

Housing, Communities and Local Government Committee

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

Monday 21 September 2020

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

Questions 55 – 114

Witnesses

I: Dr Debbie Smith OBE, Group Director of Science and Professional Development, BRE Global; Peter Caplehorn, CEO, Construction Products Association; and Dr Scott Steedman, Director of Standards, British Standards Institution.

II: Lord Porter of Spalding CBE, Fire and Building Safety Spokesman, Local Government Association; Steve Wood, CEO, National House-Building Council; and Lorna Stimpson, CEO, Local Authority Building Control.

Examination of Witnesses

Witnesses: Dr Debbie Smith, Peter Caplehorn and Dr Scott Steedman.

Q55 **Chair:** Welcome, everyone, to this afternoon's session of the Housing, Communities and Local Government Select Committee. Once again we are looking at pre-legislative scrutiny of the draft Building Safety Bill. This is the legislation that is hopefully going to put into effect safer buildings post-Grenfell, to make sure the Grenfell disaster never happens again. That is clearly the objective we all have in mind.

Before we move on to our witnesses this afternoon, I just want members of the Committee to have a chance to put on record any interests they have that may be particularly relevant to this inquiry. I am a vice-president of the Local Government Association.

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



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Ben Everitt: I am a unitary councillor in Buckinghamshire.

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

Ian Levy: I employ a town councillor in my office as well.

Ian Byrne: I am still a sitting councillor in Liverpool.

Abena Oppong-Asare: I employ councillors in my office as well.

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

Chair: Thank you very much for that. We have two panels this afternoon and three witnesses on each panel. Could I ask each witness in turn to say who you are and what organisation you are here representing?

Dr Smith: Thank you for the invitation to participate in the evidence session today. My name is Dr Debbie Smith and I am director of science and professional development at BRE Group. I joined what was the fire research station at BRE in 1984 and have been working in many areas associated with property and the environment in research, testing, certification and consultancy since then.

Over the years, I have been heavily involved in the development of the new European fire test methods and classification standards, and I have developed standards and guidance in both national and international standards arenas. I also hold the chair of the European committee on fire safety standards and I am currently the CEN construction sector rapporteur chairing the CEN sector forum for construction within Europe.

Q56 **Chair:** You said "BRE". Could you just explain the full terminology? There will be people watching who are not aware of it.

Dr Smith: BRE is the Building Research Establishment. It is a group of companies that have worked for nearly 100 years to look after construction and construction-related issues associated with the built environment.

Peter Caplehorn: Good afternoon, everybody. My name is Peter Caplehorn. I am the chief executive of the Construction Products Association. Prior to joining the association, I was in practice as a commercial architect. During that time, I was on the RIBA council for 10 years. I was also deputy chair of the Building Regulations Advisory Committee for 10 years. I currently also hold the role of chairing the British Standards Institution's CB/- committee, which is the strategic committee on all construction matters. Finally, probably of interest is that I was involved in three of the working groups on Dame Judith's report and review before it was published.

Dr Steedman: Good afternoon to all of you. My name is Scott Steedman. I am an executive director of BSI Group and director of standards for the British Standards Institution. I have primary responsibility for the national standards body and the British



representation in international and European regional standards organisations. That covers ISO and the IEC in Geneva, CEN and CENELEC, which Debbie has just mentioned, in the European regional context, and of course all the national standards.

Earlier in my career, I was an academic in the built environment. I then moved into industry and spent about 20 years in various companies, in consulting, design and briefly contracting, and heavily in research, development and knowledge. When I moved to BSI to take on this role in 2012, I thought it was particularly exciting because of the opportunity to use standards as best practice to drive performance improvement in industry. We have seen a number of examples of that in the last few years. I welcome this opportunity, and thank you very much for inviting me.

Q57 Chair: Thank you to the three of you for coming. We will obviously explore some of those issues in greater detail.

First of all, I said at the beginning that the ultimate objective of this legislation is to ensure we do not have another tragedy like Grenfell. I will go round the witnesses and indicate who should answer first, second and third, if that is okay. Overall, do you welcome the proposals? Are they going to do the job of preventing another Grenfell?

Dr Smith: On behalf of BRE, we do welcome this Bill. It is a very important Bill. We welcome the commitment to fundamental reform of the building safety system. It is greatly needed. In its current form, it provides a helpful framework, and it broadly encompasses the issues that the sector faces. However, as has been touched on by previous witnesses, the framework, as it exists, is very much a framework. An awful lot of detail still needs to be worked through in terms of secondary legislation and clarity on how the elements will work in practice.

We welcome the scrutiny of this Bill by this Committee. We think it is an important step, and it is very important that we end up with a robust piece of legislation that serves the sector for very many years to come.

Peter Caplehorn: Overall, the construction products arena, as a whole, welcomes this Bill. It sets the scene very well, but, as Debbie has said, there is a lot of detail yet to be worked through.

There are particular concerns that I would like to highlight. First, there needs to be a bit of focus on project process and project chronology, which might cause us problems in some of the details going forward. We have yet to fully define building safety risk, and there are a number of issues with regard to the product area. Buildings are complex entities, and products on their own are not necessarily easily definable. There would be a need to focus on that in particular.

I would like to draw out the fact that procurement and building contracts are not yet touched by the provisions in the Bill. As we saw from Dame Judith's analysis, she identifies that those drive behaviour in the current



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industry. If we are to look at cultural change across the whole industry, they need to be taken account of.

Q58 **Chair:** Following up on that, is there therefore a need for either further legislation or for adding to this legislation?

Peter Caplehorn: Yes, indeed. It could possibly come out in secondary legislation, but there are certainly some key principles that need to be addressed.

Dr Steedman: We welcome this Bill. The draft Bill is a very clear commitment from the Government to their interest in fundamental reform of the building safety system, which is great news. It has been a long time coming. In the last couple of years, as we have worked on this, the commitment by Ministers and officials in MHCLG towards this work has been really exemplary. It has been a privilege to work with them on this. They have tried very hard to bring this Bill to the stage we are at.

As Debbie and Peter have said, it is still a partial picture. In a sense, it has to be. Sitting below this, there will be a huge number of documents. The approved documents alone include references to over 480 British standards. When we use the word "standard", as I will be doing this afternoon quite a lot, I am referring to the non-legislative standards that the BSI is responsible for. I cannot discuss standards in connection with regulatory requirements, for example, but these industry-led standards support the whole system.

The partial picture that Debbie and Peter have referred to is very important. We will need to see the supporting regulations and guidance to see how the whole thing will work together. Peter's point about procurement is a good example of another area of interest, whether that comes in through future guidance or new standards to support cultural change in that area. I am sure we will touch on the golden thread this afternoon.

Chair: We will, yes.

Dr Steedman: The fact that competence is woven through this whole Bill seems to be a real breakthrough. It is a transformational opportunity to tackle the question of competence at a strategic and tactical level.

Q59 **Chair:** I want to come back to products but widen it out slightly in view of what Peter Caplehorn has said. There are three designations for products in the legislation. Is that right? Is it clear what this means for everybody who is going to be involved?

I want to pick up on something Peter Caplehorn said, so I will pose this question to him first. You mentioned that this is a bit more complicated in the building industry. One product that might be perfectly safe in isolation becomes a different matter when it is installed alongside another product. Does the issue of combinations of products and how products are fitted have to be taken into account more clearly around this whole



issue of designation?

Peter Caplehorn: Yes. It is really complicated when you are trying to analyse the performance of any particular part of the building. The best way I can describe this, for your benefit and for the Committee's benefit, is to pick an example that is actually in the guidance, in the published document.

They refer, in that document, to a failure of a brick tie. For people not connected with construction, a brick tie is a piece of metal that holds two leafs of brickwork or masonry together. It is a primary structural element. The guidance points out that the failure of a brick tie would be clear and subject to sanction, et cetera.

Unfortunately, the failure of a brick tie could be down to design, because it could be that it was designed wrong in the first place; it could be down to the fact that it was procured wrongly, because the wrong size was bought in the process leading to construction; or it could be installed badly, because those doing the installation were incompetent.

I hope by that simple example I am explaining that there are many other levels that we need to focus on to ensure that we achieve safe buildings. Just focusing in at the product level is not necessarily going to give us the answers we all desire.

Q60 **Chair:** How do you write that into legislation?

