

Housing, Communities and Local Government Committee

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

Monday 2 July 2018

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

Questions 315 - 412

Witnesses

I: Mark Norris, Principal Policy Adviser, Local Government Association; John Stewart, Policy Manager, Residential Landlords Association; Huw Evans, Director General, Association of British Insurers.

II: Dominic Raab MP, Minister of State for Housing and Planning, Ministry of Housing, Communities and Local Government; Andrew Pattison, Director, Independent Review of Building Regulations and Fire Safety, Ministry of Housing, Communities and Local Government.

Examination of Witnesses

Witnesses: Mark Norris, John Stewart and Huw Evans.

Chair: Thank you for coming this afternoon. Welcome to this final evidence session on our inquiry into building regulations and fire safety in England. Thank you all very much for coming.

At the beginning, I apologise for the fact that two of you were going to come to give evidence, and indeed arrived to give evidence, last week and we postponed it simply because of the amount of information and material that we were getting. We thought it was wrong to curtail that and wrong to curtail what you were able to say to us as well. Thank you very much for the way you accepted that. That is appreciated.

At the beginning, can Committee members put on record any particular interests we may have that are relevant to this inquiry? I am a Vice-



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President of the Local Government Association.

Helen Hayes: I employ a councillor in my staff team.

Liz Twist: I employ a councillor in my staff team.

Mike Amesbury: I employ a councillor in my staff team.

Kevin Hollinrake: So do I.

Andrew Lewer: I am a Vice-President of the LGA.

Bob Blackman: I am a Vice-President of the LGA.

Q315 **Chair:** Could you say who you are and the organisation you are representing?

Mark Norris: I am Mark Norris. I am a principal policy adviser at the LGA.

Huw Evans: I am Huw Evans. I am the Director General of the Association of British Insurers.

John Stewart: I am John Stewart. I am the policy manager at the Residential Landlords Association.

Chair: Mr Norris, I think you are trying to fill the shoes of Lord Gary Porter this afternoon, which is quite a difficult job to do.

Mark Norris: It is a demanding task, yes.

Chair: I understand that Gary has had an operation, which hopefully he is recovering from. I think it would be appropriate if we put on record our best wishes to him for a full and speedy recovery. Perhaps you could pass that on.

Mark Norris: I will pass that on.

Q316 **Chair:** Going back to the key issues that we have in front of us, looking at the independent review, which I am sure you have had a chance to read now, do you think that it offers a sufficiently robust regulatory regime that will reassure people who live in these properties that, from now on, they are going to be safe?

Mark Norris: From the Local Government Association's point of view, there is a range of good recommendations within the Hackitt review. There is much there that we agree with. At the moment I have to say that we are still putting together our response to that final report from her and we will be submitting that to MHCLG later on. Within there, there looks to be a good range of recommendations that we are happy with.

There are some areas where we have some reservations or potentially disagree with her. To some extent, she did not go far enough, from our perspective, in addressing some of the issues. Particularly in that I would



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highlight the ban around combustible materials and also a ban around desktop studies and the use of those.

Chair: I think we will follow up with both those issues in detail in a few minutes.

Huw Evans: From an insurance perspective, we welcome the central conclusion that current building control system is not fit for purpose and Dame Judith's call for a radical rethink of the whole system. In particular, we welcomed her focus on a simpler system of building control for high-rise residential buildings, the construction of a multiple lines of defence model in terms of safety and much greater clarity around responsibilities. The diagrams in her report told their own story about both the current system and the potential. We also support a more dynamic process of building control to match the significant changes we are seeing in methods of construction. We welcomed all that. We too were disappointed that, notwithstanding that, she did not recommend the outright ban on cladding, and we welcomed the Government's fairly swift move to consult on that.

It is vital now that both the Government and other parties get on with implementing the aspects of Dame Judith's review that command wide support, including a full review of Approved Document B. We also would draw attention to other areas that need to be looked at, as some of your witnesses did on Wednesday, in fact. These include the testing regime around the British Standards Institution test, which we have done some work on, and the focus on wider vulnerabilities—care homes, schools, commercial warehouses—where the use of flammable and combustible materials is also common.

John Stewart: Again, there are parts of the report that are really welcome but overall we feel that this is perhaps a missed opportunity. The review had a very wide remit but its conclusions and focus have actually been very narrow in terms of looking at high-rise residential buildings. The fire safety regime, in particular, across residential lettings is often confusing and we would have welcomed a broader look across the board. Like the other witnesses, we also would have welcomed firmer conclusions on cladding and testing. We also would have welcomed more prescription round about what leaseholders and landlords were expected to do, rather than the recommendations that are in the report at the moment.

Q317 **Chair:** Before we come on to some specific issues, one of the things everyone nods in agreement with is the idea there has to be a culture change in the industry. That is a great idea. How are we going to achieve it?

Huw Evans: The thing we would observe from the insurance perspective, not least as a highly regulated sector ourselves, is you can have an interplay with regulation. At its best regulation can help foster the type of culture that you want to see, both in terms of the hard requirements



that it places on those who are regulated, but also in terms of the cultural standards that it can expect. I do not think the two debates need to be conducted entirely separately. A debate about how a system of regulations can work better can go alongside how the culture in the industry can also change and how some of the supporting issues can be brought into play.

For example, there is the use of sprinklers in high-rise buildings, which was not a formal part of Dame Judith's recommendations but is undoubtedly a key part of an answer to a slightly different question, which is about how you build a much safer system overall, in which fire risk is minimised in lots of high-risk buildings.

The review within its terms of reference did a good job, and I thought Dame Judith consulted thoroughly, but it is undoubtedly true to say that the review is just one part of a much more complex set of challenges around how to improve culture, a wider set of practices, a different approach to fire management and, as part of that, a more dynamic and engaged building control system, which both draws out good behaviours but also provides tougher sanctions if those behaviours are not met.

John Stewart: Enforcement is a key part of that. Again, to instil in a culture simplification and clarification is really important. Our members are mostly small and medium-sized landlords likely to be leaseholders in high-rise blocks, if they have properties in high-rise blocks. Fire safety issues are broader. There is a real confusion about the different guidance that is available, the different enforcement agencies, whether it is the fire and rescue service or the local authority, or whether you are referring to LACORS guidance or the Housing Health and Safety Rating System.

There are seven different dwellings at the moment that are affected by a different range of fire safety and building regulations, and unfortunately Dame Judith's report is creating another layer on top of that, specifically for high-rise blocks. If you are going to instil a culture, it is much easier to do if people are given very clear guidance on what it is they are expected to do and expected to deliver, and it is also very clear about who is responsible for enforcing those standards at the end of the day. At the moment, we do have that split regime between fire and rescue and local authority, and we have a number of different sets of guidance, whether it is the fire safety or HHSRS, for example. We have different guidance for high-rise blocks and low-rise blocks, in terms of residential buildings. That is before we even look at commercial properties, as ABI have said.

Q318 **Chair:** You think we need a system that applies to buildings in general, rather than specific buildings.

John Stewart: You do need a risk-based system. Undoubtedly there is higher risk from high-rise blocks but if you take the cut-off at 10 storeys, are we then going to see a proliferation of nine-storey developments in order to avoid that tougher regime, for example. We see it in the houses



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in multiple occupation regulations; they are considered higher-risk because of the nature of occupation than single-let or family-let properties. It is appropriate to have different standards for different types of property, providing it is according to risk but within that the guidance needs to be clear and responsibility for enforcement needs to be clear.

Mark Norris: I agree that the key in this is going to be enforcement in terms of driving that change in culture. With that need to come very clear responsibilities about who is responsible for fire safety in a building. From our point of view, some of what Dame Judith recommends in her final report about clarity of roles and responsibilities is going to be very important going forward, particularly the emphasis to start with around the role of those who are actually commissioning work and those who are going to be delivering it, in terms of saying, "The primary responsibility for making sure the building is safe, whether it through the design, construction or occupation phase rests with you", rather than, for example, with the regulator.

There are other bits that she picks up, particularly borrowing heavily from the CDM regulations and setting a very clearly defined role for the client, for the principal designer and for the principal contractor. That is going to be very important as well, going forward, because it is that clarity around who is responsible that aids good enforcement and regulation going forward. We are seeing, in terms of what is playing out in the public inquiry, that complexity around who is responsible for doing particular pieces of work. From an enforcement and regulation point of view, struggling to work out who you should pursue in a case makes it difficult to do so. Clarity around those particular roles is also quite important.

With that, a strengthening of the enforcement regime itself is important, so making sure that appropriate sanctions are in place so that when people do breach the building regulations it is very clear there are going to be tough penalties that can be imposed as a result of those breaches.

The one bit that we would add to this, of course, is that doing culture change takes time. It is not an easy process to do, which is why, in the interim, it is important the Government go down the route of banning combustible materials on the outside of high-rise buildings. That is the bit that needs to be sorted.

John Stewart: There is a lot of focus on construction and building regulations at the moment, rightly, but of course over the lifetime of a building the management of the building is much more important in some ways, in terms of how you deal with alterations made to buildings over that period, the occupation of the building and how that is managed. Perhaps there could have been a stronger focus on the lifetime management of the building once occupied from the Hackitt report, rather than the focus that we see on new-build construction and the like.



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The whole issue of retrospective legislation changes would need to be looked at as well.

Q319 Matt Western: Related to this, thinking about cultural change, once upon a time there used be things called borough architects who, according to my understanding, oversaw this stuff on a bigger scale and everything went past their desk. Do you think there is a merit in revisiting that kind of approach? I guess that is a question for Mr Norris. Are we doing building control? Has that changed in terms of the capacity of resource or the approach to building control?

Mark Norris: Within building control certainly there needs to be further capacity built into the system. One of the key bits about the Joint Competent Authority that Dame Judith suggests in terms of bringing this forward is going to be making sure that it gets the funding that is needed. When it talks in the review about funding being done in terms of cost recovery, that seems to us the right way. Within that, there also needs to be built in funding that enables both building control and others to take enforcement action, because at the moment some of the struggles they have are when they go to court, both in the level of fine that is imposed by the courts but also the question of cost recovery in terms of the fees that councils incur when they go to court and bring prosecutions. The courts are not awarding the full costs of conducting that work, so that means there is a cost to the general local authority budget of taking that enforcement action. If we can design a system that enables them to be fully funded as part of the process and enable them to take enforcement action, that would be a good start in taking this forward.

Q320 Kevin Hollinrake: The Government have made available £400 million to remediate, and replace unsafe cladding on the outside of high-rise buildings owned by councils and housing associations. Is that enough to solve the problem nationally for all buildings?

John Stewart: From the private sector point of view, the real issue is about who is going to ultimately be liable for the cost here. The £400 million from the public sector I will leave to the LGA to address, but there is a real issue in the private rented sector at the moment. We are seeing leaseholders carrying the costs of ongoing safety measures, such as waking watches running into tens of thousands of pounds a year, potentially. Recent court cases suggest they are also going to face the full burden of removal and replacement or remediation of the cladding falling on the leaseholders.

We are seeing an issue where surveyors are giving properties in tower blocks with unsafe cladding a virtual zero value, which removes the route to being able to pay for any service cost or remediation work to the property, because they are essentially left with a valueless property. There is a huge amount of legal wrangling to go on here over whether it is the local authority failing in building regulations, whether it is the national Government because the building regulations were not fit for



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purpose, or whether it is the construction company, the cladding supplier, the building owner or the leaseholders who is ultimately going to pay for this. While all that wrangling is going on you have residents, tenants and homeowners living in properties that are essentially unsafe. We would like to see some sort of short-term loan made available to building owners.

The other issue we have is that quite often the overall freeholder of a building will have very little value in the building itself; the value is actually in the leasehold properties within the building. For the freeholder to realise enough value from the property to pay for remediation is extremely unlikely as well. We need a quick solution that allows these properties to be made safe in the short term, while the longer-term legal wrangling takes place. The way we see that happening would be short-term government loans that would be eventually repaid.

