

# Housing, Communities and Local Government Committee

## Oral evidence: Pre-legislative scrutiny of the Building Safety Bill, HC 466

Monday 14 September 2020

Ordered by the House of Commons to be published on 14 September 2020.

### [Watch the meeting](#)

Members present: Mr Clive Betts (Chair); Bob Blackman; Ian Byrne; Brendan Clarke-Smith; Rachel Hopkins; Ian Levy; Abena Oppong-Asare; Mary Robinson; Mohammad Yasin.

Questions 1 – 54

### Witnesses

**I:** Sir Ken Knight, Chair, Building Safety Independent Expert Advisory Panel; and Roy Wilsher, Chair, National Fire Chiefs Council.

**II:** Graham Watts OBE, Chief Executive, Construction Industry Council; and Adrian Dobson, Executive Director Professional Services, Royal Institute of British Architects.

### Examination of Witnesses

Witnesses: Sir Ken Knight and Roy Wilsher.

**Q1 Chair:** Welcome, everyone, to this afternoon's session of the Housing, Communities and Local Government Select Committee. We have an evidence session this afternoon looking at pre-legislative scrutiny of the draft Building Safety Bill. After the tragic fire at Grenfell, it was recognised that improvements had to be made to building safety in this country. We had a very detailed report from Dame Judith Hackitt, and the Committee took much evidence from her and others on the appropriate way forward. It was always flagged up by Government that eventually they would bring in legislation to try to bring about those improvements to building safety and put them in law.

What the Government have now done is to send to the Committee a draft Bill, which in the next few weeks we will be scrutinising, going through line by line, clause by clause, issue by issue, and making recommendations to the Government about how building safety can be



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improved and whether this Bill does everything that we expect it to do or whether further changes should be made to it. In order for us to do that, we have asked for evidence from a wide range of organisations and already over 200 have written in to us. We are then going to have 10 panels over the next few weeks with expert witnesses telling us their views on the Bill. Very clearly, the remit we have is to make buildings safer but also to make sure that a tragedy like Grenfell never happens again.

This afternoon, we have our first panel of witnesses. Before I go over to them, I will ask members of the Committee to put on record any particular interests they may have that ought to be clearly on the record before we look at this legislation. I am a vice-chair of the Local Government Association. Do other Committee members want to come in and indicate if they have any interests that they think ought to be referred to?

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

**Bob Blackman:** I declare my position as a vice-president of the LGA, and I employ a councillor in my office.

**Ian Byrne:** I am still a serving councillor in Liverpool.

**Rachel Hopkins:** I am still a sitting councillor on Luton Council.

**Abena Oppong-Asare:** I employ a councillor in my office.

**Ian Levy:** I employ a town councillor in my London office, but she just took appointment yesterday.

**Chair:** Fine, you have got it on the record. We are the first ones to hear it, Ian. Thanks for that.

**Brendan Clarke-Smith:** I am a councillor in Newark and Sherwood, and I also employ a councillor in my office.

**Chair:** It is important that the public know we have connections—very real and live ones, many of us—to local government. They will, of course, be witnesses to a future panel.

This afternoon, we have two expert witnesses. I am going to ask them to introduce themselves and say who they are representing.

**Sir Ken Knight:** Good afternoon, Chair and Committee. I am grateful for the invitation to join you this afternoon. I am Ken Knight. My background—my DNA—is fire. I served in the fire service for 40 years and was the chief of four fire and rescue services: Dorset, West Midlands and London as London fire commissioner. Dorset I was in twice as a county and as a combined fire authority. Then I became the Government's chief adviser. I am still involved in fire because I chair the Government's expert panel, which was formed in the immediate aftermath of the Grenfell fire. I have appeared before your Committee previously and before your Chair in particular on a number of occasions.



**Roy Wilsher:** Thank you for the invitation to provide evidence this afternoon. I have almost done 40 years in the fire and rescue service, so I am catching Ken fairly quickly: 23 years in the London Fire Brigade and almost 14 years as chief of Hertfordshire. For the last three and a half years, I have chaired the National Fire Chiefs Council, which means I represent every chief fire officer in the United Kingdom in professional or technical policy matters.

Q2 **Chair:** We will now go down to some of the detailed issues in what is a very detailed and complex piece of legislation that we are going to be scrutinising. I suppose the first obvious question comes back to my introductory comments that, in the end, we do not want to see another disaster like Grenfell and will do everything we can to prevent it. Do you think the Bill, as drafted, will actually do what we want, which is to prevent another Grenfell from happening?

**Sir Ken Knight:** As you rightly said in your introduction, and you have heard from Dame Judith on a number of occasions, it closely follows the report of Dame Judith Hackitt and addresses a number of failings. In particular, it picks up what she identifies as a failure in culture, including procurement principles—of people going for the cheapest option in safety issues—competence, the importance of the residents’ voice and, indeed, responsibility. Running through all of this is what she called the golden thread, which has become more and more important, covering the life of the building, through its occupation and beyond.

Importantly in this draft Bill is the proposal for a building safety regulator, which is the start of a new beginning of systemic change in our building regulations. It lays a foundation for long-term reform and regulatory oversight, I believe. A lot of this is also relying on secondary legislation, as you know from the Bill. It is a piece of statutory primary legislation that requires the detail to come in at the next stage. I do not object to that. I realise it does not have quite the same scrutiny, but I do not object to it, because it avoids what I would refer to and I have heard referred to before as the fossilisation of our existing building regulations. We have had so little change for such a long time, and it allows some flexibility for the future. It does bring through the principles of Dame Judith’s report and the acceptance by Government of her findings.

**Roy Wilsher:** Hopefully I am agreeing with Ken all the way through here. We welcome the Building Safety Bill. We recognise it is an enabling piece of legislation, and we think it follows the direction that Dame Judith Hackitt set in terms of competence, introducing the new regulator, greater scrutiny and a stronger voice for residents. It provides a focus on building safety.

Like Ken, we recognise that a lot of the detail will have to come through secondary legislation. I am sure this will come out through the evidence session, but there are a number of areas, including scope, payment, resources and all sorts of areas, that we would like some clarity on. I am



sure that will come in the secondary legislation, but perhaps we can explore those a bit later.

**Q3 Chair:** It is important that we explore them, rather than simply waiting for the secondary legislation. We ought to be flagging up in our recommendations eventually what we think is going to be needed, not merely in this Bill but in the future legislation to follow.

Ken, you mentioned the building safety regulator, which is going to be located in the Health and Safety Executive. There is a bit of a feeling sometimes that health and safety inspections get done very infrequently and perhaps only when there is a very, very serious issue. Does that look to be the right place to put the regulator? Would we expect a little bit more in its responsibilities for building safety than the health and safety responsibilities it now has?

**Sir Ken Knight:** You may recall, Chair, that the fire safety order, which really is the legislation for which the fire and rescue authority is responsible, is indeed a subset of health and safety legislation itself. It is under that broader umbrella of health and safety. I do not object to the subject being in the broader sense of health and safety regulation. The advantage of the Health and Safety Executive taking over that initial part of the regulator, and I suspect it is going to form that group quite separately, is that it has vast historical experience right from the start of COMAH, the Control of Major Accident Hazards Regulations. It has been involved in new regulatory areas and is well established in doing so.

I have to say, I think the challenge will be, whether it is in the HSE or anywhere else, the skills gap. The few resources there are of fire engineers, which you have heard of before, I am sure, whether it is in fire and rescue services or in the industry, to do this competent work of chartered fire engineering and fire engineering will equally be needed in the Health and Safety Executive itself. They will be fishing in the same pool for the same expertise. There is a really serious issue to be addressed of how we get that competence in the whole of the sector, not Peter robbing Paul or upping the ante to take one from the other, in order to upskill those together.

Historically, people have talked about having structural engineers very easily, whether it is in high-rise buildings or in your or my home extension, yet so rarely have they seen the value and necessity of a competent fire engineer. We need to change that, but there is now a shortage of fire engineers to be able to spread across the whole spectrum. I do not lay that problem at the door of the HSE, but it is going to be an underlying issue of competence required in the whole sector.

**Roy Wilsher:** Resourcing the new building safety regulator will be particularly important. The Health and Safety Executive has long experience of health and safety, regulation and enforcement. There are a few areas where it will certainly need to consult with fire and rescue services, fire authorities, local building control and others. Resourcing is a



big issue. There is not a plethora of fire safety engineers or fire safety experts.

HSE is very much used to enforcement now, especially since its changes over the last few years. Helping people to meet the regulations is what we do as a fire service; it needs some skills in that. The link between a safety case and a fire risk assessment, and the overlaps that we still see between the new Building Safety Bill and the new fire safety order, which came out of the Fire Safety Bill, need to be clarified. There are also the cost functions and other areas. All we are asking is that, as the building safety regulator gets up and running, it consults fire and rescue services, local building control and fire authorities along the way, so that we can operate this in the best way to make our buildings safer.

