: In the absence of people not believing it is already banned, they will probably have to do it. Those who do not believe that, it means it will stop people putting on the wrong stuff, if the culture is still wrong and they are not fitting it correctly. It is much deeper than a single banning of a product that will solve the issue that we saw last June.

Q295 **Kevin Hollinrake:** We all accept the point that there needs to be a chain of custody, but the point is: should we or should we not ban combustible materials, which are insulation and cladding, on high-rise buildings?

Sir Ken Knight: I am much more comfortable to leave it with an outcome-based robust test than I am about banning. I would like to wait to see the outcome of the considered consultation because, as I said to you, I don't want to conflict myself chairing a group that might well be advising the Government on the outcome of the consultation.

Q296 **Kevin Hollinrake:** You prefer a test to a ban. Debbie Smith?

Dr Debbie Smith: I concur with a number of the points that have already been made, so I don't want to repeat all of those. Clearly, the issue of competency crops up here again. If you do enforce a ban, there is still the concern that, if people are not following the rules and cannot follow the rules or whatever with what we currently have, how do you ensure that they can do that, whatever the materials might be, and still deliver good-quality, safe buildings? We are not just talking about fire here. The external cladding is there for other functional requirements as



well—to keep people warm and dry and so on—and you have to make sure that it is not going to fall off the building and so on.

Q297 **Kevin Hollinrake:** Again, you favour a test rather than a ban?

Dr Debbie Smith: There is a place for testing, yes. I do have concerns about an outright ban and whether that would actually solve the problem.

Q298 **Kevin Hollinrake:** Why are we saying 18 metres? Is there some reason why we have this requirement of over 18 metres?

Sir Ken Knight: Can I come back? You gave me an “or”. My position is not an “or”, it is an “and”, and it is the view of the expert panel from very early on that people should be replacing panels either meeting the non-combustibility limit or under an 84. It is not a test instead of using.

Q299 **Kevin Hollinrake:** That contradicts what the Government are currently saying.

Sir Ken Knight: The Government are undertaking consultation.

Kevin Hollinrake: They have proposed a ban. They have said in the House that they would prefer to see a ban on combustible materials.

Sir Ken Knight: Then it is the breadth of that that I am interested.

Claire Curtis-Thomas: If the Government want to go to a ban, it would be our view—as Mark has already said—that they would need to look at all buildings, existing buildings, to determine whether or not those residents were at risk. It could not not do that. I think, as soon as they move to a ban, you would have serious issues from the insurance companies, who would then be placed, or should be placed, in a position where they are asked whether or not they would continue to insure those buildings, given the Government have expressed that they are now at risk. Given what the insurance companies have done following Grenfell, I think the premiums associated with occupying those buildings would be extraordinarily high and potentially make those buildings redundant.

Dr Debbie Smith: I think we can go one further to that, to say that we are already starting to see some residents, who are locked into mortgages, wanting to move flats that are being constrained and are in equity traps and so on. There has to be some thought given to the actual residents of these tower blocks and what this might mean for them.

Q300 **Chair:** You mentioned again this business about the problems following the rules. It is all right having new rules but people have difficulty following them now. Dame Judith surely said very clearly one of the problems is the confusion over the existing rules. She has called for a rewriting of the rules, the guidance and the regulations so that they are clear and understandable. Do you not agree with that?

Claire Curtis-Thomas: I have to say it is extremely difficult to write a rule that everybody can access and understand.



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Q301 **Chair:** It is obviously not difficult to write one that everyone is confused about, which has happened at present.

Claire Curtis-Thomas: With respect, I think it depends who is reading it. The general point here—and I think it is one that we are all be trying to cope with—is: how do we make things clearer for the audience or for the community of people who are likely to be using these documents? I think we would agree that at the moment you can improve the clarity of these documents, so that it does speak more directly to people with a range of experiences. That is what we want to see. All of us in the industry say we can make improvements here so that, if people make decisions, it is because they do understand what they are reading and, therefore, any adverse decision is something that they have made despite the fact that they have received good advice.

Dr Debbie Smith: The other element to this—which Dame Judith Hackitt does refer to and make reference to, of course—is the one of enforcement. It might not just be a case of people not doing the right thing because they do not understand what they have to do. There could be some part of this whole system, process and what we are seeing that is down to the enforcement regime and the threat of sanctions.

Q302 **Chair:** I want to come back to Claire Curtis-Thomas and something you said earlier, which really worried me. You were saying that combustible panels were being taken off buildings, presumably because they have now been deemed to be unsafe and should not be there, but have been put back in such a way that leaves the building still exposed to a real risk of fire. That is happening?

Claire Curtis-Thomas: Yes, and I have brought for the Committee, and I am happy to give to the Committee, three photographs of three such buildings where the ACM panel has been removed. None of these buildings have the fire requirements under the building regulations that are supposed to be there. In two cases they are demonstrating serious structural issues.

Q303 **Chair:** Have you identified these buildings to the owners of them? Have you told the owners?