Q321 Kevin Hollinrake: I guess the question is: by who? If you say it is leaseholders, they cannot afford it. People on the ground rent; they cannot afford it. Who else could you direct that invoice to?

John Stewart: In the short term, the courts are finding it is the leaseholder's responsibility. At least if the remediation work was done and there was a sufficient repayment period, it would allow leaseholders to take on that burden in the short term while ultimate legal responsibility may be resolved later. Ideally, we would like to see some combination of the freeholder, central Government and leaseholders being brought together.

Q322 Kevin Hollinrake: In the Cityscape case, to replace cladding per flat that was over £30,000. Even over 30 years, you are talking £1,000 a year.

John Stewart: Yes, but it is somewhat more manageable than an upfront £30,000 bill when your flat has been valued at perhaps £20,000 or £30,000.

Q323 Kevin Hollinrake: Sure. Are there any other views on that, in terms of the private sector particularly? Is it enough for the social sector? Is it enough for councils and housing associations?

Mark Norris: The simple answer is that we do not know yet on that. The point that we would make is that it is our understanding that the £400 million is an estimate rather than a cap, and that Government have undertaken to pay the costs of replacing the cladding and insulation systems on social housing, so both council and registered social landlord blocks. Our understanding is that they will cover the costs and that their initial estimate is that it will cost £400 million to do that. I know that MHCLG have been gathering data from those building owners about progress with remediation works. It might be that as part of that they have some information, but at the moment we do not know whether or not that is going to be anywhere near enough. It may be but it would be a complete stab in the dark from our point of view to guess at this point in time.



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Q324 Kevin Hollinrake: From an insurance perspective, if there is a medium or long-term impact, are you happy to keep insuring these buildings, even though obviously they present a much greater risk than a building that has a safe external surface?

Huw Evans: The best reassurance on that I can offer so far is what has happened in the last year. There has not been a fundamental market problem, even as the scale of the challenge has become clear. That was understandably one of the questions that Ministers were asking in the immediately aftermath of the Grenfell tragedy: "Is the insurance market going to collapse here? Is your industry going to carry on providing the cover?" That has happened. It has happened without any need for intervention.

While it is obviously impossible to make commitments for the market decades in advance, as long as the Government and other parties act on the recommendations of the Hackitt report, the Grenfell inquiry and the work indeed that this Committee is doing and there is an ongoing programme of trying to tackle the risks and do something about it, that can only help the provision of a healthy insurance market going forward. Obviously we will continue to work very closely to try to ensure that that is the case.

Q325 Kevin Hollinrake: Government set up this new ministerially chaired taskforce to oversee this remediation. How do you think it is going to work in practice? Do you have any views on that? Do you think that is the right thing to do? Mr Norris you are smiling about that.

Mark Norris: I am smiling about that because as you probably know the LGA has been invited to participate in it.

Kevin Hollinrake: Yes.

Mark Norris: At this point in time, we are still discussing with MHCLG officials what the terms of reference for that will be. It is entirely right that we bring together local authorities, the Government and other representatives, including from the private sector side to talk about how remediation to the private sector blocks is going to be progressed, because that is the challenge that Government are trying to address. It is the right mechanism to do that in terms of bringing something together at high level. In terms of what the terms of reference actually look like, as I say we are very early in discussions with MHCLG officials about what those are.

Q326 Kevin Hollinrake: I think you have a responsibility at a local government level to check all the buildings in your local government area and identify ones that do not meet the criteria. Do your members have sufficient resources and capability to do that?

Mark Norris: Our members have really struggled. As you will have seen from the Written Ministerial Statement from last week, councils looked at 6,000 high-rise private residential blocks in putting the information



together that we have about which ones have ACM on it. For some of them, they may not have had any buildings at all, so it was no burden for them; for some, it may have been a small handful of buildings. Particularly for some boroughs in London and some of the authorities in the north-west—for example, the Greater Manchester, Liverpool and Merseyside areas—those authorities had to go out, look at and inspect literally hundreds of buildings in the case of some authorities. That produced a considerable strain in terms of their resources to do that. £1.3 million was provided to do that.

I do not think from our point of view, and certainly from our members' points of view, that that was enough money to recompense them for the work that they have already done to date in identifying those buildings. If we are continuing this work and we are going to be taking proactive action, we would be looking to work out which of the remaining 170 I think it was that the Minister announced last month in terms of buildings that we still do not know what is on them, finding out what is on them and then encouraging the building owners in the remaining 300-odd blocks to take remedial action. In that situation, the local authority is probably going to need more funding to be able to do that, so it is welcome that the Government have announced they are making an additional £1 million available to help with that work, but I suspect that will not be enough.

Q327 Kevin Hollinrake: Are you going to persuade or require private sectors owners of building to carry out remedial work? How would you do that in the situation that Mr Stewart described, where you have long leaseholders and somebody who owns a ground rent that may be returning very little? Who are you going to persuade to do that work?

Mark Norris: In terms of the initial stage of work that councillors have done so far, they have been writing to as far, as they can identify, building owners or managing agents. As you have heard that is a very complex and difficult picture to navigate. That is partly why, time-wise, it has taken a number of months for some local authorities to work through that process, because chains of ownership are very complex. Some are owned by offshore companies with a number of shell companies in front of the real owners. Getting through to the bottom of that has been quite complex.

Going forward, there are powers, as the Written Ministerial Statement said; the Secretary of State is going to write to building owners to remind them under the Housing Act. There is a key point in there and you will note that there is a reference to additional guidance from the Government being produced. That, from our point of view, is very clear. What we want to see, to avoid any ambiguity, is that, so far as ACM cladding is concerned, that counts as a category 1 hazard under the Housing Health and Safety Rating System. With that, that would really aid our work going forward.

Q328 Kevin Hollinrake: Are you aware of the evidence we got last week from



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Claire Curtis-Thomas, who talked about 30 buildings nationally that had the cladding removed but insulation left on the outside of the building, which left the building in a very unsafe condition? Are you aware of any of those instances?

Mark Norris: Not until Claire raised at the Committee last week that it was the case that there seem to have been instances where remedial work had already been underway and did not seem to have done to the required quality, which is what I understood she was saying. Certainly if she was talking about general issues around the quality of workmanship when systems were being installed, that is certainly something that has been picked up, obviously, in the Grenfell inquiry, in terms of what happened in Grenfell, and we have heard indications both from Claire and from others that that has been replicated in other blocks as well.

Q329 **Kevin Hollinrake:** Are local authorities clear on what they should be doing in terms of proper remediation following removal of ACM panels?

Mark Norris: Yes, we have had guidance. It would be interesting to know from Claire or from BBA what the issues were that they have identified, because it was not clear from the evidence that she has provided to the Committee verbally what that was. If we are going to provide some reassurance to the building owners, we need to understand the specific issues that were identified in the evidence that she was able to gather.

Q330 **Kevin Hollinrake:** I think we have tried to get that information but it is not forthcoming. It is provided on an anonymous basis. Mr Stewart, in terms of the ministerially chaired taskforce, have the RLA been invited to join that taskforce as well?

John Stewart: We have not yet. We do hope that we might be. It is a strange situation inasmuch as very few of our members will own these buildings but obviously a number of our members will own properties within such buildings. There does need to be some private sector representation, whether that is on the freehold or leasehold side, or ideally both. We would welcome an invitation if MHCLG was to send one.

Q331 **Kevin Hollinrake:** You did refer earlier in your comments to Dame Judith not recommending a total ban. Certainly LGA and ABI had recommended a total ban on combustible materials. We felt the same way. What should we recommend? What should be in our report to the Government following this Select Committee inquiry?

Huw Evans: The thing about combustible cladding is the issue predates Grenfell. The scale and horror of Grenfell is obviously imprinted on all our minds but there have been fires—quite notable fires—before in other countries involving this cladding in high-rise buildings. In the insurance world, they are very well known—in Dubai, in Australia, in France, in Korea and the United States. This is not a one-off where we have seen the scale of what can happen. We have seen it in other high-rise buildings in other parts of the world.



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The danger is, as one of your witnesses was talking about, you talk about managing the risk but you then slightly miss the question, which is about whether you should have the risk in the first place. From the insurance perspective, we go back 350 years to when modern building regulations began in the aftermath of the Great Fire of London when Parliament very wisely, in 1666, passed an Act that banned the use of flammable and combustible materials in the rebuilding of London. That spirit carried its way through in legislation right through into the 20th century.

We are in danger, as some of the modern engineering construction methods become more sophisticated, in many respects for the good, of losing sight of the fact that using combustible materials, whether it is in high-rise buildings or buildings in which vulnerable people, such as in care homes or schools, are housed, is a fundamental decision that the state and Parliament should decide whether is allowable or not. If it does decide it is allowable, obviously we then have a separate discussion about how you can try to manage the risk within that. From the insurance industry's perspective, we do not quite understand why we have ended up in a position where we are talking about managing a risk that for the best part of 300 years, rooted in the very real experience in this city and Parliament's then response to it back in the mid-1660s, we had decided was a risk we should not deal with at all.

Mark Norris: At risk of being repetitious, I would endorse everything that Huw has said there. From our point of view at the LGA, it seems to us that the primary focus going forward has to be public safety and the safety of the people living in these buildings—those who live, those who visit and those who potentially work there. We have to take the lowest-risk option. That is the safest option.

As Huw said, we have 350 years of experience when Parliament wisely decided that non-combustibles was the route to go down in ensuring public safety here within the capital. That showed that going with non-combustibles is entirely the right route to go down in terms of reducing risk to the minimum. We cannot reduce it entirely; you are never going to be able to do that, so let us go with the materials that produce the lowest level of risk.

One has to say, just to add to what Huw said, that taking risks means taking risks with people's lives. We have had Grenfell, Lakanal House and Garnock Court in Scotland. 79 people have died in fires in those three buildings, which all had some form of combustible material on the outside of the building. As Huw also said, there is a range of buildings outside the UK where we have seen these fires. The evidence is overwhelmingly that where you put combustible materials on the outside of high-rise buildings, that creates high risk. Let us do away with that risk. Let us stick with 350 years' worth of experience that tell us that non-combustible materials are the lowest-risk option and the safest option to go with, and let us ban the use of combustible materials on the outside of high-rise buildings.



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John Stewart: We would support certainty about the regime; if that means a ban, that would be quite clear. It is important, also, to remember that while the focus is on cladding and high-rise blocks, that is quite right. There were also a string of other fire safety failings, in Grenfell, in Camden and recently in Tottenham, which have also shone a light on to other aspects of fire safety, which is why we feel the remit of the Hackitt report was perhaps too narrow. You have to get the whole package right and the enforcement has to be there as well. In the inspection regime and the enforcement, there needs to be some prescription. There needs to be simplification, clarity and certainty.

Huw Evans: If I may, Chair, add one final thing, from the insurance industry's perspective, the two things that could emerge from this process and act as legacies from this horrible tragedy, which would be of huge value for the future would be, on the one hand, a banning of combustibles, but on the other would be the widespread use of the sprinklers. I do not know if we are going to come to this in a subsequent question but the regime in England is shockingly lax in terms of the lack of use of sprinklers in schools, care homes and indeed in commercial warehouses. There is a real opportunity, off the back of this, to take a step back and take a slightly broader look at what causes fires, what causes devastation to human life, places vulnerable people at risk and causes mass economic damage.

As ever, the insurance industry holds a mirror up to risk. It often cannot do a lot to prevent it, but it can show you where the risk is located because of the claims that we pay. What we see very clearly is that the very lax approach to sprinklers in England, even in some cases in comparison to the other countries in the United Kingdom, never mind the rest of Europe, is much, much more light-touch than in other comparable countries.