**Q4 Ian Byrne:** The regulator will have many duties. Are the ones included in the Bill the right ones, and is there anything missing?

**Sir Ken Knight:** It is interesting that the proposals in the first instance for the buildings in scope, as they are called in the draft Bill, are for the building regulator to start with high-rise residential buildings. In this respect, the Bill departs from Dame Judith's work, in that they are more onerous than her recommendation of being 10 floors and above. They are over six floors, so the Government have chosen in their draft Bill to widen the scope. I welcome this in particular: it is not just high-rise residential flats. It includes student accommodation. That is a significant step forward, particularly if you remember the Bolton Cube fire last year, which had a student accommodation fire in a high-rise residential building.

It is going to be a real emerging feature to ensure that the scope of the regulation in its early days covers, in its broadest sense, the highest risk. Naturally, we have seen at first hand the tragedy at Grenfell and focused on high-rise residential buildings, but there are buildings, whether they are care homes, nursing homes or hospitals, that do not necessarily have high rise but do have a high-risk occupancy. There is much more work to be done in that area by fire departments and Government, really honing down where best to place the first effort in where the risk is. There is an important role for those people around the new building safety regulator. If I may, Chair, because I am sure Roy wants to say something, I would like to come in again on this question of the role of the Building Regulations Advisory Committee, which is mentioned in the Bill. That has a key role as well in giving advice.

**Roy Wilsher:** Ken is right. We have expressed concern about scope ever since Dame Judith's report, because we do not think high-rise buildings necessarily equate to high risk, if they are built and maintained properly. We have some concerns that the scope does not cover places where vulnerable people reside, such as care homes. Having said what I did about resources and the impact on fire and rescue services, we think there are probably about 400 high-rise residential buildings a year we



might have to look at. There is probably some scope to expand to care homes.

I will say here—I was going to bring it up at some stage—that there is something called the non-worsening clause. At the moment in legislation, if you change a building—a major refurb or change the use—you only have to put back in the fire safety measures you had before. We would like a cost-benefit analysis to see whether you should improve the fire safety measures in the building, or even the property safety measures, because we think that is also missing. Life safety is very important, but so is property safety. We would have a cost-benefit analysis to see whether you should bring the building safety measures up to current levels and standards, to move on from the non-worsening clause. We are having good engagement with officials from MHCLG and the Home Office over that, but that is something we would want to highlight.

**Q5** **Ian Byrne:** With regard to the ability to carry out the job and resource, is this an opportunity for the fire service to advocate for better funding, in light of what you have experienced over the last 10 years? Would the funding cuts leave the fire service unable to do the job and some of the proposals within this paper?

**Roy Wilsher:** We have made the point many times that, as a sector, the fire and rescue service has not escaped austerity in any way. A 25% reduction in whole-time workforce and a 40% reduction in inspecting officers have had an effect. Over the last year, both MHCLG and the Home Office have found some investment for fire protection. While £30 million is not everything, it certainly has helped. We are really hoping through the spending review that that money will come through into base.

**Q6** **Ian Byrne:** I have a follow-up question that links into this. The Bill gives the regulator certain powers, for example to direct or call on assistance from local authorities or to prepare guidance for local authorities. Are the duties to consult the various bodies it interacts with, including fire and rescue authorities, sufficient?

**Roy Wilsher:** We welcome the greater consultation, especially at planning stage and work like that. I have already said once that, as the building safety regulator gets up and running, it needs to consult with us a bit more on how we put into operation all the work we need to do. We see a slight conflict between the English national framework, a risk-based inspection programme for fire safety and the power to direct by the new building safety regulator. It is not insurmountable. We are discussing it, but that use of resources and that local operational independence will be important to work through as we go forward.

**Sir Ken Knight:** While I support the principle of secondary legislation allowing fleetness of foot and flexibility over the future, and not the fossilisation of building regs, there is one area that I think is anomalous in the Bill. The current Building Regulations Advisory Committee is a



statutory independent committee in primary legislation in the Building Act and reports directly to the Secretary of State. It therefore requires statute to take it out again. This Bill does just that. It takes out the BRAC and replaces it with a new body, the Building Advisory Committee, BAC, but that is responsible to the building safety regulator. They play a very important role in scrutinising and advising. They are independent members of that community.

It is interesting that this Bill, in clause 12, allows the Secretary of State to take it out again by secondary legislation. You will know much better than me, but it seems odd to me that it goes in via primary legislation, so there are scrutiny and hoops to put it in, and it is an important independent adjunct to the building safety regulator, yet the draft Bill allows secondary legislation to scrap it. I just wondered, when you come to that point, whether that is right and proper.

**Q7 Ian Byrne:** The building safety regulator will be responsible for the oversight of the competence and performance of registered building inspectors and the building control bodies in which they work. We touched on this before. How practically do you expect it to ensure much higher standards in the sector, given previous failings and conflicts of interest?

**Sir Ken Knight:** The competency is one of those really important pillars that Dame Judith recognised. For the first time, I am pleased to say, I have seen the Department physically fund new British standards on a range of areas. Those include three new standards that it has sponsored for principal designer, principal contractor and building safety manager, which emerge from standards. Those, I know, are starting. That work of competence and third-party accreditation, alongside competency, is going to be really important.

In terms of building regulations on the ground, the building inspectors are really important for this Committee. Whether or not you have had evidence yet, I hope there is an opportunity for you to take oral evidence from both the approved inspectors and the building control bodies that are going to be responsible for the environment as we move forward, after the initial cases that the building safety regulator is responsible for, for the buildings in scope. They form a fundamental point for ensuring not only that people are being held to account and that the buildings are safe, but that the occupants are satisfied and can feel safe, and that the public know these plans are properly scrutinised and the buildings are built as designed and safe.

**Roy Wilsher:** Competency is at the core of everything right across the system, including fire safety officers and fire and rescue services. I fully agree: I am not sure the building safety regulator will be able to check everyone's competence but some way of registration, some way of having a ticket to do the work you are qualified to do so people can be checked and provide that evidence, is particularly important going forward.



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On scope, we are a little concerned that the Bill now says “18 metres or above six storeys”. By certain measurements, the Cube would not come into the new building safety regulations.

**Q8 Chair:** We are going to follow that a bit further in a minute. One of the things that Dame Judith drew attention to was the conflict of interest with developers appointing their own building control inspectors, getting the work signed off and, presumably, reappointing them if they were not too difficult about doing that. This Bill still allows that conflict of interest, doesn't it? Are you concerned about that?

**Roy Wilsher:** The short answer is yes. We do not think people should be allowed to appoint their own inspector to sign off the work. We think it should be independent.

**Sir Ken Knight:** In a way, that is what I was alluding to, in hoping that this Committee will hear evidence directly from both sides of that inspection regime. It will also be an issue of capacity, because the approved inspectors play a huge part in that building control process. One wants to be really cautious about denying the sign-off of buildings a significant part of that building control aspect. It is worth looking in the round at where the two fit together.

For me, the independence goes alongside competency, though. We need to ensure that building control inspectors are competent to do the work within which they are operating. That might be different for high-rise buildings than for a new extension to a house. Equally, the same competency is required whether you are a private building inspector or a public building inspector. Your point about conflict is right, and I think that can be avoided in doing it differently, but without suggesting there is no requirement at all for approved inspectors.

**Chair:** Thanks for that. That is pretty clear from both of you.

**Q9 Brendan Clarke-Smith:** While the Bill does not set a specific scope for the scheme, the Secretary of State has indicated that it is initially going to be set at 18 metres. Does this set the right balance between risk and being able to get the system up and running effectively, or could it go further on introduction?

**Sir Ken Knight:** As I said a while back, it certainly moved the height downward; therefore, there are more buildings in scope, by intent, than was originally intended. It is as much about practicality and how much you can do in the first phase of buildings in scope, because there is a whole new regime for those buildings themselves. In any case, even when that is announced and the building regulator is formed, for those to have their building safety cases in place over that run-in period of months—rather than years, hopefully—will take a while.

I would go back to my earlier answer. There is still further work to be done to understand what is real risk in terms of fire and people at risk in fire, because it is not just about height. It is also about build, occupancy



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and ability to escape. That is why I used some of those other descriptions. I am pleased that it includes student accommodation and not just high-rise residential flats. It is probably the right place to start. The building safety regulator needs to be under no illusion that this really needs an urgent review by Government and others, to ensure we understand that we are putting the right effort into where we need to start in the building safety regulator's area of responsibility. Starting at that point, I see no immediate issue in the short term, just because of the scale of the issue to be taken on.