Peter Caplehorn: That is a good question. The key thing is to take account of products and product assemblies and, as Dame Judith said in her report, to regard buildings as holistic entities, so the analysis the legislation has to work through is based on a number of levels, not just focusing in on products in the first case.

Dr Steedman: I thought that was a very interesting line. In my view, the way this is tackled is to see the buildings as a system, as Peter describes, and to recall that, at the top level, the ambition is to avoid a major incident in the future, as you indicated yourself.

The Bill is not only discussing the competence in the regulated roles at the top of the system, where we need people who have an understanding of how a brick tie might fail in multiple ways, but the competence of the whole system. There is quite a complexity here, quite a burden on the regulator, not only to tackle the higher-risk buildings, where the ambition is to avoid a major incident, but, in the fullness of time, to tackle the quality of all building works.

There is a competence from the top down, which frankly is new. We have to bring that into this industry, and that is what is happening with the competence framework standards. There is then the general issue about culture, quality and performance at work of individual operatives and professionals in the built environment, who have to have more understanding and awareness of the impact of their work on others.



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Treating the built environment and higher-risk buildings as systems, increasingly complex systems in the modern world, is something that we have to skill up, particularly at the higher levels of the community.

Dr Smith: That is a really interesting point. I completely agree with the analogy. Within the context of fire safety, it is important to realise that we have a system that enables the testing and classification of products, but an important aspect to their classification is something called the field of application, which you find within the classification report. Within that, it tells you that a given product might have several classifications associated with it, depending on how you use it. That might be how you fix it, whether it has an air gap behind it or how it is used in combination with other products.

Some of the system and process, certainly around fire safety, is already partially there and can be used now. We would argue, and I would argue, that it should be used now. However, there is a real challenge around all of this, because it has become apparent since Grenfell that a lot of people do not realise that. They do not validate the claims being made by manufacturers and they do not look at the field of application in the reports. You might install products in a way that does not deliver the performance that was required or intended.

This then comes back to the point Scott was just making about the competence of all the professionals and individuals working within the construction sector chain. It is important to educate people to look for the right information and then to be able to discharge their responsibilities.

Q61 **Chair:** Currently, as I understand it, the only regime that applies in this area is the EU harmonised standard or the European technical assessment. The proposals allow for those standards or other overseas standards to be designated through regulation. Should the European technical assessment be on the face of the Bill? Are there any other overseas standards that should be on the face of the Bill as well?

Dr Steedman: These are British standards we are talking about, developed with British input. You are describing European regional standards. As Debbie mentioned earlier, she chairs important committees in that area, and other British experts in the built environment chair very important design committees such as the Eurocodes. These are European regional standards; they are not related to the European Union. They are part of British standards, as they exist in the United Kingdom. Post-transition, they will be designated, so they will carry on. The body of standards developed and managed by committees led by Peter Caplehorn in BSI will continue with British input to those standards.

Q62 **Chair:** Should they be on the face of the Bill?

Dr Steedman: I could not comment on whether the word "Europe" should be in the Bill. The standards are British standards.



Dr Smith: Adding to what Scott said, they are the only standards looking at the performance of our construction products. There are in the order of 600 product standards and test standards, et cetera, that support that framework. If we did not refer to those, we really would have no basis, moving forward, to implement the Bill anyway.

Peter Caplehorn: The whole issue of how we take standards forward, when we have gone through the transition period, is likely to cause complexity in the marketplace and a great deal of disruption to the objective we are trying to achieve of ensuring that buildings are safer. I say that because, although there are lots of them, the standards we are talking about cover only a fraction of the marketplace. The current provision within the Bill is that, where necessary—I think those are the words—additional standards will be drawn up. These are complicated entities in their own right, and that will take a considerable amount of time.

We should not get too focused on what we have at the moment; we should be focused on what we are going to do in the future. For me, that is about ensuring that products, where necessary, are tested properly, accredited properly and brought to market. The issue there is that this is currently part of a system driven by the Commission. We are moving to a system that is driven by the UK Government. If we do not get all the details of that correctly organised, there will be an undermining of standards and, therefore, it will potentially detract from our overall objective of making buildings safer.

Dr Steedman: As I understand it, the Department is exploring a new committee on standards, which is intended to take some responsibility for that post-transition, so the designation of these standards in connection with UK legislation will be under the direction of the Secretary of State, advised by a committee on standards in the Department. That is work in progress, as I understand it.

Q63 **Mary Robinson:** The second category under the construction products regulation is referred to as “safety critical products”. A product may only be included in that list if, in the view of the Secretary of State, any failure of the product would risk causing death or serious injury to any person. Is that definition specific enough?

Dr Smith: No, the definition is not specific enough, in broad terms. Basically, this hinges on your appreciation of risk and how you define risk. There is no quantification of that, as things stand. The system being proposed in the Bill related to products that may sit outside of the scope of the construction products regulation, but that still need to be regulated, leaves the door open for a two-tier system to emerge, where some products are treated more harshly than others because there is no common definition or quantification of some of these things.

The answer is that a lot more detail is required to underpin what we have in the Bill, and it will depend on what that detail says, whether that is in



the form of secondary legislation, guidance or whatever. For me, that is a gap in what the Bill explains.

Mary Robinson: Dr Steedman, you are nodding. Do you agree?

Dr Steedman: Yes, I am agreeing. How you define risk is a very interesting question, and it all depends on the scale of the system you are looking at. This is an area that the built environment, as a sector, needs to get to grips with. It is the kind of thing that BSI, with its standards committees, would tackle by getting a consensus of regulators, experts such as Debbie and Peter, the industry and consumers as to what risk really means.

That is the way standards committees work. They may produce industry standards, but they are a process with full stakeholder engagement. If you are going to try to understand risk with residents at the centre of it, that is the way to do it: a standards process through which you can bring some deeper understanding.

The new regulated roles will really have to get their heads around risk. That is a piece of the safety agenda that has not been well understood in the industry hitherto, and maybe this is part of the background of where we are today. Trying to upskill that community to understand what risk really means in practice on regular building projects, rather than high-profile projects, is a big challenge. That is where the new competence standards will try to play a role.

Mary Robinson: Peter, would you say the same?

Peter Caplehorn: I would. Coming back to your original question, the definition is not strong enough. I come back to this point: we have a section of further consideration, which could be drawn out through the secondary legislation. This is about identifying these issues at a practical, everyday level in the middle of the industry. As I said earlier, there are many ways that I could identify the failure of a product or, indeed, safety risk within a project. They are not necessarily always the same thing or always defined in the same way. The issue we are trying to home in on is complicated when you get to the coalface.

Q64 **Mary Robinson:** "Failure" and "injury" were the words used. They are very specific. How wide should the definitions be? Should the regulations include, for example, long-term exposure to toxic products as well as fire and structural safety?

Peter Caplehorn: They should be wider. I have always taken the view that, although we started with fire as the major topic, we should spread out to consider wider things. After all, the objective we keep coming back to is to make buildings safe for people. That is safety in the round, as far as I am concerned. There should not be anything that a building exhibits in its asset that contributes to problems for people in terms of wellbeing. Let me put it like that.



I am very much on that case. In doing that, we have to have a process of analysing risk. I would go back to a thread that was brought out in Dame Judith's report about the use of the CDM regs as the foundation of how we would take things forward. We have been very used to using a system of risk assessment through those regulations for a very long time. Extending that process could well be the way we take this forward.

Q65 **Mary Robinson:** Scott and Debbie, how widely should they be defined?

Dr Steedman: Quite widely, but with some explanation. Disasters come in different forms. While there is reference to a single event, risk and disaster can be slow onset as well as rapid onset. A catastrophic fire is a sudden-onset event, but, thinking about asbestos or something like that, a slow-onset event can build up over a long period. A significant number of people might be unacceptably injured through a slow-onset problem.

In defining risk, it is very important to be clear about what we are trying to achieve. If we are trying to prevent major loss and injuries to a significant number of people at the top of the risk scale, that is one thing. If we are trying to make sure that everything is screwed to the wall in precisely the right place, that is another thing. There is a spectrum here. At one end, you have the quality of people's work, but making things that are of quality does not guarantee safety at all. There are loads of examples where everybody can do what they are supposed to do on the day and it still falls down.

At the top end, this Bill, as I understand it, is trying to prevent the occurrence and control the impact of a potential major incident. Risk has to be seen in that context: significant numbers of people injured or tragically lost. At the other end, we are trying to improve the general culture and quality of the built environment and the professionals and trades. That all contributes to the other end, but they do not map one for one. Defining risk more broadly is helpful, but it is in that context of slow onset and rapid onset.