Q332 **Chair:** You have all been talking about the fact that it is maybe not just the high-rises defined by Dame Judith that should be subject to a ban on materials that are not of limited combustibility, but other risky buildings—residential homes, schools and hospitals. Would that apply to sprinklers as well?

Huw Evans: Yes. With sprinklers, the most obvious absence, if you like, for them is in large commercial warehouses where, by way of illustration, they are not compulsory for large commercial warehouses. It is only recommended in the regulations that they are used in commercial warehouses over 20,000 square metres. In Scotland, it is 14,000 square metres. In the Netherlands, it is 1,000 square metres. In France, it is 3,000 square metres. Of course, these very large warehouses are increasingly common in our modern economy, because of e-commerce; some of you may have them in your constituency, where people work in very, very large spaces. In France, it is illegal to build those warehouses over 3,000 square metres without them being fully sprinklered. Here it is perfectly okay.



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We had one bizarre example, in the aftermath of the London riots, where the Sony warehouse in north London went up in flames in Enfield; that was 25,000 square metre warehouse, to illustrate my point. The insurance claim was £80 million. It was paid. The factory was put back on its feet. It paid for the 3.2 million units destroyed. Because that claim was paid, that building was replaced within 13 months. The Prime Minister came to open it and to celebrate how quickly the area got back up. There was not a single sprinkler in that building that was rebuilt after an £18 million insurance claim, 13 months after it went up in flames. If you do not have the fixed regulation in place that forces people to do this, this will not happen.

Q333 Chair: It should be about looking at these risky buildings and making sure that sprinklers are required in them and materials should not be combustible.

Huw Evans: Indeed, because people work in these buildings, increasingly so. Firefighters have to go in and put their lives at risk to put the fires out, and the economic damage that is caused when these large warehouses go up in flames is very significant. We can all understand the intuitive case around the care home and school. A commercial warehouse is something that should also have the same level of protection. That would be of significant benefit to workers as well as residents.

Q334 Chair: We talked about changing building regulations and guidance to achieve these changes. They would apply to new buildings and work on existing buildings. Should we make the change for existing buildings across the board, as well—high-rise buildings, warehouses and whatever?

Huw Evans: We would obviously welcome that. I can appreciate that colleagues around the table and others who are already talking about significant remediation costs off the back of Grenfell may have a different view. Even if we did it for new buildings, that would be a good start. In Wales, where they have toughened up, they have looked at new builds only.

Q335 Chair: Coming back to residential accommodation, can you seriously say to someone, "We have now decided that it is not very safe to build new buildings with material that is not of limited combustibility but it is alright for you who already have that material on your buildings. Carry on living there"?

Huw Evans: On combustibles, we fully support removing combustibles, as well as banning it. For installation of sprinklers, we can understand that there may be a case for making that a requirement of a new build but not necessarily insisting that everything that has already been constructed has to have retrospective fitting. That is a policy debate we would be delighted to have if the intention was to see a much greater use.



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Mark Norris: Picking up on part of Dame Judith Hackitt's report, we welcome the Government's consultation about banning the use of combustible materials and the fact they are talking about 18 metres in terms of the height, rather than the 10 storeys that she was talking about. Yes, we think it should be extended to other high-risk buildings where there are people who are vulnerable and it is going to be potentially difficult to evacuate them from them. All the kinds of buildings we have talked about in terms of hospitals, care homes, student accommodation and those sorts of places, we should ban them.

Logically, obviously the big issue is going to be the cost of how you do that. I do not think we know what the total cost would be. If we move down the route of saying it should be removed from existing buildings, then it makes logical sense to ask how we are going to pay for it, if we are going to do it for new build, and we are effectively doing it in the case of 45 council tower blocks and 150-odd registered social landlord blocks already, in terms of removing the cladding, so we are taking it off everything. There may need to be a phased kind of approach.

Q336 **Chair:** Presumably there is an argument for saying that if Government change building regulations retrospectively and building owners complied with the regulations at the time they were built, are Government therefore not liable to pay the costs of any resulting work from a change in building regulations?

Mark Norris: Yes, we would agree with that.

Q337 **Chair:** I suspect, Mr Stewart, you might agree as well.

John Stewart: Certainly on the cost question. Again, it is about risk and there is quite simply an expectation now that if one material is banned it will be retrospective and it will need to be removed and replaced on buildings. In respect of anything else, that expectation probably needs to be met.

Q338 **Matt Western:** Picking up on what Mr Evans was saying about warehouses, you may recall there was a tragic fire in Warwickshire 11 years ago, in 2007, where four firefighters were killed in a warehouse blaze. We clearly have not learned anything from that then, in what you are saying. No learnings from that were taken forward in terms of the implementation of the Sony building you were just describing. It sounds like there is more work to be done on a much wider basis than perhaps what we are discussing here.

I just want to pick up on the insurance side. Last week someone from Kingspan told us that it was no greater risk to have systems of limited combustibility that have been tested and pass BS 8414 than to have a system built entirely of non-combustible materials. He also said they had evidence of a fully non-combustible system that has failed an 8414 test. Do you agree with Kingspan, Mr Evans?



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Huw Evans: In short, no. We supplied to the Hackitt committee and published the testing of BS 8414 that we commissioned from the Fire Protection Association, which is a body of insurance technical fire experts. They did this work on our behalf and we have published the results. They basically tested the testing regime, specifically BS 8414, to see whether, if you slightly varied the assumptions on which the testing regime is based, you had significantly different results.

That gave us a very significant cause for concern, as we said at the time, about the efficacy of that testing regime, in particular around the use of modern day fuels that contain more plastics than the standard assumes, the use of vents and ducts, the installation of the cladding, the way in which the cladding creates a chimney effect, which sends the flames shooting up, and the operation of the cavity barriers. In five different areas, our expert testers found that the testing regime was not fit for purpose. Indeed, the BSI has now accepted that it will have a fundamental look at this testing regime.

It seems to me, to go back to your question, Mr Western, that to base a view that we can somehow manage the risk of using combustible materials on using a flawed testing system that we have ourselves demonstrated is not suitable for modern purposes is a bizarre argument. It is not one we agree with.

Mark Norris: I agree again with lots of what Huw has said. From our point of view, 8414 is a flawed test, as Huw has articulated, and the Fire Protection Association's test has provided a useful service to everybody in terms of exposing some of those flaws. It does not replicate what happens in a real fire in a real building. The only way to do that is effectively to build a proper replica of the façade and set fire to that, to see what happens. There are the points Huw made about the cavity and the way that interacts with fire in terms of spreading it. There are issues about the materials used in other bits of the system, not just within the cladding and insulation. There is the impact of the ducts on how the fire spreads. There are all of those issues.

There is also an issue in terms of it being a perfectly installed system when it is tested; it does not replicate in any way what happens on a building site. What we have understood is that when it comes to installing, for example, the rainscreen cladding panels on the BRE test rigs when these systems on the 8414 test, the gaps between the panels in terms of how far you set those apart can lead to a pass or a fail. If they are 20 millimetres apart, you might have a failed result; if you move them closer, to 10 millimetres apart, the system may then pass. With a building like Grenfell, we have had architects explain to us that the likelihood is that on any one face of the building it likely to be out of true between the top and the bottom by about a foot—30 centimetres—which introduces a great deal of stress within the system, which is down to millimetres being the key criteria by which you assess whether something is safe or not.



The other issue, as we have seen with the evidence given by Dr Lane to the public inquiry, is that what is said in the test reports that you get may not actually reflect what has been tested in the laboratory, so to speak. She highlights in her evidence that in one test report she was shown there were additional cavity barriers added in, which she had ascertained from the pictures that she saw of the test, into the actual test, but those were not then referred to in the test report. Anybody relying on that test report would not have been able to build a system that replicated what was on the side of the test rig when it was tested. From those points of view, we have concerns about whether it is going to replicate in any way what happens in real life and also in terms of providing that security and evidence base that what you are testing as a system is actually one that is going to be safe.

On the point that Kingspan raised at the evidence session last week, two weeks ago after an event at the RIBA, which in fact the Chairman spoke at himself, Kingspan sent the LGA a very short video clip that they said showed A1 and A2 materials failing a combustibility test. It was a very short clip. It was very difficult to tell from that what materials were on there. We then wrote back and asked for further details, including the test report, to be able to ascertain what actual materials had been tested. We have not yet received that. It is interesting, and perhaps the Committee might want to pursue Kingspan in terms of asking them for further details about that one, because I have not yet seen any evidence around that.

The other bit that falls out from their discussions is it seems to me that their line of argument was that 8414 was the only secure way to decide what is in the building. If we think that A1 and A2 materials also fail it, then that provides further evidence that we should definitely not be using combustible materials on the outside of a building, because if A1 and A2 materials can fail because they have been incorrectly installed, for example, on the side of a building, then that pushes us even further towards the need for banning combustible materials. One might even say it raises the question about whether we should have any materials on the outside of a high-rise building at all, rather than saying that we should then go back to a system that allows combustible materials on it.

Q339 Bob Blackman: I would like to follow up on one or two things from Mr Evans. Obviously the insurance industry can drive a lot of these culture changes. For example, it is open to your members to say, "If you do not have fire sprinkler systems within your warehouses or within various environments, we will charge you a higher premium or, alternatively, we will refuse your insurance. Has that been something that has come up during discussions?

Huw Evans: It is a dynamic marketplace. There are quite a few suppliers. You are right. They do have some of that leverage but the insurance industry also takes its social and economic responsibility seriously, which is to try to find a way to offer insurance, rather than to



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use what is an ultimate sanction: to refuse to do it. In a market, you can never be sure that someone else might not come along and offer it anyway.

You can do some of that, but that is why the insurance industry for some time now—certainly well before Grenfell—has been working both through us and through individual firms to try to get the policy change. We have been saying for some time that it was wrong for successive Governments to view building regulations and building controls as being an area of deregulation where you could take out regulations and meet various targets that were set by various Governments. We raised concerns about cladding, as I say, in advance of the Grenfell fire. We have been talking for a long time about the need for sprinklers and, at the very least, a degree of conformity within the United Kingdom around high standards, rather than this variety that we have between England at the bottom and Scotland at the top.

It is a mixture of all those things, Mr Blackman—public policy lobbying and trying to raise awareness of these issues. Yes, certainly some insurers in certain circumstances say, “You know what? This risk is too great”, but in many other areas they are looking to work with people to try, as they do across lots of different parts of insurance, to help risk manage themselves and say, “If you do this and you do this, you can be much more insurable than if you do that”. It is a mixture of all those things.

What we certainly have not wanted to do as an industry is see a collapse in the supply of insurance following the Grenfell fire. I am very pleased and relieved to see that that has not happened. The Hackitt inquiry, the process that you are doing and the work that the Government are doing is vital to provide reassurance to the industry that change will happen and will come as a result of the terrible events, and that the system will end up safer, with better risk management at the end of it than it had before. That will in itself underpin a healthy insurance market and one that is affordable for customers.

Q340 Bob Blackman: Can I clarify one other issue? I would like comments from all three panellists. Cladding is applied to buildings for a purpose, normally for insulation and for protection against wet weather, and also to maintain the buildings as reasonably warm as opposed to cold, and equally to prevent the incursion of damp, mould and other things. Given cladding is being removed, how do the buildings then become safeguarded once that cladding has been removed?

Huw Evans: We are not in denial that this is quite a challenge for the people who own and are responsible for those buildings. As you said, they are installed for energy conservation reasons and other good reasons. The intentions of people who wrapped these buildings in cladding were positive, and I do not think it is fair for any of us to be sanctimonious about what subsequently happened, albeit we were



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warning about the fire risk as the evidence accumulated from outside the UK, as I have said earlier.