**Roy Wilsher:** As the National Fire Chiefs Council, we recognise that we have to start somewhere. We recognise that you cannot take all the buildings in scope at the same time, but we are very concerned about vulnerability of residents. We have had too many near misses in care homes, and we think care homes should be included very early on, if not straightaway. I do not have figures on how many new care homes are built every year, but I am sure it would be in the wit of all of us to find that out and get the same sort of regulations to cover that area.

Q10 **Brendan Clarke-Smith:** Leading on from that, the Committee has previously called for a more complex risk matrix to consider the relative risk of buildings. What would you include in the matrix if you were devising it?

**Sir Ken Knight:** I can understand why it was tempting to start on high-rise residential buildings, not just because of the horrors we have seen. They offer the complexity of escape, the complexity of firefighting and the lack of the full weight of the fire safety order applying to those buildings. As you know, they apply to the common parts, not to the whole building. There was some uniqueness about high-rise residential buildings, but there is a more sophisticated matrix that needs to talk about not just likelihood of fire but consequence of fire—they are two different things—as well as the occupancy risk that is added to that.

I understand that the Department is looking and commissioning further work in this area. I hope that work will be completed before the completion of the Bill so it informs the building safety regulator on coming into post as to whether that is the right place to start, at the pace at which change needs to take place. It is a much broader matrix than just height.

Q11 **Brendan Clarke-Smith:** What would you say the risks are of regularly changing the scope?

**Sir Ken Knight:** I would not suggest regularly changing it. That is impractical, but it is important when the building safety regulator starts that work. There is a significant amount of work requiring competent people to be in place. The highest-risk buildings will, by definition, require the highest level of sign-off and competency. They may not require fire engineers. They may, by definition, require them to have chartered fire engineers. They may require special third-party accreditation. They will



certainly all require safety cases. It is not practical to keep changing the regime of the buildings in scope, but it is right to look to get it right in the first place and set out the changes to come for the future. It is not a quick change from one to the other. We do not need to have knee-jerk reactions from one risk to another. We ought to aim to get it right first.

**Roy Wilsher:** We understand and recognise the complexity of having a perfect risk matrix, because everyone has slightly different views on risk, consequence, likelihood and outcome. Certainly, we think of life safety as well as height. When we talk about vulnerable people, we are talking about people who need assistance to move away from the fire. Care homes, people with dementia and intensive care wards in hospitals are areas that really concern us, on top of post-Grenfell recommendations and getting that sorted. We think the matrix should be wider. There should be more buildings put into the risk matrix. If that cannot happen straightaway, it should happen soon after the new regime is implemented.

**Chair:** Now we move over to the issue of accountability, which Dame Judith's report certainly highlights as a key matter.

Q12 **Mary Robinson:** The consultation included discussion about the increased regulatory oversight of higher-risk buildings, in particular what are referred to as gateways during the design and construction phase. The Bill provides powers for these procedures to be brought in through secondary legislation. How would you like to see these gateways operate?

**Roy Wilsher:** We certainly support and welcome the gateway process, particularly the planning gateway, which will now involve fire and rescue service consultation. As you are planning these buildings, you need that input. We also welcome the hard stop against some of the gateways on the way through, because we have found that, on a number of occasions, buildings that are finally built bear little relationship to the plan that was agreed. The design and build do not quite marry up. We very much welcome having a proper safety case with a gateway process where we could put in a hard stop if the regulator is not happy with what is happening.

Q13 **Mary Robinson:** Similarly, the Bill sets out a desire for so-called duty holders to have formal responsibilities for compliance with building regulations. These would be based on the main duty holder roles under the Construction (Design and Management) Regulations 2015. Should there be any specific duties, particularly related to fire safety, on the face of the Bill?

**Roy Wilsher:** One of Dame Judith's major recommendations was to have a responsible person or accountable person whom you could track in the UK. We very much agree with that. The difficulties we have sometimes in tracking down a responsible person to improve fire safety in buildings can be quite extensive. Part of our concern is that we now have an accountable person, a building safety manager, under one regime, and a



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responsible person under the fire safety order, and you might have multiples of all of those. We think a principal accountable person whom you can hold to account in the United Kingdom is where we should be aiming. Whether that is achievable straightaway, there still needs to be some clarity in the secondary legislation around all the different accountable and responsible people and their roles and responsibilities.

**Q14** **Mary Robinson:** How would that single person with those duties be able to pull together the different facets of the requirements?

**Roy Wilsher:** This is where competence comes back into play. It is the same as running an organisation. A single person is not competent in everything but a single person is responsible. It pulls together that competence, the safety case and all the other work in the buildings in scope. The Health and Safety Executive always looks for an accountable person if there is a breach of health and safety. We think the same should apply here.

**Sir Ken Knight:** The Bill sets out the underpinning expectations, which it says are facilitating improvements in competency in industry and building inspectors. We have touched on building inspectors and they are an important part. I have mentioned the investment going into setting competencies and the competency frameworks. They form a really important part.

I am interested in the Bill itself, because the Bill describes the built environment industry. I think it might be deficient in that area. In clause 35, it describes it as "persons carrying on, for business purposes, activities connected with the design, construction, management or maintenance of buildings". That is interesting. There is no mention of manufactured products or components of systems intended to be installed in buildings.

We have all seen the horrors of the Grenfell inquiry unfold before us. If manufacture is not part of that built environment, I wonder if it is a missed opportunity that you might want to return to. It may be that the intention is to include the manufacturer's construction of products under the remit of the regulator for construction products, but it seems to be a gap that it is not included in that clause 35 built environment definition where product manufacture has been so vital, as we have seen unfold between us, post Grenfell and in the inquiry.

**Q15** **Bob Blackman:** I want to concentrate on the parts of the Bill that talk about the accountable person or persons who will have responsibility. Roy and Ken, you have touched on this, but can you update the Committee on your view of whether the definition and the clarity of the accountable person in the legislation are tight enough? If you do not think they are, what should be spelled out in the legislation?

**Roy Wilsher:** As I alluded to, there is not quite the clarity that we would like at the moment, particularly between the two different regimes of the



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fire safety order and a new building safety regulator, where you have responsible people, accountable people and building safety managers. You might have multiple of all of those. A bit more clarity of where you can hold an individual or a single corporation to account in the United Kingdom would add benefit, for that scrutiny, accountability and really understanding who is responsible for the building. It can take us months, sometimes, to find the responsible person to deal with.

**Sir Ken Knight:** I agree with everything Roy said, not just in terms of the legal responsibility, but it is really important for the residents to know who is responsible and whom they should go to, in the event that they have concerns or have a right to raise concerns. That clarity is vital to put in at this stage, so that everyone is concerned with not only what they are responsible for in law, and therefore what competencies they need before they can undertake that role, but whom people should go to if they are concerned about safety.

It is not just about who to see in court. Residents quite realistically need to know, with some clarity, whom they can go to if they have a concern about the environment in which they live.

Q16 **Bob Blackman:** We would probably be of the same mind. Do you think the sanctions that are on the accountable person are appropriate?

**Sir Ken Knight:** I am not sure that I am au fait with the full sanctions at the moment. Sanctions do need to be in place to be real. Post Grenfell, no one is taking real responsibility. I am not sure I can answer the sanctions point as to whether they are right or not.

Q17 **Bob Blackman:** I find it very difficult to understand how attractive it will be for someone to take on this role. It is a huge responsibility and, at the moment, as far as we can see, there are no such people taking on this role in the UK. I think we need it, but how can we make it attractive for someone to take it on?

**Sir Ken Knight:** I am also not entirely sure, if there is a responsible person for today and tomorrow, for five years, whether they are responsible for life for that period and, therefore, as they move on to other roles and other jobs, whether they still hold that responsibility for the five years that they are that person in law. I am not sure whether that is right or works, or whether that is the intention.

**Roy Wilsher:** Higher sanctions, as indicated, we welcome. We also welcome the extension of statutory time in the Building Act from two to 10 years for remediation. Those two are linked together. On the other side, it might not sound attractive but, if we get to the stage where we are building and maintaining buildings properly, we are not really looking at the risks that we had with Grenfell, where you had non-compliant cladding systems on the outside of buildings. Things will be built properly, with the cladding ban, the architect's competence and everything else. It



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probably feels quite onerous, but I do not think it would be quite as onerous as we feel.

I was a chief fire officer, as was Ken. We were responsible for the health and safety of all our staff who went into burning buildings. It is very dangerous. People do take on responsibility for other people's lives, so I do not think, if we get the new regime right, it will be as unattractive as it might seem.

**Q18** **Bob Blackman:** Do you think companies will find it difficult to get board directors to be co-opted, given that there is the potential for individual criminal liability proposed under the legislation, which might make directors think very carefully before they are willing to take this on?