Dr Smith: I fully endorse what both Peter and Scott are saying on that. As has just been identified, it boils down to the quantification of risk and the focus on what you are trying to prevent. Yes, Grenfell was a real tragedy with significant loss of life in one event. If we can address the quality issues, the competence issues and so on, to improve things within that spectrum, it will certainly contribute elsewhere. There are other areas under the construction products regulation that would help with that. There is the dangerous substances part of the legislation and so on. Better thought is needed as to whether there are still some grey areas in there.

Q66 **Mary Robinson:** Can I stay with you, Dr Smith, on the topic of risk? In relation to the power to make provision in relation to the marketing and supply of construction products, the Government can allow local requirements to go further than the central Government measures if the local authority thinks the products "risk causing death or serious injury to



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any person". Does this approach risk inconsistency and confusion?

Dr Smith: Yes. If you are saying that a product is appropriate and safe to use in a particular application but is then deemed not to be elsewhere, there is the possibility that you will start to get a mismatch between the requirements in different areas. That is clear.

One would hope that the building safety regulator would start to play a role in that space. If there were concerns about a particular product that was deemed to be safe somewhere, they could then be raised, aired, looked at and considered as to why the view was different in a different part of the country or a different local authority. It would not really make a lot of sense for basically the same building with the same risk profile and occupant characteristics to have different requirements in different regions, in my opinion.

Mary Robinson: Dr Steedman, does this dual approach risk confusion?

Dr Steedman: Yes, a dual approach risks confusion, but we are living today with different regulations and regulatory requirements in different parts of the United Kingdom. What we have in common is a set of standards that support product testing and so on. That is the piece I would be most worried about. If we started to fragment the standards, it would be really catastrophic.

It is quite possible, if the authorities are in control. I can think of lots of other examples where we have different regulatory requirements in different parts of the United Kingdom, and we cope perfectly well. There is scope for confusion; we would just have to manage that. At the end of the day, a regulatory requirement is a political decision. A standard is an industry-led and stakeholder-led consensus decision. Common standards—common international standards as well as British standards—can support different regulatory requirements.

Mary Robinson: Peter, how do you view this potential for inconsistency and confusion?

Peter Caplehorn: I have to say, it is a recipe for disaster. If we look at what is going on across the industry right now, while we have different building regs for the different devolved parts of the United Kingdom, we have different approaches all the way across the country as to how the current building regs are applied. Without a doubt, that inherent confusion has resulted in poorer standards.

I totally accept what Scott has said about coherent standards, which is absolutely crucial. That takes me back to my point about how things will change when we have completely left the EU. If we just focus on the actual application of standards, under this Bill, we are looking for stronger powers and stronger definition of roles and responsibilities to drive better quality and better outcomes. We definitely do not want to have anything in the procedures or regulations that gives people any



doubt as to what needs to be achieved. To me, this clause definitely does that.

Q67 Mary Robinson: Dr Steedman, the Government will ask the British Standards Institution to review relevant existing standards and/or develop appropriate new ones for identified products. What can you tell us about that process and how it will work?

Dr Steedman: We have not had a formal request to do that, but we are working very closely with MHCLG. It works very well. There are loads of examples from different Departments, including MHCLG, of requests for standards and reviews of existing standards. Debbie has been working on one of those. More recently, the competence standards framework is an example where MHCLG has sponsored the transition of the competence work into a BSI stakeholder committee.

In my view, it will work very smoothly, because we have a very strong relationship with MHCLG. We are appointed as the national standards body, so I would expect to have conversations about the need for standards wherever the direction came from. It might come from the new regulators' committee or other committees; it might come from anywhere, actually. We will then pick it up and feed it into the system.

When Peter introduced himself, he described his role as chair of CB/-. CB/- is the top-level strategic committee for overseeing the whole portfolio of standards relating to the built environment, so we are very fortunate to have that kind of expertise.

Q68 Bob Blackman: I want to move on to the product testing regime. The independent review concluded that "the product testing, labelling and marketing regime is opaque and insufficient", and called for a "more effective testing regime". To what extent do you consider that the Bill addresses these particular concerns? I do not know who wants to go first. There is no desire, by the sound of it. Debbie, do you want to go first on that issue?

Dr Smith: We would agree that a lot could be improved in the testing regime we currently have, the main reason for that being that a manufacturer can turn up at a laboratory with a sample, have it tested and disappear. There is no ongoing relationship with the test laboratory or whatever. It is entirely up to the manufacturer as to what it does with the test report it receives and how long it continues to market the product on the back of that.

This was explored at length in one of the working groups of the Hackitt review, a working group which I chaired, and there was a general consensus. One way to resolve this and to provide greater transparency and clarity on this issue would be to mandate third-party certification of products. That addresses a whole raft of the issues that are mentioned in the Building Safety Bill to do with publication of results, standardised presentation of data, ongoing surveillance of products, what you do if a



product is found to fail during an audit test, what you do about product recall, rectification and so on. All those factors are elements that sit within standard certification-type schemes.

One way to resolve this would be, as I say, to mandate a national-level third-party certification scheme, which certification bodies could offer to customers and so on, as they require. It would solve a lot of the issues that currently exist. As part of that, you would check the marketing claims; you could check the literature. It would feed into the golden thread and the auditable trail of what you have in a building and where, what it achieves, how it is performing and how it would be expected to perform.

Peter Caplehorn: Sorry, there was no reticence; I think we are being too polite. There is a need to get a grip on product testing, without a doubt. In many areas or pockets, it is really good. As Debbie has said, we have very good systems, but that is not across the industry. I hope that we can come out of this process with some consistency and with obvious objectives—I would put it like that—to make sure that things are done properly.

In addressing the issue Dame Judith highlighted about product information, the CPA has been working hard to produce a code, which we hope to launch at the end of the year. That code will basically be a declaration by all product providers that come to the market with a product that their literature, their information, their website and even their representatives are speaking about things that are provable, reliable and focused. We hope that will give us an entirely new approach, to make sure that customers, clients and everybody involved can understand what a product is meant to do and can have confidence that it will deliver the performance it is supposed to.

Q69 **Bob Blackman:** One of the criticisms is that the tests themselves are not the right tests. It appears, and I think there would be a consensus among the Committee here, that there is a concern that the testing regime itself is not fit for purpose. Do you have any concerns about the testing regime itself and using the Bill as a means to deliver that?

Peter Caplehorn: There are concerns, because at the moment there is no consistency. I would come back to the point that some tests have been around the industry for a very long time, and some tests and procedures need updating. If you look at the whole marketplace, you can say, "Yes, we absolutely need to do more work in this area," but we do not necessarily want to throw away the whole system.

Coming back to whether the Bill actually delivers on this point, we can see that the basic structure is there, but will the secondary legislation actually deliver the things we all agree we need?

Q70 **Bob Blackman:** Another issue that is highlighted is the fact that the results of tests are not published. We are reliant on companies saying,



“Yes, it has passed the test and it meets the requirements.” Should we not see the results of these tests published so that everyone can compare what has gone on?

Peter Caplehorn: That is quite a challenge, because some of those test results have commercial value. Therefore, that is a problem. It is a problem across the whole of industry, but we should have consistent and clear test results. That is part of a process we have been working on to bring that to everybody’s attention on a level playing field basis.

Another element to this is everybody converting to digital information. A lot of us are very passionate and very keen on doing that. We have been driving some of that as well. Getting consistent information expressed in the same way on a digital platform will undoubtedly help the industry. I know other parts of the building safety programme are working hard on that. Of course, it is wrapped up in the concept of the golden thread as well.

Bob Blackman: We are going to come to that in a minute. Scott, do you have any views?

Dr Steedman: What you are discussing is demonstration of regulatory conformity: does the product meet the regulatory requirement? The role of standards here is to provide the agreed test methods by which that is demonstrated or not. In the system we have today, you are balancing off the concept of innovation and innovative products with regulating absolutely everything and saying you are going to regulate for the performance of every single product. In the UK, we have a risk-based process. We talked earlier about safety-critical products. When you are in the realm of a safety-critical product, you would say, yes, a test needs to be done and then the standard will define how the test should be done.

The main problem, which Debbie was hinting at, is people not doing the tests at all. It is not that the standards are bad test methods; it is just that people do not do the testing. It costs money and they are not required to do it. The issue here is a cultural issue as much as a test regime issue.