Claire Curtis-Thomas: We know these buildings and we have raised the concerns with the building owners. I have not directly, but the company that we have been working with will have certainly raised the issues to the building owners.

Sir Ken Knight: That would cause me real concern—as it does you, of course—because the expert panel has issued clear advice, via DCLG, to both building owners and to building authorities that it is not just replacing cladding, it is about the system behind it, the intumescent strips, the separation, the gaps. We have never said just to replace the cladding. We have said the building system needs to be looked at.



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Claire Curtis-Thomas: That only supports our view that the people doing this work cannot identify any failings visually and they do not understand the system sufficiently enough to say, "We have a problem here that needs to be addressed".

Q304 **Chair:** You are going to give that information now to the Committee?

Claire Curtis-Thomas: Yes, and I have brought photographs with me that we can share with you. These are indicative of what we have found. If we have 32 buildings that have failed out of 32, I am not left feeling particularly comfortable about the other installations. Forget the cladding, we have serious issues in structural matters as well and we think that the condition of these buildings has been compromised by these retrofits.

Chair: Certainly, as a Committee, I am sure when we get that information we will want to follow it up.

Q305 **Bob Blackman:** Given that those are the circumstances, what is your recommendation in relation to those buildings, if you deem them to be safe or your organisation deems them to be unsafe, for now and for the future?

Claire Curtis-Thomas: We have written to the Government and spoken to Government officials about this. Sir Ken is quite right, guidance has been issued and we have said it is very clear that this guidance is not understood or is not being followed. We have recommended that they carry out an audit of those refurbishments that are currently under way to ensure that those refurbishments are cognisant of the advice within the guidance notes. Where the system is failing, you have two potentials. You take it all down and start again or you carry out remediation works. Just recladding a building might cost you £1 million. If you start to look at remediation, this becomes a £2 million to £3 million job. The cost of doing the work I think silences quite a number of organisations.

Q306 **Bob Blackman:** The concern is the safety. The cost is one thing, but the safety is the key issue that we are concerned about.

Claire Curtis-Thomas: It most certainly is. I think when you have looked at the photographs you will share our concerns. They look pretty good but they are not. They still represent a serious fire risk. You can ban these products but, if the installation is not right, you have not effectively reduced the risk.

Mark Hardingham: Can I just add to that point given the points about the serious fire risk? Where this remediation work is taking place, the work through MHCLG is such that the local fire and rescue service and the local authority will be aware of these buildings. It will be the responsibility of the responsible person or the owner of the building to engage with that local authority and the fire and rescue service, in terms of the work that is being carried out to improve the fire safety arrangements in those buildings. In one respect, I am not surprised to hear what Claire is talking about. In another respect, what I would expect is for that responsible person for that building to be having that



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conversation and engagement with the local authority and with the fire and rescue service, to make sure that there are appropriate fire safety measures in place when we eventually leave that building as the enforcing authority.

Chair: Once the Committee gets this information, I think that we will have a responsibility to draw it to the attention directly of the building owners, the local authorities and the fire and rescue service in each area, which I think we will be doing anyway straight away.

Q307 **Liz Twist:** In the first instance, the proposed new regulatory framework focuses on multi-occupancy, high-risk residential buildings that are 10 storeys or approximately 30 metres in height. What further work needs to be done to ensure the independent review's recommendations can apply to other buildings, residential or otherwise?

Mark Hardingham: We understand the attempt initially to focus the short-term activity on those buildings that are considered to present the greatest risk, and those that most accurately represent the circumstances we saw at Grenfell Tower just over a year ago. Within the report, we do see that Judith Hackitt has referred to an expectation that the principles being applied to buildings over 10 storeys are applied in the short, medium and long term to other buildings as well, so we do appreciate that.

Where we do have some concern is the narrow nature of everything over 10 storeys. We do not necessarily have an answer that: it should not be 10. It should be this. But we are interested in what consideration there was to broadening that out to buildings that, if we apply the building regulations aspect, are those over 18 metres or to other buildings that house vulnerable people, the specialised housing, student accommodation and some of the others that I have referred to previously.

Sir Ken Knight: I agree with Mark entirely. There are two areas of further debate in Dame Judith's report, which is an excellent report taken as a whole. One will be that area, and I have not looked at the evidence that she clearly had to find that. Purely architecture and height relates to risk because it is right to be evidence based in risk. My instinct and experience tells me there is equal risk, for example, much lower but depending on the occupancy, of vulnerable, elderly and disabled people in nursing homes and old people's homes. There is still a debate to be had on where we put the effort and where the high risk is before that lands us to say it is only in 10-floor and above high-rise buildings and creates that differential to someone living in eight and less floors or nine and above. In my view, there is a debate still to be had.

Dr Smith: Basically, that would need to be supported by looking at the statistics and whatever evidence is available to help broaden that out and identify where the greater risks are.



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Q308 Liz Twist: Mr Hardingham, you referred to places like sheltered accommodation where there are vulnerable people. Do you think it is a matter of urgency that we look at that?