**Roy Wilsher:** Directors will think carefully, as you would when taking on any position, especially since the corporate manslaughter legislation and regs. People taking on that level of responsibility already have responsibility for lives. I think people would shy away from the unremediated ACM-clad buildings but, moving to the future with a better regime, you will get people to take up that responsibility.

**Sir Ken Knight:** Yes, I agree with that.

**Q19** **Bob Blackman:** I want to look at two other points. The accountable person has to appoint a building safety manager. There are then issues about the qualifications and experience that that person has, and what training and capability there is for getting people up to the required standard. What do you think we are going to have to introduce as part of this to get people to the right level of competence to do these jobs?

**Sir Ken Knight:** That is one of the posts that are seen as pivotal. The Department has sponsored a British standard to set out the competencies of the building safety manager, which I really welcome. It is one of the three that I mentioned. That is a very fair question. In order to get people in the time period between now and enactment of the role of the building safety regulator, we need to know what competencies are required and, undoubtedly, what training and assurance those people need to take up those roles.

Without a framework and, indeed, an accreditation alongside that competence, I do not think we know yet. The work going on at the moment, which has started to define the competencies of that role, is extremely important to be able to ensure it does not just happen to go to the person who is on the board or who happens to be in the building. It is not the normal janitor role. It has a real responsibility and therefore needs real competencies. I do not think we know yet the detail of that, although I think later in the session, Chair, you have Graham Watts giving oral evidence. He is involved in some of the detail of those competencies.

**Roy Wilsher:** I agree with Ken that we need the framework, the competence, the ticket to work, the registration of people to do this, or



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whatever you want to call it. There will be a shortage of available skills to start with. We need training providers. One of the things that we have been talking to the Government about is the number of fire engineers, which is linked back into academia and the number of universities that offer fire engineering degrees, which is very, very few at the moment. Our whole education and training system will need to catch up with this new regime as well.

**Q20** **Bob Blackman:** Finally from me, whoever is the accountable person and/or the building safety manager needs to work with the fire and rescue authorities. Do you think there should be a duty of co-operation on the face of the Bill to ensure that it is quite clear where the responsibility is and we do not get a position of saying, "Well, that is obvious. Of course you should do this", but actually it should be enshrined within the legislation?

**Sir Ken Knight:** I see no reason why it should not be. I know you are not suggesting otherwise, but there is every intention for co-operation and consultation. This would be the opportunity to make clear that there is a duty to consult or listen, and I have not thought about the duty before. I think there is an expectation on all sides that you would want that to happen: that the bodies responsible for those buildings come together and find the best solution for the safety of the occupants. It includes local authorities, of course; it is not just fire and rescue authorities.

**Q21** **Bob Blackman:** Clearly, we want to get to a position whereby the fire service is giving far more advice on how to prevent fires and fire prevention, rather than having to deal with the consequences of the fire that may take place.

**Sir Ken Knight:** As Roy has already outlined, it is welcome that that first gateway, at that planning stage, has a duty. That is really important, and it was not there before, in order that the fire and rescue service is consulted at the outset and through the life of that building, right to the point that, in the event that the fire and rescue service has to attend an incident, it knows more about the building and has more information on the building.

**Roy Wilsher:** We welcome the duty to consult, and extending that to a duty to co-operate can only help.

**Chair:** We are now on to the issue of residents' involvement in these matters, which, again, Dame Judith made particular recommendations about.

**Q22** **Rachel Hopkins:** The impact assessment states that residents have legal responsibilities to avoid actions that could pose a risk to the fire and structural safety of the building, for instance removing or replacing compliant fire doors or windows. What are the challenges around this?



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**Sir Ken Knight:** Dame Judith talked about the residents' voice, but she also talked in there about the residents' voice with responsibility, so it is two-way, and the new role, with the building safety manager, to listen and act on that advice. The challenge is to ensure that residents have that right information, because it is true to say that the residents' voice and the voice with responsibility require alongside it that residents have the correct information on which to make that judgment.

Dame Judith in her report talked about the golden thread. I have mentioned it two or three times already. That golden thread of information runs right through from the start of the building—what is in the building and who was competent to work on what part of the builder—and is handed over on completion of the building. On completion, fibres of that golden thread go into the residents' information, so they know what the risk assessment is, what the building was about and how it was built. Further threads go into the fire and rescue service. They also get information. That golden thread running through the building is absolutely vital.

The residents' information saying, "You cannot do this; you cannot do that" can only be properly made if they have the information they need on which to make that judgment and bring that to the attention, as it is currently proposed, of the building safety manager. He or she can listen and act on those voices. There is a huge responsibility learning curve. I do not think it is beyond the wit of that to be achieved, though, because residents want to be safe and feel safe in their homes. I do not think you can lay blame with the residents for not being aware of the importance of a fire door.

I have often looked, as Roy has seen and you will have seen, fire doors that are either propped open or, worse still, had their self-closers taken off. I suspect it was the mum who did a risk assessment and could not get her buggy through, or the elderly person who did a risk assessment and could not get their walking frame through, but no one has really talked to them about the risk assessment for fire and the importance of that fire door in the example that you talk about. It is information that people need on which they can do their own risk assessment according to how that may put themselves or others at risk by making those ad hoc changes to their built environment.

**Roy Wilsher:** This area and residents' voice is particularly important. I absolutely agree with Ken that residents need the right information to make the right choices. If they knew they were replacing the fire door with a wrong door, would they have that level of confidence?

This also goes into residents' concerns. There are a number of pieces in the new legislation about links to the new building ombudsman or the new building safety regulator. We have concerns that that is only for in-scope buildings at the moment. It is focused on social housing, which is right, but there are lots of private residents paying a lot of money for



remediation at the moment. We think the financial impact on residents needs to be taken into account. If it is about remediation, it should not be the leaseholders or residents who are paying. It should be those who are responsible for the level of remediation.

We are not saying there is not a reasonable level of charge for building safety service, as there is for maintaining gardens, if you have them, or any other part of the building, but, if we link into remediation, we think the costs should fall elsewhere. We go back to the non-worsening clause. That is also why there needs to be a cost-benefit analysis of any improvement in fire safety, and residents should be involved in those discussions as well.

**Q23 Rachel Hopkins:** In that ilk, what additional powers would fire and rescue authorities potentially need to, say, enforce anything around this issue?

**Roy Wilsher:** It is a very good question. At the moment, we audit what the responsible person or the accountable person does. We interact with residents as a fire service to talk about prevention and other areas. When you have a stronger residents' voice, there should be a stronger role for the fire and rescue service to be engaged there. We try very much to engage with all our communities, but if there is a formal process of residents' voice, fire authorities and building control should be involved in that as well.

**Sir Ken Knight:** The fire and rescue service has a very proud more recent tradition—a 20-year tradition, at least—of engaging in community service, talking to residents, being the trusted partner in the community, as firefighters are, not just prosecuting those who are responsible for doing things wrong but helping people to do things right. Part of that whole community safety regime of firefighters working with the community, with the elderly and with residents can be a really big part of explaining the benefit of having the right products or doing the right things in safety, not on the fire safety enforcement side but on the community safety advisory side.

**Q24 Chair:** That is fine. We hope that residents listen and there is a good relationship between the fire service, residents and residents' groups. You then get one resident who still insists on going down to the local DIY store and putting on a door that is not fire safe, or who changes the windows. You have to get into the property to even look at it, let alone deal with it. What powers should the fire service have to deal with that sort of situation?

**Roy Wilsher:** One good thing that comes out of the fire safety order clarification is the use of front doors. We have the power to include that but, again, that power is directed to the responsible person. As for taking an individual resident to court for enforcement, I would rather try the education route first. If it is wilful, we should be able to take action against them. A clear example is things like barbecues on balconies. We



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always try to educate against barbecues on balconies in high-rise buildings, but sometimes you are going to have to take some sanction to stop people doing it.

**Sir Ken Knight:** This is what I was acknowledging earlier on as part of the rationale for starting with high-rise residential buildings. They are the buildings, under the fire safety order, where you have no locus in terms of the flats themselves. In an office building, a hotel or a nursing home, the fire safety order covers every part of the building including the rooms themselves. In truth, the enforcement of the fire authorities stops at the front door of the building, because beyond that door it is their home. While the Housing Act has some limited opportunities to make intrusion into that area, the fire and rescue authority does not. It is a very difficult question to ask at what point the fire and rescue authority has a right inside the flat.

In truth, the responsible person has the responsibility to do the fire risk assessment and, if they find the wrong doors, to recognise that in their fire risk assessment and to say so. Indeed, if that is the case, as Roy said, not least due to the clarification of the fire safety order, it is likely that the fire and rescue service will find that the risk assessment is not suitable and sufficient. Then it has powers about the building itself, not just that particular flat, because it is putting at risk not just that flat but other people in that corridor or area. The powers within a flat have always been, and I suspect are likely to be, limited to the fire and rescue service work in enforcement.