I would go back to my earlier answer, which is for 350 years in this country—certainly 300 years—we had a focus on building buildings that were fire-safe, possibly because our predecessors had a slightly more vivid understanding of how devastating fire risk can be. As it has become rarer, possibly our sensitivity to it has diminished a bit, so we have become a bit more complacent about putting in combustible materials in order to meet other perfectly laudable policy goals, like reducing damp, improving energy efficiency and so on. We need to see a rebalancing of that. Certainly, if the construction industry, the engineering industry and others whose specialism this is can find ways of trying to meet some of those needs in a more constructive way without using combustible materials, we will absolutely do our best as an insurance industry to support that and play an active part in the risk management, which may go forward.

Q341 Bob Blackman: If they cannot, should they take the buildings down?

Huw Evans: I do not think ultimately that is our call. Our call as an insurance industry is to provide an honest assessment of the cost of insuring a building that we would still consider to be a significant fire risk. The fact that the Hackitt review has said that the system is not fit for purpose surely has to result in fairly fundamental public policy change. There would certainly be consequences from an insurability point of view if that failed to materialise.

Mark Norris: In terms of the options once you are a building owner in terms of stripping it off, you do have options that are non-combustible. You can acquire these, and people have done this because we know there are buildings out there with ACM panels on it that are not-combustible and are fire-resistant. Similarly, you can provide mineral wool as an alternative to some of the combustible insulation products that some manufacturers produce. In that sense, if you are a building owner and you have stripped off what is combustible material, there are a range of options available to you in terms of replacing it with non-combustible materials.

That may not extend to everything you might need in terms of putting together a system but I would be confident, if Parliament decides that that is what it wishes to do and it wishes only to see non-combustible materials on the outside of high-rise and high-risk buildings, that innovation will drive products and produce products in the marketplace that satisfy the need of people to be able to put cladding systems on the outside of their buildings with non-combustible cladding, non-combustible insulation and other non-combustible products.

John Stewart: Obviously there are tensions between different pieces of legislation and different outcomes that you are trying to deliver. Clearly public safety has to override perhaps the environmental concerns in the



short term. As Mr Norris says, if there are products that can deliver the same level of thermal insulation, the same protection from the elements and the like at a particular cost, that is something that needs to be considered. Perhaps in the short to medium term, there needs to be not a relaxing of the drive over some of the energy efficiency legislation, for example, but perhaps the leeway given to particular types of buildings that are at risk.

Q342 Bob Blackman: Given your earlier answer to Mr Hollinrake's question in relation to potentially private sector blocks, where the leaseholder may be told that their property is valueless without this, faced with a huge bill, what happens then? Should the block be taken down and rebuilt as an alternative?

John Stewart: Again, you are looking at extreme measures. If the building is fundamentally structurally sound and you can find a way of replicating the thermal insulating qualities of the banned cladding or the anticipated banned cladding, then that is something that should be considered. Again, it comes down to that issue of the upfront cost and the valueless asset. Again, it comes back to the fact that, if low cost funding can be made available in the first instance to leaseholders within those properties, that must surely, even if there is a long repayment period, give them the best possible chance of not only retaining their home—at the end of the day, these are people's homes—but also building the value of that home and asset back up in order to eventually be able to recover the cost of the remedial measures, notwithstanding the ongoing legal issues over responsibility, ultimately.

Q343 Liz Twist: I wanted to ask about how long we have known about the risk from combustible materials. We are talking about this in light of the really tragic events at Grenfell but these materials have been around for years. Has anyone been raising concerns about these materials in the period running up to Grenfell?

Huw Evans: As an example, we flagged in our response to the Government's housing White Paper in May 2017 our concern about combustible materials in high-rise buildings in the light of the fires we had seen in Dubai, Australia and France, as I referenced earlier. We flagged it there.

In a lecture that my colleague gave in 2016 on the 350th anniversary of the Great Fire of London, he flagged the insurance industry's concerns, both about the way in which building controls and fire safety were viewed as a target for deregulation and the need for a fundamental overview of the building control system to make safety more central to that regime.

Those are just two examples from recent years where we have been trying to say and have been arguing since 2010 for an overhaul more broadly of some of the issues that Dame Judith touched on. It is fair to say this has not been viewed, notwithstanding significant fires such as the one in Mr Western's constituency, as a public policy priority until now.



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It has been very hard to get much traction on these issues with successive Governments. It is only now that we have the degree of focus that sadly a terrible tragedy can often bring.

John Stewart: We had Lakanal House and the review of building regulations that was promised as a result of that. That was constantly delayed. To be fair to our members, they are more likely to be the victims, if you like, in the circumstance in terms of the leaseholders owning the property, but there is or has been a regime in place, a testing regime and the like. People who have been investing in properties, buildings and the like have taken on trust that that regime has been fit for purpose and will deliver results that are promised. Unfortunately, we are now seeing that trust has been misplaced.

Mark Norris: On an historical note, we have been concerned about cladding systems since at least 1991. There was a fire in the Knowsley Heights block in 1991 that had a cladding system on it. Subsequently, after Garnock Court, which was a building in Scotland, again there was a review and in fact a predecessor Committee to this Committee looked at the issue of cladding systems, how safe they were and what should be done. As has been mentioned, there was Lakanal House after that. There has been a considerable period of time where we have raised these issues.

There has been some awareness of the issues with cladding systems and the issues around combustibility with them, which have been raised periodically. It is just that, as has been said, it has not been addressed by Governments of a variety of natures over the last 20 to 30 years probably, in terms of looking at it. That is why we need the opportunity now to move on to a position where we do categorically ban the use of combustible materials on the outside of high-rise and high-risk buildings.

Q344 **Andrew Lewer:** Still on this topic, do any of the panel members have a concern that even non-combustible materials when put on buildings as cladding can still create a chimney effect that can have damaging or indeed destructive consequences to buildings? Further to that, we heard in previous sessions that these cladding systems were put on buildings that would otherwise have been regarded as being end of life. Now that this has happened and there will be concerns about any replacement systems, are these buildings just simply at end of life?

Huw Evans: If I touch on the installation point, certainly the point of our testing of the testing regime was to examine the wider issues of installation. Our findings are relevant to what the risk is if you install a less combustible or non-combustible material. Anything, if badly installed, can pose a risk that a testing regime that is geared around perfect installation does not pick up, never mind some of the other features that we identified, such as the use of modern day fuels, which undoubtedly can create a more powerful fire much quicker. You could have non-combustible cladding on the outside, which would be a step forward, as we have been discussing, but if your testing regime does not



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take account of the fact that modern day fuels have more plastics in them, which provide much more intense peak heat much quicker, you are missing a trick. That is back to the wider issue about this testing regime.

If the testing regime can be made more holistic, both in terms of the types of fuel and the ways in which cladding of whatever kind is installed, or anything to do with the outside and the inside of the building, that would be healthier. There will always be some degree of risk built in with making a modification to a building that was not designed for it. These buildings were built in the early 1970s, in the case of Grenfell Tower, and when they were designed and built they were not designed with the view that you would wrap something around them, even though the decision-making process that has led to that was made for perfectly understandable reasons. You are right to have a degree of ongoing caution about the way in which those modifications can be made and to have possibly a more considered sense that risk will still remain, potentially, in terms of the way in which these things are installed and the limitations of any testing method.

Mark Norris: It goes back to Dame Judith Hackitt's point in her final report about competence and how important that is when it comes to installing it. We have seen the evidence about Grenfell in particular, in terms of the way some of the materials were installed incorrectly. We need to get to a position where that is not the usual case. The worry is that, based on what the BBA have provided in terms of evidence, that is maybe more widespread than we would hope. Improving the competence of everyone in the construction industry is going to be very important point going forward to address that.

I still think, at the end of the day, we may have issues, and I am not technically able to talk about whether or not you could have ones with a completely not combustible system, but it strikes me that a non-combustible system is going to be inherently safer than one with combustible materials in it. There may be issues that you need to address. With cavity barriers, intumescent strips may have an important role to play in stopping the spread of fire, but I would have thought inherently the risk of spread of fire will be much less in that than in something that uses combustible materials.

Huw Evans: Although it has had its critics, Dame Judith's report is admirably clear on the need to have multiple lines of defence, in much the way that the oil and gas industry, which I think she has been much more involved in over the years, reformed its safety systems after Piper Alpha, which was to ensure that you are not relying on any one thing, whether it is the safety system, the materials that are used in construction or the building regulation system. Her central vision is that you have multiple lines of defence that all have to be breached in their different ways to have something of the scale of Grenfell again. I am sure that is intellectually the right approach and the right guiding principle for a system that should follow.



I do not think our disappointment about the lack of a recommendation to ban combustible cladding should obscure the fact that her ultimate vision is the correct one. Some of the discussions we have been having today about the different parts of the system really reinforce her view that you have to build in these multiple layers of defence, all of which have to be breached to end up with a major event of the kind that we saw.

John Stewart: I am not an expert but there will always be an element of risk, not least from fixtures and fittings—things like windows. A real issue, particularly with multi-occupancy dwellings, is that inability really to get behind the front door of individual homes. That is where potentially things like compartmentalisation can be breached by things done by individual homeowners or tenants. It is really very difficult to have any control over that without perhaps strengthening the ability of the responsible authority to get beyond that front door.

Q345 **Andrew Lewer:** You talked about competence earlier. Did you support the independent review's proposal for a Joint Competent Authority to be responsible for monitoring and enforcing building regulations across the building's entire lifecycle?

Mark Norris: Yes, we did. From the LGA's point of view, it is a welcome direction of travel. One thing that has been clear from everything that has happened post-Grenfell in terms of looking at building safety is the complexities of the issues we are dealing with. It is very difficult to find one organisation, less one individual, that is able to grasp all the complexities and variabilities with the particular issues around fire safety that need to be addressed. Bringing together a range of expertise seems to us the right way to go forward.

When it comes to it, for the Joint Competent Authority one of the key issues going forward is going to be the set of powers. We have already heard this afternoon about the complexities of the interaction between the fire safety order and the Housing Health and Safety Rating System. Some people describe that as an overlap. From our point of view, there are gaps between them. One of the things that need to be done is to look at that. What Dame Judith recommends with her report around the power for that authority to be able to issue stop notices and to be able to issue improvement notices is going to be quite an important point in addressing that, alongside the point that was just raised in terms of actual access within high-rise buildings to residential premises owned by leaseholders, so you can make sure that what they have done has not compromised the safety of that particular building.

Huw Evans: We have welcomed it as a more effective framework. We have seen in our work in flooding and water management that multi-agency approaches can work much better, not least in co-ordination of the system. The central point is that you can co-ordinate better with an oversight body but the system that is being overseen must still be fit for purpose. A co-ordination mechanism is welcome and would certainly be better than the current set-up, but if it is overseeing a system that does



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not work it will have limited traction, so we need to keep the focus, from our perspective, on making sure the system itself is fit for purpose.

John Stewart: We are less enthusiastic, obviously, about the Joint Competent Authority. There are a number of reasons for that. First, it does seem to be introducing a third layer into an already complex area of regulation. The HSE's inclusion we find a little strange given that they do not have any particular responsibility or expertise, particularly within building management.

We also have concerns about the inclusion of local authorities within the authority. Local authorities cannot take enforcement action against themselves, so those properties that are still managed directly would almost be out of scope of the Joint Competent Authority, and our experience is that local authorities are generally somewhat reluctant to enforce against housing associations and ALMOs as well. We would rather see responsibility lie with the fire and rescue services, and we would rather see perhaps a system of primary authority brought in.

The other concern we have is if these are local or regional boards, you are going to get inconsistency, potentially, in the approach. You are not going to get a national system; you are going to get local variations. People again can be in a situation of lacking that clarity and certainty about what they are required to do.

Q346 **Andrew Lewer:** Very quickly, local authorities are often criticised for not undertaking their enforcement duties and funding is often cited for that. What additional resources do you think the local authorities will need to ensure that Joint Competent Authorities are able to fully carry out those enforcement duties, whether it happens to be local government, fire authorities or whoever ends up doing it?