Mark Hardingham: In some respects, yes, it is. The circumstances we are seeing from an NFCC perspective suggest that there are risks with other accommodation that houses vulnerable people and specialised housing. Not from an NFCC perspective but from my chief fire officer perspective, I sit within a county council alongside adult social care colleagues and see some of the challenges of providing housing accommodation and suitable care for an increasingly broad range of people with complex illnesses, living longer in life, and the sorts of challenges that presents from 20 years ago when I was more junior in my career and somewhere was either a sheltered accommodation or a residential care home. Now there are a broad range of different types of social housing, housing increasingly vulnerable people in difficult circumstances. Yes, I do think the risk is there.

Q309 Liz Twist: Do you think that work should be carried out as a matter of urgency to translate this to those scenarios?

Mark Hardingham: I do. The National Fire Chiefs Council developed a new specialised housing guide, which was launched only 12 months ago, which does take us a step forward in consultation with CQC and other bodies that have been involved in putting that guide together with us. We do think there are other aspects—sprinklers perhaps being one example—where we think there is some urgency to do something about it.

Claire Curtis-Thomas: We would certainly concur with the view that a risk assessment needs to be carried out on the vulnerability of the occupants and the type of building. Occupants and type of building really ought to dictate whether or not you take any action specifically for that particular building over and above other buildings. At the moment, we don't understand the logic behind this arbitrary cut-off point, effectively, and we believe that it should be extended to look at vulnerable groups.

Q310 Liz Twist: If those risk assessments presumably take place now, you would want it done in the context of this report on what lessons can be learnt here, is that right?

Dr Smith: Yes. We basically have to look at the overall risk of the occupancy type, as has already been said, based on the type of building, the height, the type of occupants, what the function of the building is, and so on.

Q311 Chair: I have one very brief question. Do you think sprinklers should be fitted automatically to tower blocks?

Mark Hardingham: I am happy to kick that one off. Our view as NFCC is that if we are building a new residential high-rise building that is over 18 metres it should be fitted with sprinklers. We do believe that there are opportunities now to look at retrofitting sprinklers to existing tower



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blocks, particularly where they are served by a single staircase and where they are over 30 metres in height, so, in short, yes.

Sir Ken Knight: I would just say that sprinklers have a very valuable part to play as a package of measures, but I would be very cautious of not seeing it as the panacea because it is very important that people recognise that, unfortunately, people predominantly die in a fire from smoke, not fire. Therefore, working smoke detectors, fire doors that work and closers that work are part of the package of measures. Then a risk-based solution on retrofitting of sprinklers, which is the same as the NFCC position, is exactly right.

Q312 **Chair:** Should fire-fighters be given a legal power to insist on things rather than simply to advise on things? It is a no-brainer, really, isn't it?

Mark Hardingham: I think that, if the regulation was there in accordance with the position statement that NFCC had about what buildings should be fitted with sprinklers and what should not be fitted with sprinklers—

Q313 **Chair:** Or going beyond sprinklers to other work as well?

Mark Hardingham: Yes, beyond other work as well, then I don't necessarily think the power would need to be particularly with fire authorities because it would be there in the regulation already. But otherwise, yes.

Claire Curtis-Thomas: We would absolutely welcome the focus and the introduction of sprinklers as part of a group of measures, but I would put this to you. There are buildings already with sprinklers, and I am very pleased that there has been reference in the Hackitt report to the creation of a whistle-blowing service. Where you have sprinkler systems or other systems designed to protect the public in public buildings, where there are budget constraints and things do not work and there are issues, we have received a complaint of this kind that sprinkler systems have not worked in the building but there has been insufficient money available to repair those systems. Those individuals felt that they did not have anywhere to turn with their concerns.

Hence the introduction of a whistle-blowing service within the report is extremely important for individuals who find themselves in this situation where there may have been appropriate measures taken to protect the interests of the public but they have not been delivered for budgetary constraints or other constraints and they have somewhere to go. We want to see these improvements providing they are funded and, if they are not funded, recourse can be taken.

Q314 **Chair:** That would cover employees of companies as well as—

Claire Curtis-Thomas: It is not just employees of the companies. Think of a caretaker in a building who may have a grace and favour flat in that building. They find themselves in very difficult positions, so we believe



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there has to be somewhere for them to go where they can feel safe and make disclosures of this kind. It is not just members of the public, people who work for construction companies, installers, and so on.

Chair: Finally, if there are any more improvements to the regulations, the guidance or any other suggestions you have about what should be added to the Hackitt report in terms of future action, perhaps you would like to write to the Committee with those suggestions. We would be very happy to receive them. Thank you very much for coming to give evidence to us today. It has been very interesting for the Committee.

I am just going to say finally that we were due to have a third panel today. We are now going to postpone that until Monday. We have had so much evidence and so many interesting subjects to explore today with the first two panels that the third panel has kindly agreed to come back on Monday to resume our discussions with them. That is the end of our public business for today.