Q25 **Chair:** Does this Bill improve that situation and give the powers that are needed for someone who wilfully refuses to take advice?

**Sir Ken Knight:** I will defer to Roy. I do not think it does for the fire and rescue authority. I do not think it is trying to do that at all. If it was anywhere, it would be in the fire safety order, but there are no signs of that in the order. The clarifications are, as Roy said, in front doors. They can be required as they fall into the locus of the risk assessment and the enforcement, as can the external wall face of the building, which, again, had not been so until this clarification of the fire safety order.

**Roy Wilsher:** I agree, Ken. That sort of power is focused on the new building safety regulator and the accountable person, rather than on the fire and rescue service and the fire safety order.

**Chair:** We may explore that further to make sure the power is there somewhere in this process. You mentioned the golden thread, Ken. Now Ian Levy is going to pursue that particular issue.

Q26 **Ian Levy:** The Bill contains powers for the creation and maintenance of the so-called golden thread. The information that is held throughout a building's life is going to be held digitally. What are the challenges for the success of implementing this, and what information do you think should be included in it?



**Sir Ken Knight:** It is a follow-on from what has been not in fire itself, but in buildings, for some time. It is called BIM, building information management systems. Some housing associations and authorities have already started that work. They have been undertaking it for some years, truthfully. Where this differs, and I recognise it is complex but welcome, is that Judith suggests we need this whole information thread going right from design through to occupation and beyond. Every change in the building, in the construction, in the type, will be recorded in this digital golden thread. It will record the competencies of the people who worked on the building.

Coming out at the other side will be opportunities to add to that when fire risk assessments are undertaken, when equipment, such as smoke extraction systems or firefighting lifts, went faulty, and information to firefighters, when firefighters arrive at the building, to tell them about the building and the risks, and to occupants, as we have talked about, to inform them.

The complexity is ensuring that everyone is putting the information into the right format and into the right golden thread file, but that has already started. There is further detailed work going on between the ISSG—the industry response group chaired by Dame Judith—the Building Regulations Advisory Committee and officials. There is a British standard taking place at the moment as well. There is a huge amount of work going on in the background still. During the passage of this Bill, we will see a lot of that detail emerging but it will be a huge change.

The concept would be this. If there is a faulty safety product in a car anywhere in the world, you can identify where that product was fitted, whether it should be recalled and where it went wrong. How is it that we are still chasing buildings three years on where we are not sure what they had in the building, and what has been hazardous and put people at risk? The concept is to have a tracing and entry system throughout the life of the building and beyond, with information carried for the life of the building. The concept of the golden thread is very broad indeed but has huge opportunities for us to make the information available and keep people safe on a dynamic basis. It is not a static document.

Q27 **Ian Levy:** That is really good, because buildings evolve as they get older. They evolve and things change. People who come to work on those buildings bring different skills. It is whether that person is trained to the right level to do that. Is the Bill sufficient in setting out who has access to that information?

**Roy Wilsher:** I do not think the detail is there yet. It talks about the building safety regulator and other people involved. Ken was quite right about the difficulties. We need to talk about the appropriateness of the information, the level of the information and the relevance of the information to all the different regimes and people involved. That still needs working through. There is a lot of detail. The golden thread as a



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concept and a principle is absolutely fine, but there is a lot of detail to be worked through.

**Ian Levy:** I would agree with you. It is very much in the early stages and there are a lot of details to go through, but I think the concept of it is really good, to be honest with you.

Q28 **Chair:** You have both been involved in the fire service for a long time. Is the ultimate objective that, when firefighters jump in their fire engine and go off to a fire in a high-rise block, they will be able to get their laptop out and identify what that building is made of, how it has been designed and how it has been constructed, so they actually know what they are going into? Is that the objective?

**Roy Wilsher:** Building risk information is becoming more and more vital to us in the modern environment. I am not sure there are any fire engines that do not have a laptop in the front now giving you that building information, so you know where the building is, how tall it is, what it is constructed of, where your firefighting equipment might be, whether it has sprinklers and what your access is. If you can have all that information, it can only help you when you go to any emergency in that building.

**Sir Ken Knight:** In fact, it was an issue that was introduced following the King's Cross fire, which you will remember many years ago. A premises information box is placed outside the building, as you will see on many buildings now. It is a red box, which has information in it for firefighting.

At phase 1 of the Grenfell inquiry, Sir Martin recommended that all high-rise buildings have those premises information boxes with information for firefighters and that work is underway. In that, it is exactly as Roy suggested, but not in the digital form that he described. It is not all the information. It is not all the building information from the architect or designer and the changes that took place, but the information relevant to firefighting, where firefighting lifts are, where disabled people are in personal evacuation plans and where the dry risers are.

There is absolutely no reason why other aspects of information could not come out of the golden thread, as well as key information available to a fire service. Not that information, but different information needs to be available to residents. The golden thread is a huge opportunity to link all those pieces, but take out at the exit point the parts of the information that the user needs.

**Roy Wilsher:** The trick in all that is keeping things current and up to date, because sometimes having information that is not up to date can be worse than having no information.

**Chair:** Sir Ken and Roy Wilsher, thank you both very much indeed for giving evidence to us as our first witnesses on this inquiry into the draft Building Safety Bill. We really appreciate your time. Thank you.



## Examination of Witnesses

Witnesses: Graham Watts OBE and Adrian Dobson.

Q29 **Chair:** Welcome to you both, Graham Watts and Adrian Dobson. Perhaps you could begin by introducing yourselves and saying which organisation you represent.

**Graham Watts:** Thank you for inviting me. I am Graham Watts. I am the chief executive of the Construction Industry Council. I should say that the Construction Industry Council is sometimes a bit misunderstood. We are the umbrella body for the professional institutions, professional associations and research associations in the built environment. Often, we are thought of as a representative body for the contracting firms, but we do not have any contracting firms in our membership.

I also ought to declare one or two other interests. We own the body CICAIR, which is responsible for approving approved inspectors and is designated for that purpose by the Secretary of State, although it is run under its own governance with a separate board of directors. We also co-own the Considerate Constructors Scheme, which has been appointed to run the building safety charter, which is connected to the building safety work. As Ken alluded to in the earlier evidence, since the dreadful Grenfell tragedy, I have been chairing something called the competence steering group, which has been working with Dame Judith Hackitt to enhance competencies across the board within the industry for anyone working on higher-risk buildings.

**Adrian Dobson:** Good afternoon, everybody. My name is Adrian Dobson. I am an architect. I am the executive director for professional services at the RIBA and I support the work of our expert advisory group on fire safety. I am also involved at the moment in some work with the British Standards Institution on what are called the built environment competency standards.

Q30 **Chair:** Thank you both very much for coming today. Could I begin by asking the question that I began on with the first panel? The intention of this legislation is to implement the Hackitt review recommendations, among other changes, and to prevent another tragedy like Grenfell happening. Do you think it will succeed in that objective?

**Graham Watts:** My response to that is a qualified affirmative response, because it is complex legislation. It is probably the most complex Bill, I would imagine, that MHCLG will bring to Parliament, and yet a lot of the detail, as we heard before in the earlier session, is in the secondary legislation. It is a little difficult to say, yes, it absolutely will improve everything, but we have quite a lot of confidence about that. It is a journey. It is a systematic approach. We are pleased that the work Dame Judith Hackitt undertook, which we have supported unreservedly, is being taken forward and expanded upon.



The civil servants in MHCLG have been very proactive in consulting with the industry, the fire safety sector and others. This has been going on now for some considerable time and we have been helping, we hope, to make sure that the Bill is as you wish it to be.

**Adrian Dobson:** It definitely creates the opportunity to get things right. It sets the framework. We are very pleased to see that the Bill has a clear lead regulator, the Health and Safety Executive. We think that is the right one, with the right kind of strength. We are very pleased that the duty holders are the same duty holders as under the CDM regulations. That seems to make sense to integrate it.

As a lot of the people in the previous session commented, this is an enabling piece of legislation and the devil is in the detail. We do not have that detail here. We all recognise that this is a complex set of issues. If I give an example, how we apply this principal designer or principal contractor role to the design and build procurement environment is probably something we will talk about today. All of that is left for the next piece of legislation that will come along, so there are lots of questions.

The other point I would make is that, for many years, I used to take my kids to the Magic Circle Christmas show. Misdirection is great if you want to be misdirected, but what we have here is a part of the regulation. We have talked for a long time about the need to review Approved Document B and get rid of this ambiguous guidance and regulation. We do not hear very much about that at the moment. I would urge that we do not allow what is a really good flash moment here, with a good framework, to distract us from the fact that there are other bits of the regulatory framework we still need to fix.