Mark Norris: That is the important bit, and I raised it earlier, where the funding mechanism for the Joint Competent Authority becomes quite crucial. It has to be on a cost recovery basis, so that local authorities, the fire and rescue service and the Health and Safety Executive are not out of pocket when they take enforcement action.

There is also the other recommendation within Dame Judith's final report, which links that to building up a fund that enables enforcement to be taken. As part of that cost recovery principle, you are effectively building in there the capacity to build up the ability of enforcement to be taken by the organisations that make up the Joint Competent Authority as the right route to go down, because that provides you with a fighting fund to take enforcement action.

John Stewart: We would agree with that. We have seen it in housing enforcement as well, where the local authorities can retain fines at the moment. Capacity generally has become so low within either the environmental health or trading standards department, so they just do not have the ability to effectively enforce at the moment in order to get



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those fines. I would agree that there needs to be some seed funding there to ensure that there is capacity within whatever enforcing authority ultimately is agreed, which then would move on to full cost recovery once prosecution starts.

Q347 Helen Hayes: Do you have confidence that local authorities and private sector landlords will implement Dame Judith's recommended approach for listening to and addressing tenants' concerns around building safety?

Mark Norris: From a local authority perspective, some of what she recommends is already good practice in the local government sphere. She cites Scotland as a particular example, in terms of some of the work they are doing, both in terms of participation and particularly in tenant scrutiny panels. In an English context, those are also happening, so there is a range of local authorities out there that have tenant participation strategies, typically lasting two to three years, and then a range of mechanisms in place by which they can engage with tenants and leaseholders. Obviously it is about picking up on that, and part of the work the LGA is doing on its broader part around housing is commissioning some work to identify good practice in this particular area, and we will be looking to publish that later on this year, in the autumn, and share that with our member authorities.

John Stewart: In defence of local authorities, I did used to be a local councillor, and tenant engagement can be incredibly difficult sometimes, particularly when you are dealing with vulnerable groups. It is not always a priority to feed in to how their building is managed or maintained. It can be quite a difficult area to work in. We are seeing areas of leasehold reform coming through now as well. It is important, when it comes to alterations or changes to buildings, that either tenants or leaseholders are involved in the process. How far do you go with that? Should a landlord ultimately be required to inform all tenants of works that are due to happen? Is informing them simply enough? How far do you go down the engagement route? How do you deal with people who simply do not want to engage? In the case of local authorities, there are perhaps vulnerable tenants whose lives, quite frankly, are difficult enough for themselves to manage without being asked to become involved in the management of the building? In the case of leaseholders who are private landlords, how do you deal with absent landlords and how do you ensure the private rented sector tenants within such buildings are involved?

It is a complex and difficult area. There are a number of relationships that exist potentially within a high-rise block, from the leaseholder and freeholder interest to private landlord interest, private tenant interest, social tenant interest and the occupier interest. It is a very complex and difficult area to manage. I am sure that both local authorities and private landlords will do their best to implement the recommendations but it is a complex area. It does rely on people feeling involvement is going be valuable and valued, and understanding the importance of their input into the process.



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Q348 Helen Hayes: The Hackitt review recommends that landlords better involve tenants in decision-making around fire safety. Are there particular measures that you can think of, or perhaps even particular requirements of landlords, that could be introduced that would help to make that engagement more effective?

John Stewart: Again, you have to make a distinction between the freehold landlord and leasehold landlords within the building. We do think having a competent person responsible for fire safety across a building once it is occupied would be incredibly helpful. That gives clarity, whether it is a building manager, leaseholder or another appointed third party. It does give a point of contact for people. It would simplify the system at the moment and provide clarity.

You also still have that issue where common areas in the building are the responsibility of the fire and rescue service, and beyond the individual front doors is the responsibility of the local authority. If we could look at almost reinventing the wheel, in terms of the Local Authorities Coordinators of Regulatory Services—the LACORS guidance—it did fulfil a purpose and do its job, but it is 10 years old and needs updating. LACORS no longer exists to do that. Something that perhaps recreates that clear guidance would be helpful.

Mark Norris: Councillors are already considering how to share the risk assessments with residents. Picking up again on Dame Judith's recommendations, once a building is occupied and the building head is required to put together the fire safety case that goes to the Joint Competent Authority to show what they are doing and how they are addressing fire safety issues, again it would seem to make sense to share that with residents because that gives them the opportunity to scrutinise what their landlord is doing and hold them to account through the various mechanisms I have just talked about, but also those that are set out in Dame Judith's report in terms of ability, particularly on the local authority side, for tenants to be able to scrutinise their council about what is happening, what works is being done and how it is going to progress.

Huw Evans: There were some interesting points that came up at one of Dame Judith's stakeholder roundtables where Glasgow City Council were talking about how they had employed former fire officers who had worked locally and who went around door to door in the high-rise buildings talking to tenants about fire prevention; it was quite straightforward fire prevention, but they were having a conversation with them, drawing on their own experiences very much as local people who were respected, knowing what they were doing and spending the time to talk to tenants. That had a measurable effect on the reduction of fire instances in their housing estate. There are potentially some interesting areas out there to look at in terms of what makes a difference given the difficulties that colleagues have described.

Q349 Mike Amesbury: Are there any specific and urgent recommendations you would bring forward that were not covered by the independent



review in regards to building regulations?

Huw Evans: The main thing we would like to see is the focus on Approved Document B. That is the main framework around regulation. This has not been looked at since the early 2000s, and yet construction methods have changed very significantly since then. For us, that is a key area of focus that the Government can proceed with and need not wait for any other process.

If you can add in then a ban on combustibles as we have discussed at length, a focus on how sprinklers can be used in warehouses, care homes and schools in England, not least just to match best practice in Wales and Scotland, never mind elsewhere in continental Europe, and look to implement Dame Judith's recommendations around the multiple lines of defence, you can see a way in which you can have a very substantive programme of measures that are put in place over the next three to five years, which could make a very significant difference.

From an insurance perspective, we would certainly like to see the focus on Approved Document B.

John Stewart: In terms of the focus on high-risk residential buildings and high-rise blocks, the recommendations are good as they stand. Where we would like to perhaps see new legislation or regulations brought forward would be over the general fire safety measures. Perhaps it is right there is an urgent focus on high-rise but we would like to see, as we have mentioned, perhaps a single point of contact in a building for fire safety measures, a clarification of those rules and responsibilities, and perhaps a primary authority as we say for the enforcement regime, which would give consistency and clarity across the board.

What our members in particular look for is to give them peace of mind that they know they have done everything they can to keep their tenants safe. At the moment, that is not always easy. Looking at some of the guidance that is already out there, again the fire safety order and the regulations could be looked at.

There is a lot that can be done without primary legislation, particularly in terms of guidance. While the focus is on the high-risk buildings, we would welcome some further movement on areas like low-rise buildings and split responsibilities clarity and guidance. Specifically we would like something like LACORS again: that single document that acknowledges the different risk of different types of building and different types of letting arrangements, where a landlord or building owner—or homeowners for that matter—can go and be clear about the steps they need to take to, as far as possible, mitigate risk of fire within the building.

Q350 **Mike Amesbury:** Mark, do you have something that might urgently need to be addressed but was not covered by the review.



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Mark Norris: We have already talked about, as Huw said, the ban on combustible materials and a ban on use of desktop studies. We really stress those as important. Like the ABI, the LGA would also stress the importance of looking at Approved Document B and rewriting that so that it is crystal clear about what is and is not allowed on the side of a building. The debates that we are having about whether or not filler counts as the core material or whatever it is in between ACM cladding panels suggests to us there are issues with the clarity of that document. We need to clarify that.

In terms of regulation and enforcement, unless you have very clear legislation, very clear regulations and very clear guidance, it is very difficult to take enforcement action without that clarity. From our point of view, rewriting Approved Document B, like the ABI, would be at the top of the list.

Q351 **Mike Amesbury:** Organisations such as the FBU have mentioned sprinklers as something that would help. Is that something you would agree with?

Huw Evans: As Mr Western noted, firefighter deaths have occurred as a result of the current system, particularly in these large commercial warehouses where firefighters are at very significant risk when they are having to go into the midst of a very large building that has no fire control mechanism. Nobody has ever died in a high-rise building in the UK as a result of fire where it is fully sprinklered. Sprinklers are enormously effective. They have a massive difference where they are installed, whether it is in commercial properties, school, hospitals or high-rise buildings.

It is right that we think about firefighter safety in all this. They are much more at risk as a result of the lack of protection that is available in commercial warehouses than they would be working in Scotland or indeed in our nearest neighbours in continental Europe. That does not feel right.

Q352 **Chair:** Finally, Mr Norris, you talk about enforcement. The LGA has not said much about building control and whether it should be an independent element of the enforcement process. You talked about enforcement. Should building control be independent, so that we can see that enforcement action is genuinely independent?

Mark Norris: We would agree entirely with what Dame Judith talks about within the review in terms of building control: it being a local authority responsibility when it comes to enforcement around high-risk, high-rise buildings. That makes sense to us in terms of separating it out from the process whereby you might have a commercial relationship with somebody who is building that building. It seems entirely right that is the route to follow.

Chair: Thank you all very much for coming to give evidence to us this afternoon.

Examination of Witnesses

Witnesses: Dominic Raab and Andrew Pattison.

Q353 **Chair:** Thank you very much for coming to give evidence to us this afternoon. You may have gathered that we have had so much evidence on this particular inquiry that it has taken us slightly longer, both last week and this week, to take the other evidence that we have been getting as a Committee, so thank you for waiting slightly longer than we had anticipated. Also we were going to talk about land value capture as well today; we have now postponed that for another time, so you can have two invites to the Committee, which I am sure are always welcomed. Thank you for coming. Perhaps you could introduce your official as well.

Dominic Raab: I will let Mr Pattison introduce himself.

Andrew Pattison: Hi. I am Andrew Pattison. I am one of the directors on the building safety programme within MHCLG.

Q354 **Chair:** I understand Mr Pattison had a key role to play in Dame Judith's independent review. Is it usual that when an official is advising a review of that kind, they are then made responsible for implementing the findings of the review, particularly when there may be criticisms, as there have been, of elements of the review?

Dominic Raab: I do not think there are any hard and fast rules, but obviously we wanted to support the independent review that was done, and it helps actually to have a conversation about some of those issues even when there are differences of views, but criticism is part and parcel of any independent review. As you can see, for example, on the course we have charted on combustible materials, we will take an independent view ourselves about the findings, but overall I would say this is a ground-breaking report. The paradigm shift that Dame Judith is seeking to effect over time—and there will be a short-term, medium-term, and long-term change involved; it will not happen overnight—is fundamentally the correct one.

Q355 **Chair:** Just in terms of Dame Judith's review, do you think it really offered to residents living in high-rise properties confidence and reassurance that the buildings they live in are safe?

Dominic Raab: I think it does when we look at the end point to which Dame Judith wants to get. I hope this will not seem inappropriate, but I doubt many MPs have actually read Dame Judith Hackitt's report; it is very long. I suspect many residents would rely on us, your Committee, Ministers, to distil up what are the key points. Dame Judith has made the



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case for an overhaul of the regulatory system, away from, to put it in my own words, a box-tick comfort zone. If we ban this and we ban that, we think that we have a sense of security that actually is missed, because, as Dame Judith has pointed out, you have to look at the safety of the system holistically. She has been promoting a shift towards a more consistent and rigorous focus on compliance enforcement.

There are examples in other areas—the civil aviation sector is one Dame Judith talked about—where that follows best practice. As I said, there are some cases and instances where, notwithstanding how welcome the report is, we will go further if we feel that that is the right thing to do. The consultation on banning combustible materials in high-rise residential buildings, which will be published on 18 June, is one example of that.