Post-transition, we will have this similar process where we will have marking and the presumption of conformity granted by the use of standards, but I would encourage more testing to take place and to be required to take place on higher-risk buildings. That is very clear. If you do the tests, you will discover more things.

If you have manufacturers who are deliberately trying to cheat the system, that is an enforcement issue. It is not to say that the standard of testing is inadequate. The test is there to demonstrate that the product meets the regulatory requirement. As Dame Judith pointed out, we must stick with performance-based requirements.

Q71 **Bob Blackman:** You are not quite but almost turning this on its head to say that it is not the testing regime; it is the fact that people do not use



the testing regime in the way that was intended.

Dr Steedman: Yes, Debbie gave an example of that. She gave the example of a manufacturer turning up, getting one product tested and then carrying on, and who knows what they make downstream? There is a whole enforcement side to this that is really important.

We see that problem all over the world. This is not a UK problem. People try to get a certificate for their product and then they sell something else. It is very difficult. You cannot test every brick that is going to go into a building or every piece of rebar. There has to be some cultural process by which inspection takes place. There is random testing, but there could also be penalties for people who are manipulating the agreed system.

Q72 **Bob Blackman:** We are talking here about fire safety testing. Someone might say, "This particular product will resist fire for a given period." If it is subjected to testing and that testing works, they can say it is 15 minutes, 20 minutes, half an hour, whatever it may be. If it does not do that in situ, that is clearly a failure of the product. Am I right in that assumption?

Dr Steedman: No, not necessarily. You are back to this problem of the system and whether that product was part of an overall system. The test for the product was for the product, and then the product is built into a system. If the system as a whole fails, was there a test method for that whole system? The answer may be no. Then there should be a test method for that whole system, and it should be required to be used.

Q73 **Bob Blackman:** There should be a test method not necessarily for the product but for the system in which it is used?

Dr Steedman: Yes. BRE has a very big facility for full-scale testing that is rarely used because it costs money. The benefit would be huge.

Peter Caplehorn: I want, unfortunately, to add to the complexity. It is workmanship as well. That obviously has some impact. I am sure we have all heard reports of these things called cavity barriers, where walls have been opened up during remediation and they have been put in upside down or back to front. I am not trying to get away from the issue. Absolutely, products need to be of the appropriate quality. The UK product industry, I have to say, produces some really good, top-notch products, but you have to have this check and balance at every point in the process. That is what we would hope the new legislation gives us.

Q74 **Bob Blackman:** As a final thought from me, the Government have said they are going to set up a construction products standards committee, which will look at weaknesses within the regime. What powers does that committee need to have?

Peter Caplehorn: We have had discussions with officials on this. I am very grateful for the conversations we have been allowed to have with them. The committee needs to have a clear understanding of the



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practicalities of construction and to cover all products. My concern is that, while we are quite rightly focused on fire and structure as our initial targets, there are many other elements of a building that can cause risk and danger to people.

I would not want that committee to be limited in its consideration. I would like it to have direct access to the regulator, but also to people who really understand the practicalities of construction, and the pressures and problems of how we try to resolve things in the built environment.

Dr Smith: The remit for that group needs to be very clear. It needs to be clarified. At the moment, it is not clear. It is quite opaque as to what exactly they are going to do and what their responsibilities will be. At the end of the day, the industry, the product manufacturers and the standard-makers have to have confidence in the credibility of that group, if the system is going to work.

Q75 **Bob Blackman:** Should the Bill be amended accordingly? That is obviously one of the things we are looking at.

Dr Smith: Yes, that needs to be clarified.

Bob Blackman: That is very helpful.

Dr Steedman: I support that. The Committee really needs to be clearly focused on the regulatory requirements. Dame Judith was very clear about performance-based regulatory requirements, against which innovation is allowed to take place. These are the regulatory requirements we are talking about.

Chair: I am getting a bit conscious of the time. I know there are challenging and detailed points that we need to explore. Where there is agreement between the three of you, if something has been said already and you are happy with it, take it as read and try to move on so we can get all the subjects covered.

Q76 **Paul Holmes:** I will be as quick as I can. Good afternoon, everyone. The Bill requires the regulator to establish various advisory committees. I have a question for all of you first. How effective do you think the industry competence committee will be in addressing the issues of the past?

Dr Steedman: I will leap in, because I have been heavily involved with the competence steering group and now BECS, the built environment competence committee that we have in BSI to lead that work programme. There is a relationship between the competence standards committee in BSI that will oversee the framework standards for competence and the industry competence committee, which I see as a very useful committee to bring together representatives from the regulator, the industry and residents, and to keep pressure on the industry to transform its training and development process.



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There is a need to keep the pressure on, and I think that committee would work very well. Whether it is needed forever I do not know, but there needs to be some forum where we can bring together industry, regulator and manufacturers to discuss how competence is being delivered in practice.

Peter Caplehorn: I would go along entirely with Scott's comments there. The main issue is rooting the committee in practicality. I will keep it brief.

Dr Smith: For brevity, I agree. Competency is a key element in all this, and I agree entirely with what has been said.

Q77 **Paul Holmes:** Thank you very much. This is going very well. I want to draw your attention to one area. As you know, the regulator can give the committee further functions than those in the draft Bill that we have seen. Dr Smith, you mentioned competence, but should it have functions in relation to training and/or standards?

Dr Steedman: I am hoping that the competence committee will help to provide input to the standards committee itself. The standards committee has to be independent, neutral and stakeholder-led, but it would take input from the competence committee, saying, "We have found this problem. This group is not improving its competence fast enough. What can we do from the standards dimension to support that?"

On the other side, they can support the accreditation process. It is really important that there is independent third-party accreditation of the industry schemes that the various associations and professional bodies are developing or improving. They sit in the middle of that process. They should not take on more work themselves, beyond scrutiny and putting pressure on the sector, the associations, the professional bodies and the BSI standards people, who will work on the standards.

Peter Caplehorn: So many times in construction we start off with good intentions and, dare I say it, commerciality takes hold. We see industries springing up to support the industry. There are so many third parties and other elements that contribute very little and yet suck resource and energy out of the industry. I would be very keen, in this new regime that we are trying to create, to see us guard against that as much as possible and to focus on one-to-one relationships. When we say that somebody needs to prove their competence, they should be able to do it in a one-to-one relationship. They should not need to go to a third party and a third party, et cetera. I hope that makes the point.

Dr Smith: The implementation of the competency framework and so on will be dependent upon the training, and the consistency of the training, to improve the quality of construction and the installation that we see on site. There will be a mix of things that are required. It would not be great for the committee itself to become involved in that training. Third parties will become involved in that. Some of it will be vocational training; some



will be improvements in professional qualifications and professional training. It will be throughout the industry. The industry needs to be allowed, with the educational framework, to develop the training that is required to address these issues.

Q78 Paul Holmes: Scott, you said that the regulator should not necessarily have some responsibilities and should not interfere with the competence committee. As you know, the regulator itself must provide such assistance and encouragement as it considers appropriate to facilitate those in the built environment industry to improve their competence. It may be that you want to provide a short answer on this, but the Bill's explanatory notes give examples of this working through the competence committee. What else could or should the regulator do? Is your previous answer enough on this subject?

Dr Steedman: It is probably enough. There are over 120 organisations in the sector that have training and competence schemes. They need to be independently accredited to meet the requirements of the Bill. The regulator can oversee this, but to get involved in any detail is very difficult indeed.

Q79 Paul Holmes: Excuse the sirens. I am in the middle of London in my office. If that interferes, I apologise.

Clause 12 of the Bill allows the Secretary of State to repeal all three committees by regulations, not even requiring any kind of consultation at all. Is there a theoretical situation in which that could be justified? That is a question for all three of you.

Peter Caplehorn: I am struggling to see where that would occur, to be honest with you. For the sake of brevity, I will say that I cannot conceive that there would be such a situation.

Dr Smith: Yes, I am struggling as well. To be honest, I cannot think of a situation where that would occur. I am sorry.

Dr Steedman: We will always need a buildings advisory committee, we should have a residents' panel and we should have an industry competence committee. I cannot see a situation where you would remove them all.

Q80 Paul Holmes: Thank you. Do not apologise, Debbie. That is what you are here for. If you do not think there is one, then we will include that in our final report.