Q31 **Chair:** We have had a look at regulations B in the past and the conflict and ambiguity in them. I am sure we will want to return to that at some point. Thanks for drawing attention to it. Can I just follow up there? We are going to have a building safety regulator. You said HSE is probably a good place for it to be based. In the Bill, is that regulator being given the appropriate duties? Is there anything missing that it should be given powers to do?

**Graham Watts:** So far as the legislation goes, without seeing the secondary legislation, I would say yes. The essential principles are ensuring clear accountability for building safety at each stage of the project, the duty holders and the requirement for the accountable person, linked to the establishment of a robust gateway process. We strongly support the planning gateway, which was added during the process. All of that is very good but, as Adrian has already said, we need to be able to see the detail before we can say, absolutely, it is the right thing.

**Adrian Dobson:** I would agree with Graham. The duties are quite well set out in so far as the detail is provided. I would echo what somebody said earlier. While we believe the HSE is the right regulator, there is going to be a learning curve and a resource issue for the HSE. Clearly,



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this is a departure in a new direction, so how that is resourced will be important.

Q32 **Chair:** Do you want to tell us a bit more about your concern over resourcing? Is that a financial concern, or a concern about the competence of the people who are going to be available or the number of people available to do it?

**Adrian Dobson:** It is not the competence of the organisation itself. It has good credibility, but it will have to develop new competencies and new specialist expertise in this sector, and that in itself will have a resource implication for the HSE.

**Graham Watts:** We are very strongly supportive of it being based within the HSE. The HSE has a great deal of credibility. It has done a tremendous job working with the industry over the last 20 years to reduce the number of fatalities by 80% since 2000. One death in the industry is too many, but we are certainly going in the right direction. It is well respected within the industry, but this is a whole new function. Adrian is absolutely right. It is setting up a new team and recruiting all the people necessary to run the regulator, but within a credible and well-respected environment.

We have some concerns about the initial pump priming funding. The £16.4 million does not sound to us to be enough. The Bill gives the building safety regulator a lot of responsibilities, so that may need to be reviewed, certainly in the first two or three years, when it is unlikely to be bringing in any income from charges, before the transitional arrangements and the secondary legislation are in place for the new regime to operate.

Q33 **Abena Oppong-Asare:** Thank you, Graham and Adrian, for your comments so far. While the Bill does not set specific scope for the scheme, as you probably know, the Secretary of State has indicated that it will initially be set at 18 metres. Do you think that this is the right balance between risk and being able to get the system up and running, or could it go further? I am quite keen to hear your thoughts on that.

**Graham Watts:** This is the most difficult issue, because either the new regime applies to all buildings or it applies to a subset of buildings. We welcome the extension from Judith Hackitt's recommendation of 10 storeys down to six storeys. That is a move in the right direction, but there is no easy answer to this. If you expand the scope to begin with by too much, you will create a situation where the capacity issues become a big problem, so it is a question of getting the balance.

We feel it is really important that there is flexibility in the system to expand upon the scope as the building safety regulator recommends, and to do that quickly, because to cover all building safety issues within the new regime in one go would be too much to ask. The question is getting it right to begin with. I agree with a lot of what was said by Ken Knight



and Roy in the earlier session, because there are a number of big safety issues that you cannot pick up necessarily in this subset. You need to watch patterns, change the scope over time and be able to do that easily and quickly.

**Q34 Abena Oppong-Asare:** You said you need flexibility in the system. What are the risks attached to, for example, smaller buildings or buildings of different types? You are saying flexibility, but are you able to identify in your mind what you think would be the risks attached?

**Graham Watts:** As Ken said in the earlier session, I have a real concern about care homes or wherever vulnerable people live and sleep, where actually evacuating premises is an issue. That is not so much to do with height. When you start talking about care homes, all kinds of other issues come to bear.

Talking about structural safety, fire is the driving issue because of the Grenfell tragedy, but in January 2016 we had the collapse of nine tonnes of masonry at Oxfords Primary School in Edinburgh. It was very lucky for all concerned that there were not any schoolchildren underneath that masonry. There are lots of other building safety issues that will not easily get picked up in the initial round of legislation, but that need to be considered. There has to be a proper risk assessment of all these areas.

**Adrian Dobson:** The fact that the duty holders and the general new regime apply to all building work is good, because clearly the risk does not just lie in higher-risk buildings, but it is the gateways and some of the specificity relating to higher-risk buildings that I think you are asking about. We would have rather seen a height threshold of 11 metres. In the last two years, we have had some big fires and some quite near misses on buildings of that scale, under the 18-metre threshold. I appreciate the point that this is a big undertaking and it probably has to be staged, but in the notes to the Bill it says that it does not envisage any widening of the scope beyond this 18-metre threshold and residential accommodation in the first two years.

A few of the people today have said that there are other ways of looking at risk. Generally speaking, where people sleep, where you have vulnerable people and places of assembly are all places where we have had major loss of life in the past. The slight worry would be that, rather like the old fire certification regime, which was never rolled out in all the different sectors that were intended, this may just wither on the vine. We would like to see a bit more expansion in the first phase to include places where people sleep, and probably look at other buildings types and elements of risk later on.

**Q35 Abena Oppong-Asare:** Following up on what I asked Graham, with your architectural background, what are the risks attached to smaller buildings or buildings of different types?



**Adrian Dobson:** At the risk of repeating myself slightly, height is a factor, so we definitely need to take into account height, but places where people sleep is also a factor, particularly if they are vulnerable and less able to escape easily. That is why care homes and hospitals have come under particular attention, but you can think of other places that we might consider higher risk.

School environments and places of assembly might be considered higher risk. There have been a couple of major fires in the United Kingdom and Ireland based in night clubs, for example. If you go back some time, we have had a major loss of life in nightclubs. There could be a whole series of dimensions that you consider in deciding what is higher risk—places where people assemble in large numbers, crowded environments, et cetera—and not just the height of a building.

Q36 **Abena Oppong-Asare:** That is really helpful. Finally, the Committee has previously called for a more complex risk matrix to consider relative risks of buildings. I know you touched on this slightly, but what would you include in that matrix if you were devising it?

**Adrian Dobson:** One of the previous speakers explained that there is some complexity in this and different people will take different views, but I would go broadly along the lines that I have highlighted. One thing we have learned from the Grenfell Tower inquiry is that many of these things have echoes of lessons that were learned in the past. In previous fire safety regimes, there have been attempts to define higher-risk buildings. The lists that we are coming up with today are not radically different to what was talked about when fire certification was introduced in the previous generation.

**Graham Watts:** I do not have much to add to what Adrian said, apart from reemphasising what I said earlier. We need to think carefully about the structural risks, as well as the fire risks, so things like disproportionate collapse and large concrete panels. Those sorts of issues need to be factored into the process.

**Abena Oppong-Asare:** That is very helpful. Thank you, both of you.

Q37 **Bob Blackman:** The draft Bill sets up a number of advisory committees. I just want to concentrate on the industry competence committee. How effective do you think that is going to be in addressing all the issues of the past that have led to this draft Bill being created?

**Graham Watts:** That is a good question to me, because I have been chairing the industry competence committee for the last three years. We are really keen to see the Government's competence committee set up quickly, as part of the shadow building safety regulator. It is really important that there is a body with teeth that is responsible for peer reviewing the development of the enhanced competencies at all of the 12 occupational levels that my group has been developing. Our final report, *Setting the Bar*, is being published on 29 September, together with an



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accompanying report called *Safer People, Safer Homes*, which sets out a blueprint for the building safety manager profession.

The industry cannot and should not put all its hopes into this statutory committee being developed as part of the regulator, because the responsibility for enhancing and improving competence lies with the industry. We have set up a framework for enhanced competencies across these 12 areas, in all areas from engineering to fire risk assessment, architecture, et cetera, but it requires the industry itself to develop the courses and qualifications that will bring about those enhanced competencies.

**Adrian Dobson:** I concur with Graham. For the regulator to establish its competence oversight committee is going to be important, and there is good work going on. It is right that the British Standards Institution is now leading the development of a competency standard, because that will enable the industry to respond and produce the right kind of accreditation systems.

Everybody agrees that the problem is a mixture of regulation, competence and procurement, so clearly this is one leg that has to be got right, but there may well be an issue of getting sufficient expertise trained up. You touched upon that in the earlier session. Will there be people with sufficient competency in sufficient numbers? We are already beginning to see that problem in the issue of the so-called EWS1 certificates, with the lack of professionals to carry out mortgage-based surveys. That is a slight concern. It is right that we are trying to raise this competence level, but we then have to get the supply through and that may be quite a challenge.

**Q38 Bob Blackman:** Graham, you mentioned the framework of competencies that will potentially need to be utilised. Is that something that you would literally lift and shift, so the competence framework that your committee has constructed could go over to the statutory committee, or are further enhancements required?