Q356 **Chair:** Yes, and we would welcome that. We have been calling for the ban on materials that are not of limited combustibility for some time. Just in terms of Dame Judith and her approach, it seems that by and large she has focused on the longer-term changes to systems and the culture. Do you think there should have been, or do the Government want to ensure there is, a more immediate focus on the changes here and now that need to be made to the existing building regulations?

Dominic Raab: We have already started implementing some of the interim report. We have already got the consultation on restricting the use of desktop studies. We have made clear that if we do not feel that the evidence that we glean from that satisfies us on safety, we would go further and consider a ban. We are already clarifying the fire safety guidance and Approved Document B, and, indeed, we are looking at the wider suite of approved documents to make them more user-friendly, and we have talked about the combustible materials consultation.

I think there are some immediate actions that we are taking, but if you are looking to effect lasting change and cultural change amongst the sector, as well as amongst the regulators, and make that paradigm shift from the box-tick comfort zone to the consistent and rigorous focus on enforcement and compliance, that will take legislation and that will take time. I think we have got the right balance between the immediate action that we are taking—and I do understand why it is important for people to see that we are making those changes—and what I would regard as the durable, lasting change, which is at the heart of what Dame Judith is advocating.

Q357 **Chair:** Is there anything more on the current and immediate agenda that you may have? You mentioned the materials of combustibility and the desktop studies. Is there anything else the Government are looking at where you may want to institute some changes that could come into force in the next few months?

Dominic Raab: I also mentioned the clarifying of the fire safety guidance with Approved Document B, and the work we are doing with experts to consider the wider approved documents and how they might be



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restructured and reordered. That feels like a cosmetic change, but actually it is quite important, because it is about how user-friendly it is for those people that are relying on it. I think that gives you the right range of immediate near-term stuff that is already underway.

Q358 Liz Twist: Looking at cultural change again, Dame Judith has proposed a risk-based regulatory framework that puts greater responsibility on industry to identify and manage risk in the construction process, but is also clear that the current framework has failed in part due to a culture of ignorance of the regulations and guidance, and a motivation to do things as quickly and cheaply as possible, and indifference when concerns are raised. Are you confident that the industry is going to fundamentally change its whole approach itself?

Dominic Raab: That is the objective that we all much pursue. I do not think Dame Judith, either in relation to the system in place or the sector, has pulled her punches. She described the construction sector in parts as giving rise to a race to the bottom. There are recommendations in her report on everything from training and professional development in the sector to the crucial issue of having duty-holders, from the design right the way through to the refurbishment stage. In chapter 2—I am sure you will have read it—there are provisions on sanctions and what the real bite at the end of that will be. We will work with the industry to reform the system.

I gave the civil aviation sector as an example of good practice or better practice, and there are examples, such as the oil and gas sector, where, following the Piper Alpha disaster, actually with the Government taking a lead, but working with the sector, we managed to get their house in order. I do think it is achievable and deliverable, which is the short answer to the question you asked.

Q359 Liz Twist: How are we going to do it?

Dominic Raab: There are the short-term measures that we have to put in place, and your Chairman has gone over those. There will be, at the longer-term end, the new regulatory framework that will be overseen by the Joint Competent Authority, which brings together the local authority, building controls, local fire services and the HSE. There is the identification of far clearer roles and responsibility for the duty-holders, which I mentioned as well. There is also the beefing up, if you like, of the power and the voice of residents to escalate concerns that they have, making sure that the redress is there and that it is more effective, perhaps through escalation to the ombudsman and then up to the JCA.

I think some of the stuff around the regular new safety case reports will also make sure we keep that consistent focus on accountability. I think Dame Judith talked about a golden thread of information from design to building and maintenance throughout the system, and that is going to be part of it as well. As I said, there are some short-term measures we can take, right the way through to the legislative and regulatory overhaul.



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Q360 **Liz Twist:** Cultural change takes a long time to implement, does it not, in terms of making a change in how people approach things?

Dominic Raab: Absolutely.

Q361 **Liz Twist:** How are we going to do specifically that cultural bit, rather than the regulatory bit?

Dominic Raab: We need to be clear about the underlying structure of the regulation and the pressure and the penalties it places on the sector, along with the work that we do with the industry to get it to take a lead in some of those areas I talked about, whether it is professional development or training, but also not just satisfying the standards and new responsibilities but excelling and exceeding them. That is the only way to get that dual track to restoring public confidence in the system. You are right to say that will not happen overnight.

Q362 **Liz Twist:** Many people would have preferred Dame Judith to take the more prescriptive approach to the building regulations. While accepting that an outcomes-based approach could still include a degree of prescription, as you touched upon it, she told us that simply banning something from happening is no guarantee of compliance. Do you agree with that approach, and why could she not have done both—greater regulation and broad cultural change?

Dominic Raab: Just to be clear about this, I do not need to come here and defend Dame Judith; I am sure you will be taking evidence from her. We had an independent review of this precisely so that someone with the length and breadth of her experience and expertise could look at this and give her professional view. I think you are right that it is a balanced approach. Her fundamental insight that prescription alone would be inadequate is right, and that is one of the reasons that we have a system that is in need of an overhaul. It is about enforcement and compliance.

At the same time, on the substance and the merits of the argument, and also in terms of public confidence, it was important to proceed to the ban on combustible materials. There is an argument for both, and as a Minister I will exercise my judgment, and the Secretary of State and other Ministers will do the same. I would not want to be in any way perceived as eclipsing what I think is the fundamental insight that Dame Judith has offered us, which is to focus on compliance and not get into the false comfort zone of a box-tick approach.

Q363 **Jo Platt:** The Government have pledged £400 million for councils and housing associations to replace unsafe cladding on their high-rise residential buildings. Why did the Government decide to take this funding from the Affordable Homes programme?

Dominic Raab: Based on our discussions with local authorities and based on assessing the scale of the challenge, the aim is to make sure that we can put residents first and free up those local authorities to make the remediation that they must do with confidence, in relation to the buildings that they have authority or ownership of.



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A secondary factor, but a significant one, is not to allow that to detract from a different but also important set of priorities around the homes that they are building. From the point of view of the overall budget, we will not be detracting from the £9 billion going to the Affordable Homes budget, because it will be replenished in 2021-22. We will make sure that we have the right balance, but all of these things have to be paid for and that is one of the reasons it was a finely balanced decision and we had to take our time to look at it.

Q364 Jo Platt: Last week Claire Curtis-Thomas told us that she was aware of as many as 30 buildings that do not now comply with fire safety regulations after the removal of ACM panels. Following refurbishments carried out on the basis of guidance issued, the Chair wrote to the Secretary of State on this issue last week. What urgent steps will the Government take to investigate this and ensure the safety of affected buildings?

Dominic Raab: It is a good point, and I saw the coverage of this. We are obviously aware of the comments made by Claire Curtis-Thomas. The Department, in July of 2017, published its own guidance on how to remove and replace cladding. We also clarified the guidance for building control officers signing off on new cladding systems. Our expert panel met on 27 June this year to review this advice and make sure that it is correct.

Neither the Government nor, in fairness, the building control bodies can take action on the specifics unless we have all of the details from the BBA. Where any information has been provided to us on specific buildings—and there are six cases—we have been able to follow up on this. I can report to you and the Committee that work is being monitored very carefully in relation to those, but obviously if there are any specific concerns we would need to see the detail of it; I think you have asked for the same. The first port of call should be the owners of the buildings, but as and when we get the details, which we have asked for, we will of course pursue that.

Q365 Jo Platt: With regards to regulations, and not just those with ACM, in Greater Manchester, for instance, over 300 high-rise buildings have been deemed not fire-safety-compliant. Again, it goes back to it not just being about the panels. Are you concerned about that?

Dominic Raab: I am concerned about the issue as a whole. A huge amount of work has gone in. I am not clear whether you are asking me about the private sector as well as the social sector, but there are streams of work underway. The Government announced a series of new measures beyond those that I think were in place the last time I gave evidence before this Committee on 28 June. There is the ministerially chaired taskforce to oversee the remediation of the private sector buildings; the LGA, the fire chiefs, the councils and the local authorities will be part of that, and they will be backed up by a joint expert inspection team.



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We have given money to local authorities to help further with enforcement steps and identification. There is going to be further statutory guidance for local authorities. On the private sector side, on top of the social sector side, there has been already a recent roundtable with industry. We have seen some positives coming forward in terms of Taylor Wimpey, Barratt and Legal & General taking a lead. We have made very clear that we will expect the owners and developers in the private sector to pay for the cladding; the leaseholders should not be on the hook. We are writing to all relevant private sector building owners to remind them of their responsibility.

In relation to Manchester or any other locality, I will look very carefully at the detail of that, and I know the Secretary of State will. What I wanted to impress upon you is already we have a whole stream of work on the social sector side, and we have our administrative guidance that we are going to be giving to local authorities about applying for the £400 million; that is going to be announced relatively shortly. There is then the other strand of work on the private sector. We certainly do take it very seriously.

Q366 Jo Platt: Do you still stand by the comments about the private sector having to do the right thing? I think that is the advice that you gave the private sector in order to carry out their works. There are tenants who are basically being sent to a tribunal in Greater Manchester, and I think that is imminent. This is something that we need to take action on; do you agree with that?

Dominic Raab: Yes. Just on the tribunal, of course—this is particularly true in the private sector but actually across the board—the legal arrangements written under the leases are quite important, and some of that is qualified by general law. Working out the legal position is actually quite important; it could be to the benefit of the leaseholders depending on where they are. At the same time, the point we have made, as a matter of moral and policy position, is the leaseholders should not pay any unreasonable or undue costs, and we do not think the private sector should be let off the hook with this. They are responsible for this, and I do not think that any of us, whatever political party, would actually detract from that. It is a private sector responsibility and we will rule nothing out if others do not take the lead that the three that I have highlighted here have.

Q367 Jo Platt: You have just mentioned that you set up a ministerially chaired taskforce to actively oversee the remediation of private sector buildings with ACM cladding systems. How do you envisage this taskforce working in practice?

Dominic Raab: It is charged with making sure that remediation plans are put in place at pace across all private sector buildings with any ACM cladding systems, and finding out what the barriers are to delivering that. I mentioned the cast list on that. It will also be underpinned by the joint expert inspection team, which will help the local authorities on the



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ground, so it will support them with ensuring and enforcing remediation of private sector high-rise residential buildings. That is the sort of dual strategy with the taskforce.

Q368 **Jo Platt:** Do you think that they have the necessary resources and expertise to investigate and enforce the remediation of private sector high-rise in their localities?

Dominic Raab: Do you mean the local authorities?

Jo Platt: Yes.

Dominic Raab: We have put £1 million available to support them out on further enforcement steps. Obviously, there is the money on the social sector side. We will keep that under close review, but they should have. With the support that we are providing, and obviously with this additional support, both from the taskforce and the expert inspection team, we will provide reinforced leadership, but we will keep the resource envelop under review.

Q369 **Jo Platt:** The Government have said that they will rule out no options if industry and individual building owners or developers do not come forward with their own solutions to remedy their buildings and protect leaseholders from the additional costs, as we were talking about earlier. Is there anything specific that Government are considering, and at what point will you act on that?

Dominic Raab: We have ruled nothing out. I am not going to fly kites for the different policy options that are being considered. You have probably had evidence about what we can and cannot do yourselves as a Committee. We welcome the thoughts and the views of the Committee on that, but we are looking into all options. At this stage that is what I would limit myself to.

Q370 **Liz Twist:** I just wanted to come back to the question of the £400 million. That was for social housing and for housing associations, and that was announced on 16 May. You said that you are still going to be issuing guidance shortly. We are already six weeks on from that and the work is needed urgently. When do you think that you will be able to produce the guidance on how to apply, and how long will that application and sifting process take for the bids?