Finally, I just have one question to Peter. The Bill abolishes the Building Regulations Advisory Committee and replaces it with the Buildings Advisory Committee. Given your recent experience on the BRAC, do you have any thoughts on this change?

Peter Caplehorn: Yes, I do. While it is a ministerial appointment for people, the current committee has been very much arm's length. It is a critical friend. There have been lots of incredibly valuable and powerful



discussions within that committee that have, unfortunately, not seen the light of day. I would like to see a new committee that is very much more independent and able to make suggestions that are taken on board. Therefore, I would like to see a much more robust structure, something that actually contributes to the situation. After all, the people around that table have a vast amount of experience and knowledge. It should be taken account of and used directly in making everything better for everybody.

Chair: We will move on now to an issue that Dame Judith highlighted in her report: accountability.

Q81 **Bob Blackman:** As Clive says, this is a key part of not only the report from Dame Judith Hackitt but the legislation itself. It sets out proposals for duty-holders to have formal responsibilities for compliance with building regs and it is based on the main duty-holder roles under the construction regulations. Is there a direct read-across to the roles, particularly that of principal designer under CDM 2015?

Dr Steedman: There is a read-across. When we discuss the terminology here, it is very important that we do not keep inventing new roles and titles. There is a concept of a higher-risk building, or asset maybe in the future. There will be a principal designer and that designer, in the higher-risk project, needs to have additional competence, the competence we have talked about already this afternoon in systems and all those things. It is not just their technical competence but their soft skills. We have seen that in the oil and gas industry. They have learned how to do that, but they have not yet taken it on in the built environment.

There is of course a CDM question. We have to go beyond that, but we do not want to create another role. I am a supporter of the idea of a principal designer having to demonstrate additional competencies that relate to this issue of major incidents, preventing the occurrence or controlling the impact of major incidents in the future, or over the long term. There is a read-across, but it is a different set of skills.

Q82 **Bob Blackman:** What framework should you apply to ensure we get consistency right across the competencies?

Dr Steedman: The competence framework standard is in motion now. That is the project that is under way. The new British standard will be supported by three PAS standards, one for principal designer, one for principal contractor and one for building safety manager. That work is under way right now. We have already published the first edition. It is called a BSI flex on overarching competence. A group has come together to discuss and agree what that looks like. When they get to principal designer, they will be looking across to make sure the competencies do not overlap with CDM.

The requirements that they are looking for here are very much to do with a different skillset from CDM. This is not about safety on site. This is



about safety of the finished product in use, so it is looking ahead. The skillset I am anticipating they will be looking for in competence is much more around systems thinking, long-term risk and how to identify whether things have been designed properly, rather than a CDM perspective.

Q83 Bob Blackman: Clearly, the regulator has a key role in this, driving up levels of competence and performance.

Dr Steedman: We are discussing that interface with HSE right now. HSE is heavily involved in the standards development process. That relationship is being worked out right now. BSI is working with HSE.

Q84 Bob Blackman: What else should the regulator do? Given your experience so far, what else is required?

Dr Steedman: The regulator needs to be clear how it is going to regulate and enforce these requirements on the ground. Until we know that, it is hard to finish the standards on competence, in order to make sure there is a proper handshake in the middle.

Bob Blackman: Peter, do you have any views?

Peter Caplehorn: I absolutely do. There is an important read-across in the roles, in so far as we have had the principal designer/principal contractor role now since 2015. It has taken an awful long time to embed that thinking into the industry. I have to say, some parts of the industry are still trying to reverse that decision. They would like to hark back to previous eras. Also, there are lots of pockets within the industry that still do not quite get it. They still do not quite understand what those roles are all about, which is a great shame.

None the less, we have a bit of heritage and a bit of momentum there. To take this forward, as Scott said, expand and develop it, it is so important. The challenge for the regulator is to actually understand how this works—I will come back to it—at grassroots level. People will take on the role and have different approaches and attitudes. It is so important that the regulator maps out exactly what is required of them, but in very straightforward terms. That will then see us have some success.

Q85 Bob Blackman: Debbie, I understand that part of your role is to collaborate with the University of Edinburgh to create the next generation of safety experts. Is there a capacity of individuals to undertake the various roles, duties and responsibilities required in the Bill, given the type of onerous responsibilities that are going to be expected?

Dr Smith: As things stand right now, there is a skills shortage and a gap between who we have available to us and the rate at which we are producing people with the right qualifications to fulfil all these roles. Given all the work that is going on, that is not to say that will not be addressed, as long as we can make it attractive enough for the young to wish to go into this profession. It is key that there is a desire and



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willingness of the young to join the construction sector, the fire safety engineering profession and all the other professions that are needed.

Q86 **Bob Blackman:** In your experience, how long is it going to take to get people up to the competence level that we are talking about to take on these roles?

Dr Smith: It is not a quick fix. It is not something that will happen overnight. As Scott explained, the standards are in development now. They in themselves will take time. You then have to be able to respond to that framework of standards. Even taking people through qualifications and university, you are talking about a three to four-year timeframe.

Q87 **Bob Blackman:** Presumably you have to have someone who is competent to train and assess people to get them through university courses.

Dr Smith: Yes.

Q88 **Bob Blackman:** We are talking about years. We are not talking about months or weeks. It is quite clearly going to take some time.

Dr Smith: No, not in my view anyway.

Dr Steedman: We must avoid confusing general training for young people and people moving in, and the key regulated roles you are talking about. The people who are going to take on those regulated roles are going to be senior professionals today. They will be board directors. They will be senior managers in companies today, already very well qualified and deeply experienced. We are talking about adding a layer of competence to these people.

We have been through this once before. The COSHH model is interesting. It already exists in the chemical industry, oil and gas. There is a much closer read-across from these regulated roles to oil and gas than there is to CDM. If we think it is an enhanced CDM role, we have got the wrong end of the stick. This is about the prevention of major disasters. The lessons of skills and training from that sector are a direct read-across to what we need to do right now. Yes, it will take some time and it is a matter of a few years, but at the beginning we do not need that many of these people.

There is a huge demand for every building in the end, but building safety managers will take on a portfolio of buildings. You will have a few principal designers and principal contractors in your company and they will support the projects. We need to ramp up and there will be a transition period of 10 years. The training of the competence for the regulated roles is completely different to the entry level.

Q89 **Bob Blackman:** There has been concern about who the people are who are going to take on these roles, given the onerous duties that apply and the potential criminal sanctions if things go wrong.



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Dr Steedman: It really is time that we had regulated roles where the public risk is so high.

Q90 **Bob Blackman:** Some people have suggested we need a registration scheme for individuals acting as duty-holders. Do you support that principle?

Dr Steedman: Yes, I am keen. People who are qualified to take on these onerous roles are potentially likely to have to requalify every couple of years, frankly. There may be some thousands of them, but there are not going to be hundreds of thousands of them. There are going to be thousands or tens of thousands of them. Yes, there should be a registration scheme, which may be held by the regulator, for these individuals. That is not for everybody in the industry; that is just for the regulated roles. That may be part of their career development.

Peter Caplehorn: This is also going to develop some drive across the industry. Where we create higher-profile, higher-duty roles, I think that will drag parts of the industry into that higher, aspirational position, and thereby create the momentum for the cultural change that we are all seeking.

Chair: We will move on now to the final two question areas. I am conscious of time, so can we deal with these succinctly?

Q91 **Mohammad Yasin:** The Bill provides powers for gateway procedures to be brought in through secondary legislation. My question is for all of you. How would you like to see these gateways operate? Answer briefly if you can.

Dr Smith: This area is outside of my competence, so I will defer to Scott and Peter on this particular issue.

Dr Steedman: I am going to invite Peter to answer that one, if I may.

Chair: This is obviously a difficult question.

Peter Caplehorn: I thank my fellow panellists very much. The gateway system is a sensible starting point. Having a clear structure like that and bringing it in with the Bill is the right approach. I would pick out a couple of things, though. At the moment, the documentation says that gateway one would be instigated prior to any professionals being engaged. I fail to see how that is going to happen, in that gateway one effectively requires you to have a set of planning documents and a fire assessment at that stage, as I understand it. That needs to be done by a professional. It needs to be done properly. Somehow, it goes against what we have just been talking about, in terms of quality, professionalism and responsibility.

Secondly, we need to have a clear understanding of what procedures are required at each of the gateways. We also need to have a clear understanding that all these processes should be done in a digital format



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for the sake of clarity and robustness going forward. I hope that gets me to more or less answering your question.