**Graham Watts:** There will always be enhancements. These things will need to be reviewed on a regular basis, but we have put in place a blueprint for what the competence should be for working on higher-risk buildings across a range of occupations. We have also identified some occupations that we have not yet done the work on, which will need to follow, but it is the industry's responsibility to get these competencies right, whether at the professional level or the trades level. They need an oversight from the building safety regulator through this new committee to make sure that that is happening. Those teeth are required to ensure that all parts of the industry enhance their competence, and it is not just the best getting better.

Can I add to what Adrian said? The issue of capacity through these new competencies needs to go hand in hand with the issue of scope? That is one of the things that concern me about the scope. I am not necessarily



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disagreeing with Adrian, but, when we introduce the scope, we need to have the capacity to make sure that the new regulatory regime works. You mentioned the building safety manager in the last session. We do not have any building safety managers yet.

**Bob Blackman:** That is one of the points we are making really.

**Graham Watts:** It is really important that we move on very quickly to get the number of building safety managers qualified and competent to do the job.

Q39 **Bob Blackman:** Is the industry actually commissioning the type of training courses that are required, at either a further education level or a higher education level, depending on what is required? Who could actually run those courses under the current circumstances?

**Graham Watts:** The answer to that is yes, by and large, it is. In each of the sectors, the professions concerned, the trades concerned or the collection of trades concerned have started to put in place qualifications and courses, whether it might be CPD in the case of architects or new courses altogether in the case of installers. They are starting to put these together.

It is a difficult conundrum, because a lot of organisations want to be able to see what the legislation is going to say before they go nap on a new course, but my argument is that it is not an excuse not to start that work. By and large, the industry is responding to that.

Q40 **Bob Blackman:** What level of assessment have you made of the range of skills and the differences between people at the moment, so we can move to a more consistent level of performance?

**Graham Watts:** That is happening sector by sector. The unfortunate issue is that it is not a situation where everybody either has started from the same place or is currently at the same place. As I mentioned, with building safety managers, we are creating a whole new profession, so we are starting from scratch. With architects, structural engineers and fire engineers, we have mature professions that need to be enhanced.

There are going to be some severe capacity issues in some of those professions. Ken and Roy already talked about fire engineering as a potential pinch point and there are several others, clerks of works and site supervisors for example. As an industry, we need to make sure that we are filling those gaps as much as we can over the next two or three years.

Q41 **Bob Blackman:** Does the draft legislation need to be enhanced to provide this requirement for levelling up the capabilities of people?

**Graham Watts:** I would like to see more teeth in the legislation, and this will come particularly in secondary legislation, about ensuring that people have to have the competencies that are required. At the moment, the



emphasis on that is being placed on the duty holders to be sure that the people they engage and employ are competent. I worry that there might be ways around the system in that. Adrian alluded to this earlier, or maybe it was Ken or somebody else. I would much prefer that there is a proper registration scheme, and you are able to go to the regulator and realise that Freda Smith or Joe Bloggs has the qualification as a fire risk assessor to work on higher-risk buildings in scope of the legislation. At the moment, it stops well short of that.

**Adrian Dobson:** Graham makes a very fair point. As I understand it from the notes, there is not now a proposal for even the principal duty holders to be held on a central register. We had probably anticipated at the very least that the regulator would hold a register of the principal duty holders, so it is perhaps a bit surprising that the notes seem to imply that that is not the case.

Q42 **Bob Blackman:** Do you think it should be?

**Adrian Dobson:** It probably ought to be, yes. You probably want that reassurance. While the scope of the higher-risk regime perhaps tells us about the scale of the problem at the more specialist end, do not forget that these duties on designers and contractors will apply across this new building control system. The challenge is to scale up an entire industry, so there will be concerns about competency to work on—I do not want to use the term—ordinary buildings. Is everybody really competent to do that as well?

Q43 **Bob Blackman:** As a final question from me in this segment, what difference is the establishment of the mandatory occurrence reporting system going to make?

**Graham Watts:** That is very important. In structural safety, the reporting system has worked very well. Enhancing the scope of that to include fire safety, for example, is very important, but it is equally important that it works. Getting the detail right to ensure that incidents are properly reported and there is a certain amount of confidentiality to that process is absolutely essential. We have a very, very good model in the voluntary model that exists in structural safety. The Institution of Structural Engineers and those who have been responsible for that deserve a lot of credit for developing it. It gives us a basis to make a much better and all-round reporting system for all potential building failure issues.

**Bob Blackman:** Adrian, do you have anything to add?

**Adrian Dobson:** No, Graham summarised that very well. We would be supportive of the proposals.

Q44 **Chair:** Moving on from the questions there and the answers about duty holders, the Bill gives powers for gateway procedures to be brought in through secondary legislation. Do you think that is the right way to go about implementing these procedures? What are your views on the



proposals so far?

**Adrian Dobson:** I have a couple of detailed points. Even what we know so far from the notes raises a couple of areas of concern. We have a particular concern about gateway 1, which is the planning gateway, because it appears that you will not need to necessarily appoint competent designers and a principal designer for gateway 1. That is a concern given the argument that has been made about the golden thread. That is a piece of detail that does not seem to be resolved in a very satisfactory way.

Another aspect about the gateways is around the period after gateway 2, given the way we procure buildings. The CDM regulations were a very good model, but it made absolute sense that the principal duty holders switched at the point works commenced onsite, because it became the contractors' workplace. They were in charge of that workplace.

As we are seeing, the construction industry does not work like that in terms of procurement, so design responsibility becomes very muddled in the construction phase. I am not sure the notes really give us the indication of how the principal designer and principal contractor are going to interact in that construction phase after gateway 2. Indeed, it seems to imply that the principal designer and principal contractor may become the same person. That would give rise to concern about where the independent inspection is going to take place. The principles of the gateway are very good, but we lack the detail as to how they are going to resolve some of these issues.

There is another one around gateway 1. As you know, we have this huge expansion of permitted development. Permitted development will bypass gateway 1 altogether, yet you could easily imagine that there could be quite a lot of conversion to multiple occupancy residential accommodation through permitted development. This is one of the areas where the devil is in the detail, and it is the detail we are missing at the moment.

**Graham Watts:** I am so glad that Adrian raised those points, because we share those concerns, particularly over the linkage of permitted development to the requirements for building safety and the timing of appointments in relation to gateway 1. We would share and echo that concern. In general, the principle of the gateways and the clear accountability of duty holders is the backbone of this Bill, and we absolutely support it. We completely support the hard stop requirements: that you cannot move from one phase to another until certain requirements have been fulfilled, in terms of the work starting onsite and occupation. As a principle, it is absolutely fundamental to what Judith Hackitt has tried to achieve and MHCLG is taking forward.

Q45 **Chair:** We have the duty holders set up with particular responsibilities. They have a responsibility to ensure compliance with building regulations. Do you think that is clear in the legislation? Are there any other specific duties they should have responsibility for?



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**Graham Watts:** No, in so far as it goes, it is clear. Again, a lot of what we need to see will come in secondary legislation. Adrian is probably better placed to respond to this than I am.

**Adrian Dobson:** There is nothing we would disagree with in what is defined. It is what is still to come. You can begin to make some assumptions, because it does seem very clear now that the CDM regulations are the model, so we can imagine that many of the duties to those who build and maintain buildings will now be applied to those who are going to be the eventual building users. You can begin to see what shape the more detailed responsibilities might take, but we do not have them yet.

Graham alluded to the fact that that is acting as a bit of a brake on getting, for example, accreditation going. In order to define the competency standards, to a degree you need to understand what are the duties those competent people are going to carry out, so you are trying to develop these tracks in parallel.

The sooner we get some detail as to the precise nature of the duties that are going to be enforced on the principal contractor and the building safety manager, the better. It is certainly something that any scrutiny of the regime needs to carry on looking at. This is clearly a big bang, it has some really useful stuff in it, and it is obviously a step in the right direction, but it is not the complete package yet.

Q46 **Chair:** I just spoke about the Bill giving a responsibility to duty holders to implement or make sure they are in compliance with building regulations. Then there is a whole issue, isn't there, about the review of building regulations and how that might tie into this process? I wonder if that is something that has not really been resolved yet. It is still up there waiting to be sorted out.

**Adrian Dobson:** I think so. You are seeing bits of it being resolved, but it is a piecemeal resolution of some of the big issues. It is not a proper comprehensive review of the relevant sections of the regulations. That is the bit that is going to be important. I am sure that the duties will contain the principles so far as reasonably practicable, so anybody trying to discharge the duties is still going to have to rely on the guidance to guide them in some way. The two are intrinsically linked, in my view.