Dominic Raab: Obviously we need to make sure we do it properly. We have obviously been in close contact already with local authorities. I do not have a specific date on the criteria and the administrative process, but we are looking to put it out soon, shortly. I probably will not be any more specific than that.

Liz Twist: You know the next question.

Dominic Raab: Go on.

Q371 **Liz Twist:** When is "shortly"?



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Dominic Raab: It is a little after “imminently”.

Q372 **Liz Twist:** To make a serious point, clearly there are social housing providers and housing associations who want to get on with this work, and they will be wondering when they are in a position to do that for the benefit of the tenants.

Dominic Raab: Absolutely. We will be providing more detail as soon as reasonably practicable. Obviously we want to make sure that guidance is right, so it gives the local authorities assurance, but the main thing is that they know that the money will be there and we are already talking to local authorities. If there are any that need any further reassurance or have got any particular issues they can contact the Department and that engagement is already underway.

Q373 **Liz Twist:** The main thing is to do the work that is needed on the buildings.

Dominic Raab: That can and should be underway already, and in relation to the reimbursement for that we will set out the details shortly.

Q374 **Liz Twist:** Finally, a number of authorities have put bids in for funding or requested funding a long time ago. Are those bids being considered as part of this £400 million fund?

Dominic Raab: Again, anyone that has put a bid in would be free to revive it or to sift it in once the new process is known, subject to it obviously being compatible with the criteria for the disbursement of the funding.

Q375 **Liz Twist:** They need to reapply, basically.

Dominic Raab: I am not sure whether they would need to reapply. It would probably depend on the local authority, but I can check on that. We will make sure that at the point at which we publish the administrative guidelines and the process, we give any that have already put in bids some clarity.

Q376 **Bob Blackman:** Given that we have got large numbers of buildings built in the private sector that have cladding that would appear to be unacceptable, unsafe and need to be removed, for those already put up and clad under building regulations that permitted use of such cladding, why are the Government then taking a stance of saying, “We are going to change the regulations, but the Government are not going to provide any funding for that purpose”? The companies have put the buildings up and have done so in accordance with the building regulations that were in force at the time.

Dominic Raab: The first thing is we are very clear that any ACM cladding that now has to be replaced, which was in breach of the building and safety regulations, would not have been consistent with the standards in place at the time. I am not sure I quite accept the initial premise of your



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question. Your second point was about whether it should be retrospective—

Q377 **Bob Blackman:** Sorry, just so that we are clear, your position and evidence to the Committee is that those private sector buildings that were put up with ACM cladding would be in breach of the existing regulations.

Dominic Raab: Sorry, say that again?

Bob Blackman: I am trying to interpret your answer to the question. I just want to be clear so that we all understand it. You are saying that buildings that were put up with ACM cladding would have been in breach of the existing regulations. Is that what you are saying?

Dominic Raab: By definition we have identified those that have got dangerous cladding. I do not accept the premise in relation to the ACM cladding, which failed fire safety tests, that that was consistent with the earlier regulation. That is not a position that we set out. We have been very clear on that.

On the second question, it follows—of course you are quite right—that in relation to any new cladding or new buildings that go up, they would have to be consistent with the regulations. I am not sure if I have missed the second point.

Q378 **Bob Blackman:** The point that we are reaching is obviously clearly if buildings were put up that complied with the building regulations at the time, why is it that the Government are saying that either the freeholder or potentially others will have to pay for that cladding to be removed?

Dominic Raab: I am not aware, Mr Blackman, of any buildings where the system had passed the BS 8414 test where fire spread externally. I am not aware of that. The Government recognise the concern around the test, and that is one of the reasons why we are consulting on a ban, but I am not aware of any practice where there has been a building, with a system that passed the BS 8414 test, where the fire spread externally.

Q379 **Bob Blackman:** You are now requiring for that cladding to be removed, whether it has passed the test or not. I just want to be very clear what the position is, because there are large numbers of people out there wondering whether their buildings are safe, and equally where representation is now being made for the cladding on those buildings to be removed and about who is going to pay the cost of it. I want us as a Committee to be abundantly clear what the Government's position is, so that there is no misunderstanding.

Dominic Raab: The remediation that is being done on any buildings with ACM cladding has only taken place where it is our clear view that they would have been banned under the existing advice. That is also the basis for saying that the leaseholder should not bear the cost.

Q380 **Bob Blackman:** You saw the evidence that we had last week. What is



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your reaction to the evidence that was given by various different industry experts on ACM cladding?

Dominic Raab: Which particular bit of it? I have seen various different elements.

Q381 **Bob Blackman:** There were certain aspects, particularly from ACM suppliers, who were saying that their cladding had passed the required tests. Now if that is true, why should that cladding be removed at all if it is not a risk? Is it still considered by the Government to be a risk? We have had evidence this afternoon of even cladding that has passed the tests not being capable of being configured in such a way structurally as to make it safe. The concern here is that we seem to be getting mixed messages, and I want it to be abundantly clear what the position is.

Dominic Raab: I am not sure I can tell you more than I have said already, which is that our position is that we know there are ACM cladding systems that failed the large-scale system test, which are not compliant with the building regulations guidance. I am not aware of any buildings with a system that passed the BS 8414 test where the fire did spread externally.

Q382 **Bob Blackman:** No, that is not the issue. The issue is where we have ACM cladding on buildings that appears to have passed the tests. At the moment the position is—

Dominic Raab: When you say appears to pass tests—

Q383 **Bob Blackman:** I mean it has passed the tests in order for it to be put up in the first place. According to the building regulations that existed at the time, it is my understanding—and I may be wrong—that that is compliant with the building regulations.

Dominic Raab: Yes, but as I said to you, Mr Blackman, I am not aware of any buildings with a system that passed the test where the fire did spread externally.

Q384 **Bob Blackman:** We have hundreds of buildings all over this country where there have been no fires at all. With respect, that is not the issue. The issue is whether those buildings are safe and whether there could be a fire in those buildings that would spread accordingly.

Dominic Raab: Our position remains the same. In relation to the type of ACM cladding that we think is deemed to be not safe, it was not consistent with the regulations and it must be changed—remediated—and we are clear that the cost should not be passed on to the leaseholders.

Q385 **Bob Blackman:** Right. If your statement is that they were non-compliant, who is at fault for failing to spot that these buildings are non-compliant?

Dominic Raab: The system is flawed in all the ways Dame Judith has highlighted, and the failure to be able to identify competent people who will take the responsibility is part of the problem. In some cases it may



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be the builder, in some cases the developer, in some cases the current owner, but either way that private sector responsibility and liability should not be passed over to the leaseholder. That is the Government's view.

Q386 **Bob Blackman:** Is there not a local authority requirement, then, to inspect those premises and deem them safe and within building regulations?

Dominic Raab: The building owners have the primary responsibility, subject to the oversight on top of that, but we accept Dame Judith has demonstrated at great length how flawed the current system is. The principal responsibility must lay with the building owner.

Q387 **Mike Amesbury:** Minister, back to the £400 million and the use of the Affordable Homes programme, have you revised the figures downwards for the build of social homes and affordable homes, given you are using money that was designated for that?

Dominic Raab: No. As I thought I had explained before, the budget will be replenished in the year 2021-22. I can check and come back to the Committee, but we do not think that will have an effect on the overall budget or indeed the output from it, which, if I have understood you, is what you are getting at.

Q388 **Mike Amesbury:** It was. With respect, Minister, that makes no sense at all. I speak to you as a former director of a social housing organisation. In the short term, for those that are carrying out the required work at the moment, there is focus there on cash flows—money that would have gone to building affordable homes or social rented homes. It must have an effect on the number of units that are going to be built.

Dominic Raab: We are replenishing the budget in 2021-22, precisely to give local authorities the reassurance about that. I cannot vouch for the project management or the timeframe for each and every local authority, but we are providing this money specifically so that we do not avoid displacing the supply of social homes and affordable homes.

Q389 **Mike Amesbury:** The timeframe would have to slip and it is almost a double-whammy; it really is. It would not make sense to suggest that this would not affect the number of social housing units that would be built.

Dominic Raab: I think your question is not about the number but over what time period, if I have understood correctly. Our judgment is that it will not affect the overall amount that is going in. The £9 billion remains the same, and, of course, there is an imminent priority—a short-term, immediate priority—to make sure that we give local authorities the funding for the remediation of the cladding, for the reasons your Committee knows.

Q390 **Chair:** You just mentioned £9 billion, Minister. That is not the social



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housing budget. Could you tell me how much is being cut in proportionate terms from the social housing budget?

Dominic Raab: I would have to write to you with that, Mr Chairman. The £9 billion refers to the overall Affordable Homes programme.

Chair: That includes Help to Buy and other schemes.

Dominic Raab: Yes. That is the programme from which the money would come and where it would be replenished.

Q391 **Chair:** Perhaps you could look at the effect on social rented housing of the £400 million cut. It would be helpful to the Committee, if you could come back to us on that.

Dominic Raab: Sure. Mr Chairman, you will already know the efforts we are taking with the raising of the HRA borrowing cap by £1 billion to promote more local authority house-building as well. I am very happy to come back to you on that specific point.

Q392 **Chair:** I just have one or two points from what you have said. You probably did not hear the LGA representative in the panel before, saying that they did not believe that the £1 million for them to go and start assessing private sector, high-rise buildings was anything like enough, given literally the dozens, sometimes hundreds, of buildings an individual authority could have. You said you were willing to look at that again. How is that look again going to happen?

Dominic Raab: We talk to all the local authorities and the LGA. We make sure that we keep the situation under review. Are you talking about the private sector?

Chair: Yes.

Dominic Raab: We have dealt fairly clearly with the social sector side of things. I think in relation to the private sector it is a different strategy, because we do not want to let the private sector off the hook. The first thing that I should say in relation to all the private sector buildings is that, working with the local authorities and local fire and rescue service, the interim measures are in place to make sure that there is assurance for residents, first and foremost, that they are safe in their homes.

In terms of the broader question about enforcement steps and making sure that those buildings that need remediation are taken up as quickly as possible, that takes a bit longer. We are working with industry. We have had one roundtable; we are going to be pursuing further dialogue with the private sector. At the same time the Government have written to all the private sector building owners to remind them of their responsibilities.

Q393 **Chair:** In the meantime, if the local authorities come back to you and can show that the cost of this extra investigation and enforcement work is greater than the amount of money that is so far allocated, you are open



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to have further discussions on that.

Dominic Raab: We are retaining enough flexibility and we are not dogmatic about this; we want to get to the right result. We are currently at the stage where the cladding status of approximately 170 private sector residential buildings is to be confirmed. We think that would be the last tranche, and we only expect something like 3% to 5% of those to have similar ACM cladding systems. We are getting to the bottom of the identification process, which has been long and arduous, for sure.

Of the private sector residential buildings, there are 297 with cladding systems that do not meet or are unlikely to meet building regulations guidance. From the local authority feedback to us, we know of plans for the remediation of 72. Of those, 21 have started the remediation, and four have completed. I know that it will feel as if it is not fast enough, almost by definition, but actually we are getting to a stage where more and more are coming through the pipeline. It is not only that the remediation works are expensive; they are quite complex. The planning alone can take quite some time—months—so it will take a while to get this fixed. The key thing is that for residents in their homes, with the interim measures that should be in place by now, they know that they can sleep safely at night.

Q394 **Chair:** I think you have just about answered it, but if the local authorities come back and say, "This work is going to cost more money than the Government have so far allocated", you are open to have further discussions.

Dominic Raab: As I said, ultimately it would be the private sector that are picking up the tab for this, but I am not going to close my mind or shut down any potential—

Q395 **Chair:** I am talking about the investigation and enforcement side, which the local authorities are saying is going to cost more than £1 million.

Dominic Raab: I always keep an open mind on this, because of the importance of local trust and public confidence.