Q92 **Mohammad Yasin:** Gateway one happens before duty-holders are appointed. Is that a problem, and why?

Peter Caplehorn: Yes. It is a problem because the information we have so far says that you need to provide details of the actual scheme. You need to provide a clear fire assessment. To do that, you need to have professionals working on the project, providing that information. Otherwise, there is a bit of a Catch-22 here. You cannot have the robustness, certainty and clarity that we are all seeing by the new process unless that is undertaken by people who understand the project and the job.

Q93 **Ian Levy:** I am conscious of time, so I will try to be as brief as I can. Dr Smith, the Bill contains powers for the creation and maintenance of the so-called golden thread, the information throughout a building's lifecycle. The notes say that the information will be held digitally. What are the challenges that you see to the successful implementation of these provisions?

Dr Smith: The consistent presentation of data is key to the digital representation of the golden thread. I know Peter Caplehorn is very involved in the golden thread.

Ian Levy: Maybe I have directed it at the wrong person. Sorry.

Dr Smith: Peter might want to come in and take that one.

Peter Caplehorn: By all means, I am very happy to. The issue, to start off with, is that we have made great strides in providing digital information in construction, but it is not yet universal and joined up. We need to ensure that the whole industry works to the same standards, going back to Scott's point in the earlier part of this session. We have those standards. We are a world leader in those standards, but the UK construction industry needs to get a grip totally on all of those to develop the basic data.

We also have a problem that I am particularly keen on, which is making sure that product data is universal and correctly expressed. We do not currently have that, although the CPA has been working on a system called LEXiCON for some time. We hope that will crack this particular nut. Once we have the right data, we need to ensure that everybody along the way—the client, the designers, the contractor, the supply chain, the building operators and the owners—approaches this particular information in the same way. We also have to make the system work for everybody. There are a few challenges along the way on that score. I do not think any country in the world has yet got this completely cracked.

Dr Steedman: It was with the foresight and encouragement of Government some years ago that the UK overtook other countries in the



digitalisation of the sector through the building information modelling standards that Peter refers to. It was the British standards that then became the ISO. That series is called 19650. The problem has been actually getting people to use it in the industry, although it was driven through procurement on major projects and industry leaders are way ahead of this. Seeing it rolled into the wider community would be a fantastic goal.

There is also amazing new work going on, for example, at the Centre for Digital Built Britain in Cambridge on digital twins and the connecting of the IoT to construction products and design. The future is there. We just have to pull it together. The standards development programme in digital information is already in motion and can support this ambition.

Q94 **Ian Levy:** Peter has touched on my next question, so I will put this out to the team. What information needs to be included, and who should have access to that information? I am thinking of emergency services and county councils. Who should have access to that digital information?

Dr Steedman: It is a very serious question because of security. There have been big concerns about how far in the supply chain, in the blue lights and so on, there should be access to all that information. Do you know precisely how to access that building, the specification of the doors, the security doors, the fire alarms and all that? You have to think very carefully about how you can segment the data to make sure that only the people who really need to know have access to it and it does not start turning up all over the world for people who have other intents to use that data to get into that building and do damage to it. That is my first question. Of course, there has to be a way. They may also need to have education and training in how to use this digital information.

Peter Caplehorn: We have a fairly good grip on what information needs to be contained. That was spelled out in Dame Judith's report. That is clearly all the basic information about the geometric characteristics and the performance of the building, but also about the products contained within the building so that future analysis or maintenance can be dealt with properly. We know, with sad events such as Lakeland House a few years ago, that maintenance is a significant issue with regard to people's safety. The golden thread should be delivering that output for everybody as well.

In terms of who gets the information, Scott has hit the nail on the head. Security is crucial. Those in charge of the building and those responsible for people's safety need to have primary access. A few years ago, I painted a picture for fire chiefs that they should have digital information projected on the inside of helmets, for instance, when they go into a fire to find their way around. That is achievable. In fact, it is being worked on right now. Those are the goals. Having security protocols in this information is crucial to making sure it is only used for good.



Dr Steedman: The other biggest problem here is the legacy of old building stock. This is a very long-term problem. While you can conceive of a system that would work well for a new build or even for refurbished parts of an existing building, if you go into anywhere in the built environment do you really believe what you see on the old piece of paper? Would you ever believe it? Is there ever enough information? You could be talking about a lifecycle of 50 or 80 years before you have enough of the national building stock fully digitised to believe it. It is very urgent, but it is a very big problem. We should not mislead ourselves to think this is a silver bullet for this problem.

Chair: Thank you to all our witnesses for giving evidence this afternoon. It has been very detailed but very professional and helpful to the Committee in getting our understanding of the draft legislation improved. Thank you all very much indeed.

Examination of Witnesses

Witnesses: Lord Porter of Spalding, Steve Wood and Lorna Stimpson.

Q95 **Chair:** We are now moving to our second panel of witnesses. I will ask the three witnesses to introduce themselves.

Lord Porter of Spalding: I am the Local Government Association building safety spokesman. I am also the leader of a council in Lincolnshire and I used to sit in the House of Lords when we were allowed in.

Steve Wood: I am Steve Wood from NHBC. We are a warranty provider with 75% to 80% of the market, with 1.5 million homes under cover. NHBC is non-profit-distributing with no shareholders. We have about 600 building inspectors, engineers and surveyors helping improve the quality of new homes in the UK. We are also a building control body as an approved inspector, providing building control for 50% to 55% of new homes in the UK, which represents around 50% of the approved inspector capacity in the market.

Lorna Stimpson: My name is Lorna Stimpson. I worked in public service building control for 21 years before moving to LABC. As background, LABC is the membership organisation for public service building control in England and Wales. Our primary functions are in-depth technical policy and co-ordination for our 3,800 surveyors, externally accredited learning and qualifications for the surveying network and UKAS-accredited competency validation, assessments, standards and performance. I have worked for LABC for 12 years. I am the chief executive. Among other committees, I am a member of BRAC and the Joint Regulators Group board.

Q96 **Chair:** Thank you to all three of you for that introduction. I will indicate the order of witnesses to answer the questions, as will future questioners.



If you agree with what has been said, just say you agree. It helps us with the time issues. There will hopefully be time to get through all the matters we want to consider with you.

The intention of the Bill is to implement the recommendations of Dame Judith Hackitt's review to prevent, in the end, another Grenfell from happening. Do you think the Bill actually does that, in terms of an overall look at it?

Lord Porter of Spalding: It will go a long way towards that. I do not think any of us believes it is ever going to be possible to prevent serious issues like Grenfell by merely changing the surrounding legislation, but the Bill certainly will go a long way towards it. There are a number of issues with the Bill that seem to fight against its intention, though. As you ask the questions, I will be more than happy to explore some of them.

Steve Wood: We certainly support the principles behind the Bill. It aligns with Dame Judith Hackitt's review. In particular, the establishment of a single building safety regulator across public and private sector is a very good move. Greater accountability through design, build, maintenance and handover is essential. Additionally, we support the appointment of a new homes ombudsman, which will help the drive to improve quality and safety. There is definitely the right intent around improved controls on existing high-rise buildings and product testing regimes. There is a lot of detail to work through to make sure that comes through in practice. We have areas of concern, which I am happy to elaborate on.

Lorna Stimpson: We very much welcome the draft Bill. We have been part of the Joint Regulators Group and other committees in creating what has been presented so far, so we are very supportive. It does what Dame Judith wanted it to do. It is a holistic, whole-building system, and we very much appreciate that.

Not wanting to be negative at all, but—there is a “but”—we are concerned that we are creating a two-tier system. We are going to have a gold-plated system for what is a relatively small number of buildings. There are about 12,500 higher-risk buildings in England at the moment. It has been suggested that there is an average of 880 refurbishment and new-build projects per year, which is a very small amount of overall construction industry projects. I would like to make a personal plea to see the robustness of the regime being extended more widely than is currently suggested.

There are various ways that could happen, and certainly ways that could happen without overwhelming the building safety regulator, which is obviously going to have a period of transition to get those existing 12,500 buildings into a new regime and a new system. There is much work to be done, but I would encourage a widening of this regime if possible.

Q97 **Chair:** You are arguing that, right from the very beginning, we should



have a higher number of buildings covered, not just a certain number of very high-rise buildings.