Q47 **Chair:** To pick up a couple of final points on this, the duty holder is going to have a great responsibility and potentially quite a bit of liability and risk if things go wrong. Do you think the necessary professional liability insurance is going to be there to cover people, or are they going to find that people cannot get it and it is a real obstacle?

**Graham Watts:** It is certainly an issue and a worry. The professional indemnity insurance market at the moment is very, very challenging. It is very difficult for companies to get cover for anything to do with high-rise buildings or cladding. We are not yet in market failure, but we are not



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really that far away from it, so there needs to be a lot of attention to this, to make sure that the insurance industry comes along with this.

I am particularly concerned about the building safety manager role. There is no product for that at the moment with which we can make sure that these roles are insured. As one of your members mentioned in the previous session, if companies cannot get the insurance, there will not be anybody to do this work. That is the biggest possible Achilles heel in the proposals at the moment. The insurance issue is significant.

**Adrian Dobson:** I agree. We are nearly at a crisis point with professional indemnity insurance. Some of it is market driven, but some of it will be helped by a clearer regime if the industry can demonstrate higher competence standards and, to return to the point, if we can get guidance that does not have the ambiguity. It is partly about building up confidence that those two pieces are in place, and we might see the market respond in some way. At the moment, we have an insurance market that is not impressed with the risk it is being presented with.

Q48 **Chair:** The duty holder can, according to the legislation, as I understand it, be either an individual or an organisation. Is that satisfactory? Do organisations sometimes have an ability to diffuse responsibility in such a way that you cannot really hold anyone accountable? Is that appropriate?

**Graham Watts:** There was a lot of discussion about this during the process of reviewing Dame Judith's report, leading to the draft Bill. There is no alternative to having both individuals and companies, but where a company has accountability the directors must be fully aware of what their accountability is. That is a key aspect of the sanctions and the enforcement in all of this.

**Adrian Dobson:** It is a conundrum you just have to accept, because the majority of services will be delivered by businesses. The quite strong criminal sanctions, ultimately, that the HSE can rely upon are helpful in that way. The HSE, as I understand it, has a record of successful prosecution of individual directors as well as individual duty holders, so it is perhaps the best compromise we can get to.

Q49 **Bob Blackman:** We are moving from the competence of individuals to the testing of the products themselves that go into building these buildings. The independent review concluded that the product testing, labelling and marketing regime is opaque and insufficient. I could not help but completely agree with that particular concern. How do you think the Bill addresses these fundamental issues?

**Adrian Dobson:** It makes an attempt to address them, but really you are talking about a much deeper issue of testing standards more generally, and it is probably a role for the testing industry. Earlier in the process, we all seemed to spend an awful lot of time talking about BS 8414 and the need to test entire systems, not just individual products. This is one of the areas where I do not see huge leaps forward.



Q50 **Bob Blackman:** The testing regime also has to apply to how the products are used and not just individual testing, as you say.

**Adrian Dobson:** Yes. Overall, in terms of the bigger industrial context, this is one of the areas where we have seen relatively slow progress. I am not convinced that what is in the package here would fully give us the confidence, but we are back to the point that this is the enabling legislation. We probably need to see more of the detail as to what is going to come forward.

**Graham Watts:** I certainly agree that construction products should be brought within the regulatory framework. I agree absolutely with what Ken said in the last session, that we have to include the construction product manufacturers and distributors as part of the construction industry. That is a really important factor. Construction products was one of the competence areas that we looked at within the competence steering group.

There needs to be greater testing and greater oversight of products. Part of the problem that has led us to where we are is that there has not been sufficient testing in the past. More safety-critical products should be required to be tested. I agree absolutely with Adrian that we should not have a focus on single products. We should have more of a focus on a system-based approach, because how those products work in association with other products is the issue, not just the individual product in an overall construction.

Q51 **Bob Blackman:** For the moment, as I understand it from the draft Bill, there is no suggestion of changing the product testing regime. Should that be considered as part of this legislation?

**Graham Watts:** It definitely should be considered. One of the issues is the availability of facilities, but I do not hold myself out to be an expert in this area at all. My close colleague and friend, Peter Caplehorn of the Construction Products Association, is giving some evidence to you later, and he is also well known to Adrian. This is a question that should probably be rightly addressed to him, but Adrian may have something more to say on that.

**Adrian Dobson:** It would be useful to look at other international testing standards, because we have tended to be somewhat insular in the UK, in many respects, on fire safety regulation, and we could learn from a bit more benchmarking of other standards, because there is certainly intense debate in that sector as to which are the most effective test standards.

Q52 **Bob Blackman:** One of the other considerations and concerns is that the regime is not only opaque and insufficient, but it is not transparent either, so the results of any tests are not published at the moment. It is very difficult for anyone to get the details. Should the results of tests be published, so that people can understand what has happened and, if the tests are not sufficient, they can be held to account?



**Adrian Dobson:** Presumably, the issue has been that, where products fail tests in particular conditions, there is a tendency to hold on to those results. One of the problems the industry had is as much to do with how products are marketed. Marketing materials can be used in a way that incorporates technical information, which perhaps suggests that products can be used in a way where, if you had access to the full test data, you might make slightly different judgments. There is also an issue about what use product manufacturers make of that material. I know there is work going on around marketing ethics within the products sector. That might be part of the solution. We just need to make sure that how products are marketed is very carefully related and test data is not misrepresented in any way.

**Graham Watts:** I completely agree with that because designers and others often make use of the manufacturer's literature, and marketing integrity is absolutely central to this. I am really pleased to say that the Construction Products Association has done a lot of work on this. As Adrian alluded to, it has set up a marketing integrity group, which is setting up codes of conduct and ethics, meaning that those who subscribe through the association will not be able to make any claims or omissions that will mislead designers. That is a central part of this, and the transparency over testing is an important part of it as well.

**Bob Blackman:** One of the concerns we have faced, and several of us have been through this over a long time, is that products seem to have been tested, and have failed the tests or failed to produce the performance that was claimed for those products under the testing regime, but no one has published or done anything about it, which is of great concern.

Q53 **Rachel Hopkins:** Adrian, the Bill contains provisions to increase transparency for those procuring architectural services. That is in line with the wider reform around greater assurance of competence of built environment professionals. Do you think these go far enough?

**Adrian Dobson:** It is a difficult question to answer. It is probably too much of a declaration of interest, being an architect myself, so it probably needs a more objective answer. The Government have taken the view that some changes were needed to the Architects Act. We have often said that one of the problems with the construction industry is that it is relatively lightly regulated, but architects are actually regulated. They have looked to give greater powers to the ARB to monitor the competence of architects. That makes entire sense if you see architects as part of that broader ecosystem. It gives the Architects Registration Board the powers it requires and, in that sense, we are supportive of those provisions within the Bill.

Q54 **Rachel Hopkins:** The Bill also gives the ARB the ability to remove architects from the register if they fail to meet their continuing professional development requirements. How effective do you think this would be?



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**Adrian Dobson:** It removes a huge procedural piece of machinery that they have to rely on at the moment. Actually, the Architects Registration Board can remove an architect from the register if they demonstrate professional incompetence. They can do that, but they have to go through a complex disciplinary process that is quite costly to both the board and the architect. The Act is giving them the powers that, if somebody does not maintain their competence and demonstrate that through their CPD records, they could be removed from the register without having to go through that formal disciplinary process in quite the same way. That makes sense, because it is a fairly straightforward thing. You are going to have a duty to demonstrate you have maintained your competence. It is not about where you have made a particular mistake that is then being investigated. It is a compliance issue, so that makes sense.

**Graham Watts:** This is very much a personal point of view. In a sense, architects are an easy target here, because they are the only statutorily registered profession within the industry. It is relatively easy for MHCLG to add something to this Bill that improves the situation. That is not necessarily a bad thing; it is a good thing. Referring back to my comments earlier, there are many other professions that have just as much impact on the safety of people within their homes—structural engineers, fire engineers, et cetera—that are not registered in that way. That is my point on the need to have teeth about these enhanced competencies, because architects are the only ones in relation to whom you can actually increase these powers at the moment.

**Adrian Dobson:** To support Graham's point, that may be one of the reasons why we both expressed a certain surprise earlier that the principal designers were not going to be held on a central register. While an architect may well act as a principal designer, there are many other professionals who may find themselves in that role. If great store is going to be put on the importance of having the right people to do the role, some kind of central register and some form of regulation of the role would probably make sense.

**Chair:** Thank you to both our witnesses, Graham and Adrian, for coming to give evidence to us this afternoon. That is really appreciated and very helpful to the Committee. That is the end of our questions for today. We will be back next week, same time, same place, to have two further panels looking at product testers and manufacturers, following on those questions, and then the inspection services, approved building inspectors and building control officers. We will explore those issues in the Bill with them next week.