Q396 **Chair:** Just in terms of trust and confidence, we talked a few minutes ago about how buildings have come to have material on them that did not comply with building regulations. Clearly the building owners are responsible, but at some point that building has been signed off by building control as well. Do you believe in the future that building control has to be totally independent, and we cannot have a situation where building owners can actually select and appoint their own building control system and officers? There is always a danger, or at least a perception, that a building owner will look to pay for a building control arrangement that is likely to be kind to them.

Dominic Raab: I think some of the laxity in relation to that is being picked up by Dame Judith. The rules should be in place to prevent that, but what we need is the enforcement to go with it.



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Q397 **Chair:** Should that enforcement be independent? Should it be local authority enforcement?

Dominic Raab: Again, the standards are already there to avoid conflicts of interest. Quite how we make sure they are enforced in practice is something we will have to return to, but I agree with you on the aim. I understand the issue you are raising around local authorities, and there are others where there are potential conflicts of interest, which have been raised by Dame Judith. I do not have a clear answer for you on that specific subject now. I am very happy to write back as we progress our thinking on it.

Q398 **Chair:** I think there are examples that we have heard in other inquiries. There are examples where private building owners do buy in building control of a type that perhaps helps them with a project that might otherwise not be approved.

Dominic Raab: Ultimately we want the Joint Competent Authority that brings together the local building control, the fire services and the Health and Safety Executive to be able to tackle that. That is the enforcement edge of the regulator down the line, as opposed to whether the standards and the prescriptions around conflict of interest are inadequate now. I am not sure that is the problem.

Chair: The enforcement is the point I was getting at.

Dominic Raab: Exactly.

Q399 **Helen Hayes:** Dame Judith did not call for a ban on combustible materials, although this Committee has heard evidence from a very wide range of stakeholders and interested parties that would favour a ban, and the Government have subsequently launched a consultation on this. I want to ask a bit about the terms of the consultation. The proposal in the consultation specifically suggests that the ban should not apply to existing high-rise buildings or buildings currently under construction. It explicitly suggests that the ban should not cover non-residential buildings such as hotels and offices. It explicitly suggests that the ban should only apply to buildings above 18 metres in height. Why is the Government's proposed ban so restricted even at the consultation stage? Why are the exclusions as they are in the consultation document? Would it not have been better to consult in a more open-ended way and therefore be absolutely certain in responding to the consultation that everybody who could potentially be at risk as of consequence of combustible cladding will in fact be safe?

Dominic Raab: It is a fair point, and I understand why you have made it. Let me just pick up on a couple of points. The reason we have limited it to residential is because the evidence is that the risk to life from fire is the greatest in residential buildings. The 18 metre threshold aligns with existing building regulations guidance and extends beyond the Hackitt definition of high-risk residential buildings, which included buildings of 10 storeys or more, which is around 30 metres in height. Equally it is a consultation. We have asked for views. We have tried to make sure it is



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a focused risk-based and evidence-based consultation, but we will listen to views on whether we have that balance right.

Q400 Helen Hayes: Are you open to extending the ban? It seems that there are potential problems across all of those exclusions, but there might be a particular set of problems around residential buildings that already exist and that are currently being built if the ban is not to apply retrospectively. What action will you take to ensure that people living in those structures are also safe?

Dominic Raab: The principal point of view, which is the same in relation to all building safety, is that the owner is responsible, and the local authorities. The new system that we want to put in place will have a regulatory authority. Building regulation sets standards for building work that is to be carried out. They do not impose requirements on existing buildings unless the owner chooses to do the building work that triggers that. That allows us to get the right balance between making sure we have got safety in relation to the building work that has been done and not going down the route of imposing unnecessary burdens on the sector. Of course—and this consultation is an illustration—if there is a further approach that we need to take or an exception that we need to make, we can look at doing that.

Q401 Helen Hayes: Last week, Kingspan told us that it has evidence of a fully non-combustible system that has failed the British Standard 8414 test. Are you aware of this, and if this is in fact the case would it affect the Government's approach to the combustible cladding consultation?

Dominic Raab: Is this the one that was touched on before?

Helen Hayes: No, it is different. This is evidence from Kingspan.

Dominic Raab: I see, yes. I am very happy to look into that. Obviously if there is evidence of that it needs to be, first and foremost, given to the building owner, but we would want to see the details of it.

Q402 Liz Twist: From the previous panel—I do not think you will have heard from them—we heard that concerns had been raised about combustible materials prior to this incident. Can you tell me when the Department first became aware of concerns about combustible material?

Dominic Raab: I am not sure I could, off the top of my head, because I only came into the role in January. I am happy to take that away and see if we can add it to our list of supplementaries to write to the Chair about.

Chair: Minister, if I can just come back, it is an important point that Helen Hayes was raising, because it is about existing buildings. I accept that building owners do not have to do any more than they are required to do, and building owners have built buildings with materials that are not of limited combustibility because they conformed with the building regulations at the time that they built them. As a Minister, are you seriously saying that, in the end, you could envisage a situation where



you decide to change the building regulations to ensure that new buildings could not be built unless materials were of limited combustibility, because, presumably, you believe that was a less risky option, or the safest option, and then say to people living in existing buildings, "New buildings are going to be safer but you are going to have the old rules applied to you, which are less safe"?

Dominic Raab: No, that is not the way I would view it. As I said, building regulations set the standards for building work that is to be carried out, and that means that changes to those standards and the underlying and overarching regulations can be amended periodically, in line with the best scientific and technological developments. It also means that that can be done without imposing burdens on existing buildings, where they may be disproportionate to the level of risk.

At the same time as that happens, we can consider, on a case-by-case and a risk-based approach, the fire safety of existing buildings, to make sure it is in line with all the expert advice that we have received. On all the range of issues that you will have heard from from my Department, we have taken advice from the expert panel that we have, and we are being guided very much by them. We keep that advice under regular review and, likewise, Dame Judith's approach is trying to take a risk-based, evidence-based approach, because, if we get the balance wrong, it will be counterproductive.

Q403 **Chair:** If you decide to ban materials that are not of limited combustibility, having taken the expert advice, because you believe it is a proportionate response, you are doing that because you believe that that is a way to ensure that people in those buildings in the future are safe.

Dominic Raab: We are certainly saying, "Let us wait, subject to the outcome of the consultation", but we are minded to ban combustible materials in high-rise residential buildings. That is because we do not think that they are acceptable to use in new-build or new renovation or remediation work that goes on. That does not render any and every building that may have an element of that material already in place unsafe.

Bearing in mind Dame Judith Hackitt's admonition to have a holistic approach—a safety-system-based approach rather than a box-tick approach—it is precisely in line with that approach to make sure that, in any instances where they may have been used before or there are concerns, building owners, subject to the regulatory oversight and accountability, look at those and look at the safety of the building as a whole, not just because it ticks a box. That is the approach we are taking here.

Q404 **Chair:** You are looking and consulting. You are minded to change the building regulations for new buildings to make sure that they cannot be built in the future with materials that are not of limited combustibility, but you are quite happy for existing buildings in the future to have that



material remain in situ and not to be concerned.

Dominic Raab: With regulatory approaches across a range of areas, you would make sure that you change for the work that is going to be done prospectively. You could, for example, find that you need to make some retrospective changes—that is certainly possible—but you would want to be careful to get the balance right, so that you do not take a disproportionate response to the risk. It does not mean that nothing happens to existing buildings that may or may not have those materials.

We come back to the key point here, which is that there is not a box-tick comfort zone that we could then rest easy at night with. What you do is make sure that the owners of the building follow the guidance and the process, and that they are checking their building and making sure that the safety system, as a whole, is right. That is the key thing we are coming back to.

Q405 **Chair:** One of the things we have had evidence on is that while you have material there that is not of limited combustibility, there is a higher risk than if that material were removed.

Dominic Raab: It depends on the system as a whole. You say “higher risk”: higher risk than what? You are right to focus on risk, and that is what the building owner, subject to all the regulatory oversight and the local authority, should look at very carefully. That is where their responsibility is. What I would gently say—I understand why you are asking this question and we have wrestled with it ourselves—is that we should not be taking the responsibility off the owner for conducting that holistic safety assessment, which is crucial. That is the key.

Q406 **Andrew Lewer:** We talked about where buildings had passed and failed tests quite a lot. I am going to talk about the testing regime itself. Dame Judith tells us that “testing regimes are inadequate” and, indeed, that “the whole system of product testing needs to be looked at again”. Do you agree with her?

Dominic Raab: Yes. There is a whole range of defective elements of compliance, of which that is one. Almost all of the principles that she has highlighted, we accept, and we now need to think of the best way of taking that forward.

Q407 **Andrew Lewer:** Further to that, both the Fire Protection Association and the LGA have said that BS 8414, which others have set a lot of store by—these large-scale fire-safety tests—are inadequate and do not reflect real-world conditions. Indeed, they have said that they can just be rerun until people get the results that they want. How do we have product-system tests that will reflect real-world situations?

Dominic Raab: We have listened very carefully to the evidence but we need to scrutinise it. We have a lot of different views on all sorts of aspects of this. The British Standards Institution has asked its standards committee to review a recent report by the ABI and the Fire Protection



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Association that criticised the BS 8414 test. The Government stand by the advice from the expert panel that I mentioned before and I cited before your Chairman, but we will keep that under close review.

Q408 **Andrew Lewer:** In terms of the people doing this testing, you believe that it should always be undertaken by independent, third-party organisations.

Dominic Raab: I just want to be careful who I am ruling out but we want to make sure that, ultimately, there are no conflicts of interest, that the work is done properly and that the integrity of the test is in place.

Q409 **Andrew Lewer:** Could I suggest a potential conflict of interest: a fire and rescue authority that sets up a commercial trading arm, which then provides fire safety advice to developers. Can you expect a fire and rescue authority to enforce breaches of fire regulation against its own commercial trading arm?

Dominic Raab: Yes, because that is the law and legislation, and yes, because the revised fire and rescue national framework published on 8 May makes it clear that, for example, elected members and officers should at all times be aware of those potential conflicts of interest. As we have done so often in this evidence session, we come back to the question of enforcement. You are right to ask the question about expectation but what really matters is whether it is being enforced rigorously enough.

Q410 **Andrew Lewer:** A fire and rescue authority sets up a commercial trading arm. A fire and rescue authority inspects a property that its own commercial trading arm has undertaken work on—not a conflict of interest.

Dominic Raab: With any conflict of interest, which can be actual, potential or perceived, I could not take a hypothetical example. You would have to look at it and look at how carefully they guard against it. To go back to your original question, the legislation is in place and the fire and rescue national framework guidance is there as well. I suspect that we will come back again to the ultimate question of whether it is being properly adhered to.

Q411 **Andrew Lewer:** We talked about desktop studies earlier on. Dame Judith called for them to be severely restricted. You said you would look at possibly a complete ban. Is there anything you would like to add to the subject of desktop studies and their future or non-future?

Dominic Raab: We want to respect the consultation. The consultation is on what would be subject to a desktop study. I am conscious of not stretching my technical knowledge too far, to breaking point, but it is on what would be subject to a desktop study and by whom. What we will need to be very clearly satisfied on is that the evidence that we get from the experts and from the users guarantees the safety and integrity of the system. If not, we will consider banning them.



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Q412 **Chair:** Just coming back to this conflict of interest with the fire and rescue services, it is interesting that the representative of the fire chiefs last week said that they were concerned about the conflict of interest and thought it ought to be stopped. They are the people who are going to do the enforcement and they are not happy about it.

Dominic Raab: They can and should already be taking some enforcement action. If you want to make the case that we should look at that again, I am very happy to take that away.

Chair: It would be helpful to do so. It is about perception as much as anything as well.

Dominic Raab: I accept that but perception tends to follow reality over a period of time. If it does not, then we do not just ban things for an unfounded perception. Nonetheless, you have made the point powerfully and I will take it away.

Chair: Thank you very much, Minister, for coming to answer our questions today.