Lorna Stimpson: The difficulty we have is in defining that new regime and its scope. We have struggled over the last few years, the whole of the industry, in looking at it.

Q98 **Chair:** What would you like it to be?

Lorna Stimpson: I would like the gateway approach. The gateway approach, while not having to encumber the building safety regulator, could be widened across the whole building control industry, so that people had to wait for some form of permission before they started work or occupied buildings. That would be a very good way of tightening a regime that would not necessarily have to involve the building safety regulator. We could spend another hour talking about that, and I do not want to take all your time.

Q99 **Chair:** Lord Porter, you have been fairly vociferous about this definition of what buildings should be covered. Do you want to tell us your views on it?

Lord Porter of Spalding: Just high-rise stuff over 18 metres is not going in the right direction at all. We need to look at the risk presented to the people occupying each building. In theory, you could live in a five-storey block of flats with one fire escape and no automatic suppression system and not be covered, yet those who live in a six-storey block of flats with three fire escapes and an automatic suppression system would spend time being covered by that. It needs to be on risk. We have recently seen care homes where people have difficulty getting out of the building. They are not going to be covered. For us, it is more important that you look at the vulnerability of the people in the building and the building's ability to keep people safe. Regulation should not be on height alone.

Steve Wood: I agree with that last answer. The height of the building is a proxy for risk, and it should be risk that drives it. That detail needs to be worked through. Also, it was in part because of concerns about capacity and competence in the market. We would have concerns about how the building safety regulator would appoint an inspector. We do not agree there should be a default to the local authority. The default should be to the most competent provider, but that is perhaps a separate topic.

Q100 **Chair:** We will come to the issue of building control in a minute. To pursue two other issues, there may be some conflicts between this legislation and other Government policy announcements around the planning White Paper and the extension of permitted development rights in particular, which relax controls over buildings. Do you have concerns about those conflicts?

Lord Porter of Spalding: Yes, certainly. The gateway one principle is out of the window if the planning White Paper gets assent. If that goes



through as a Bill, people will not come to councils any more to talk through initial drafts of what they are proposing to do. You have already said that the permitted development rights will get people awake. Somebody needs to sit down and have a look. These two pieces of legislation do not work together. Either the planning White Paper will need to be changed or gateway one on this will need to be scrapped as a gateway.

Lorna Stimpson: I would echo Lord Porter. From our perspective, the case for safety has to start at the very earliest concept of a design. If that case for safety is only going to be starting at around the building regulations submission stage, it is far too late. It needs to be considered very early on and should not be an add-on that is considered months or years down the line.

Steve Wood: I agree with the previous speakers. I have nothing to add.

Q101 **Chair:** Finally from me, one thing that has been raised with the Committee, and raised widely outside the Committee as well, is the concern about costs falling on leaseholders for remediation work on existing buildings. There are possibilities arising from this Bill that additional charges, specifically related to building safety, could be levied on leaseholders. The Government say they are working to deal with those issues but, as it stands, the legislation does not provide an escape for leaseholders from those potential charges. Is this a problem in the Bill that needs addressing?

Lord Porter of Spalding: The Government have to be cognisant of the costs to leaseholders. It cannot be considered fair, can it? You have bought a property in good faith, your lawyers have checked it out, building control has signed it off, all the products have the right certificates, and you end up in a building that you cannot sleep safe in at night and you have to pay extra money to try to make it safe. That cannot be right.

I am a big fan of the taxpayer not paying hand over fist for everything, but in the case of the retrospective work that is needed the taxpayer is probably going to have to pick up the bill in the short term. The Government must pursue through the legal system, through the courts, anybody who is at fault for having buildings that—I would not say “deliberately unsafe”—appear to be deliberately unsafe, where corners have been cut and products have been gamed through the testing system. In those cases, those companies should be bankrupted, not the individual people living in the properties that they have sold them.

Lorna Stimpson: I do not have anything worthwhile to add. I completely agree with Lord Porter.

Steve Wood: We have paid out warranty claims in this area and validated around 20 claims on major projects with a bare value of about £100 million. We meet our obligations to our policyholders, but the bulk



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of remediation costs are still there and do not necessarily have warranty insurance in place. I agree with the essence of Lord Porter's response, in that the taxpayer is going to have to contribute. The Government should follow any recovery rights they can.

Q102 Ian Byrne: Thanks, Lord Porter, for that excellent contribution to the last question. It was extremely refreshing to hear those comments. Lorna, clause 48 of the Bill amends legislation to remove the ability for persons carrying out any building work for or on higher-risk buildings to choose their own building control body. Should this prohibition be extended to all buildings? It has been called for within the submission. I think we covered it before, but I am really interested to get your views on record.

Lorna Stimpson: I think the draft Bill and the suggestion of the removal of duty-holder choice will work on in-scope buildings, without doubt. As I said before, in-scope buildings make up a very small percentage of construction work every year. I am afraid that competition and choice of regulator will remain for the other 95% of building projects that occur.

I am afraid to say that the past 35 years have shown that there is a natural economic result of competition in the regulatory function that means some people will seek the least intervention at the least price. That is a fact that Dame Judith came to in her recommendations. It concerns me. The stronger sanctions are welcome, but an unintended consequence might be to push developers who prefer lighter touch on out-of-scope buildings away from local authorities in the future. That will have implications of its own.

From a Local Authority Building Control perspective, and that is what I am here for today, there should not be a choice of regulator. That does not imply any negativity about my colleagues in private sector building control. We are a profession. We are a profession that is coming together increasingly, but I believe that the construction industry as a whole has dictated to us over the last 30-odd years just how much regulation it is prepared to pay for. We have become a commodity, and that cannot continue. We are providing inspection regimes based on how much they are prepared to pay us to do that inspection. That cannot be right, in terms of regulation.

Q103 Ian Byrne: If the prohibition was extended to all buildings, would the industry be able to cope with that from the outset, or would it have to be built in gradually? Are there any concerns about the actual funding of the BSR, with regard to it being linked into the HSE, which has seen really severe cuts over the last decade?

Lorna Stimpson: You have asked me about five questions there, so I will try to remember them all. The first one was about capacity in the industry. I have two answers for you, which is not going to be very helpful. First, there are lots of building control surveyors out there and we are handling work that exists at the moment. If regulatory choice was taken out of the equation, our approved inspector colleagues or



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professionals who work for private companies could always come back and work for local authorities, but I am not sure that we can afford them. That is one answer.

Secondly, the amount of surveyors in our industry is very much determined by the amount of inspection and intervention we have been allowed to give the industry over the last 30-odd years. As I said before, it has not been enough. It needs to be far more. By that same rule, we need far more people to be able to do the job properly, so the answer is yes but no. Sorry that that is not a very good answer. I have no clue what your other questions were, because I have forgotten. I am sorry.

Q104 **Ian Byrne:** I have that ability. Do Lord Porter or Steve want to add anything on those questions?

Lord Porter of Spalding: You probably would expect me to say this, but I am not afraid of our building inspectors competing with the private sector. Because we would get all the high-risk buildings under this, it is probably more damaging to LABC. There is a good chance that we would get all the expensive work and the private sector will pick up all the cheap work. I am not sure that a simple ban on 18 metres and above from approved inspectors is the right way of going about it.

In terms of what they are inspecting, successive Governments over the years have deregulated the level of inspection that is necessary to provide for safe buildings. That is where the real problem is. It is not whether somebody working for the private sector or for the state sector in checking things. It is the amount of stages that need checking that should be increased and not decreased, as it has been. The standards and the inspection regime need to be improved, not necessarily whether stuff is on the private sector books or on the state books.

Steve Wood: We have no problem if the duty-holder does not appoint the building control body, but the choice should not be between public or private. It should be based on competence.

I would make a point about approved inspectors, just in case there was confusion. Approved inspectors are not regulators. We are regulated by CICAIR, the Construction Industry Council approved inspection vendors. We are licensed and audited. I am going to speak for NHBC, rather than approved inspectors. Because we are an insurance company as well, there is a very strong alignment with the objective of ensuring that the building is built to the standards of building regulations. Otherwise we pay for it, as the warranty insurer. That is a very strong commercial alignment. Also, we have significant capacity in the market and, indeed, a major projects team that focuses on the very properties that are the subject of this Bill.

Q105 **Ian Byrne:** I will just ask this one quickly, because I see the Chair staring at me, which terrifies me. Lord Porter, what could be the impact on local authorities of the proposal for both in-scope and out-of-scope



buildings?

Lord Porter of Spalding: Again, if LABC is picking up the in-scope buildings, which are going to be very expensive to look after, the private sector will be free to take all of the work for the out-of-scope buildings. We will end up getting all the hard to do, very difficult stuff, and probably not have as many qualified people to take that on as we need, and the private sector will be allowed to cream off the good stuff again. It is mainly that part of the competition.

Lorna Stimpson: There are a couple of things that I want to point out there. We are already experiencing greater competition on out-of-scope buildings. That competition has ramped up because people are voting with their feet and choosing to use non-local authority building control provision. Will that get worse with the sanctions and powers that local authorities are going to be expected to use by the building safety regulator? I am not complaining. I am a public service building control person at heart and I have always wanted increased sanctions, but that does not tend to appeal to all the contractors, developers and duty-holders in the world. If they have a choice on out-of-scope buildings, as Lord Porter says, it will be detrimental to local authorities.

You cannot forget that the very same experienced and competent surveyors who are going to be looking after these most complex buildings are the same people who spend 30% of their time in local authorities looking after and keeping you and me safe. By that, I mean in the public protection work they have to do as part of their role in local authorities in 24-hour callout support for dangerous structures, safety at sports grounds work, demolitions and so on. There is a very real danger here that the pressure put on out-of-scope buildings and the continuation of the choice of regulator will have a detrimental effect on local authorities in that 30% of their building control provision on pure public protection. Of course, private sector building control does not have that responsibility.

Steve Wood: Whether it is in scope or out of scope, because we are an insurance company, our interests are aligned in ensuring quality and safety. That is what our 600 or so building inspectors, engineers and surveyors are focused on. I do not see that as an issue for us, as an organisation.

Q106 **Chair:** Steve Wood, you may have a particular position in your organisation, but do you think in principle it is right that developers should be able to appoint their own building control inspector, with the perhaps not unspoken indication that, if they get a hard time from the inspector, he will not get another job?

Steve Wood: As I say, we have no problem if they are not able to do that. As an insurance company, our interests are aligned. If they are not built to the right standard and to building regulations, we will pay for it, as a warranty provider, down the line. There is no problem with that,



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provided the right competence is being deployed in the building control function.

Chair: I suppose I was asking a question that may be for other developers not quite in your position.

Q107 **Rachel Hopkins:** I want to explore the relationship between the regulator and local authorities. Lord Porter and Lorna might have more to say on that. The regulator will be establishing a unified building control profession and will have powers to bring in local authority experience, notable local authority building control teams, but will also hold to account building control bodies. How do you see the relationship between the regulator and local authorities developing?

Lord Porter of Spalding: We would prefer to have had the regulator sitting on an equal footing with local authorities and fire authorities. They have chosen not to do it that way round, so we have had to work our way through that. At the moment, the working relationship is going really well. The work they are doing together gives me some confidence that the professionalism of all three sectors involved with this will still provide for an agency that works well together and not in competition with itself. It was not our preferred choice but I think, as a sector, we are content with it. That is probably the best way of describing it.

Lorna Stimpson: I would echo that. Was it our preferred choice? I do not know actually. The idea of the HSE or somebody becoming a building safety regulator came out of leftfield, but, in thinking about it, there is a need for a co-ordinating role. The issues go back many years. Fire and rescue services have responsibility for buildings once they are in occupation. The building regulations and the Building Act, as it stands, do not give the opportunity for fire and rescue services to have their voices taken into account. Although there is supposed to be a mutual working relationship and that happens, it does not have to happen.

There was always a need for a co-ordinating body. As we started to understand what the role of the building safety regulator was going to be, that started to fall very much into place. At the moment we are talking about fire and structural safety, and that is very high on our agenda. As one of our previous speakers said—I think it was Peter—we have to take account of all the other building regulations and impacts on safety and wellbeing of people in buildings. That is where building control surveyors will come into their own. The co-ordination role is absolutely necessary.

The HSE, as it is at the moment, has an authority within the construction industry. That is what is vitally needed. The authority of building control, whatever flavour building control that is, that we have had over the last 30-odd years has been depleted and has disappeared. It needs to come back. If that is by the HSE, as the building safety regulator, taking the lead, yes, it is the right way forward. We are working at the moment. Lots of what is to come is about operational work. It is about how it is actually going to work in practice. We are working closely with the HSE



and with MHCLG to work on those processes and procedures, and on how local authorities can best support the regulator going forward.

Q108 **Rachel Hopkins:** I am going to push on that because you pre-empted my next question. Do you think local authorities and building control teams have the capacity at an organisational level to deliver the changes successfully and to take on the roles envisaged in the Bill?

Lorna Stimpson: Yes, I do. At this moment in time, at Local Authority Building Control, LABC, we have been working very hard over the last three years to start to prepare ourselves in anticipation of the draft Bill saying the things that it does today. We took on what Dame Judith said some years ago now about competence, resilience, standards and performance. We now have a situation where all local authority teams within England and Wales, apart from 29, are externally audited for performance and standards under UKAS accreditation.

Also, 550 of our most competent surveyors have gone through a process of becoming assessed and accredited to work on higher-risk buildings. We now have 550 of those surveyors who are accredited. That will be reinforced in the next few months by an ISO 17024 accreditation. That means UKAS will be independently auditing how LABC accredits those surveyors, to ensure they know what they are doing and are competent to do the work the building safety regulator is going to expect of them.

It is very much a work in progress. We have another examination just next week, a Covid-secure examination, where we are going to be putting another 100 surveyors through that assessment process. We are building that competence all the time. I do not want to take up too much of your time, but I did a bit of number crunching earlier. I will talk about Manchester, which is my home town. Of the 880 anticipated new and refurbishment projects a year, that works out at about 22 projects in Manchester, on average. We already have nine competent surveyors in Manchester whose competence has been externally validated. That gives you an idea of the resilience of local authorities. Yes is the answer. We are doing everything we can to support the regulator going forward.

Rachel Hopkins: Lord Porter, do you have anything to add to that?

Lord Porter of Spalding: No, other than the need for full cost recovery for the work to be undertaken. Local authorities are already under immense revenue pressures. Additional work, while welcomed by some of our professional members of staff, still needs to be paid for. I would like to see some sort of locally set fee charging regime. At the moment, there are a number of functions that come across to us, the latest one being licensing, where we still lose out because Government nationally set the fees we can charge and that does not account for local factors.

In terms of physical capacity on the ground, while it is great that LABC is training up as many people as it can get through to a good-quality standard, that is not going to work everywhere. The chances of one of



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my building inspectors in South Holland being ready for this are pretty limited, but at the moment I do not have anything over four storeys. If somebody comes in with a high-rise building, we do not have the skillset in South Holland. That is not to say my people are not good at what they do. It is just that high rise is not one of the things they currently do.

Q109 Rachel Hopkins: To push on the point about cost recovery, should it be made a duty in this Bill? There is a conflict between clause 13, which enables the regulator to direct a local authority to assist it, and the supplementary clause 14, which enables for the cost to be reimbursed but does not make it a duty. Should it be so?

Lord Porter of Spalding: It should be a duty for full cost recovery. Local authorities are already short on cash. I do not think anybody doubts that. Even our own Secretary of State recognises it, particularly with the pressures of Covid. Nobody thinks that post-Covid, if we ever get post-Covid, all of a sudden the world is going to be full of lots of money for local authorities again. We are going to be under the financial cosh for the foreseeable future. Any additional services that we need to provide should be fully funded. It is not in anybody's interest to design a very good safety system and then underfund how it is paid for. It must be fully cost recovered or else we will end up with half a system. People will avoid doing everything to the full potential the law will allow because of the costs of doing so.

Q110 Rachel Hopkins: Should the structure allow for regional variations in charging, for example?

Lord Porter of Spalding: Yes, definitely. Some areas are going to be able to deliver this service at a lower cost per unit than others because of the volumes they will be dealing with. Wages are different in different places. Not wanting to cast aspersions on the construction industry, but the costs of keeping an eye on some people is much more expensive than the costs of keeping an eye on some other people. That has a regional variation.

Rachel Hopkins: I know we are very pressed for time. Do the other panellists want to add anything to those questions?

Steve Wood: No, thank you.

Lorna Stimpson: LABC has been spending about £3 million a year on qualifications, competency, ISO, et cetera. That is not sustainable. Also, while we understand that charges will be able to be agreed between the regulator and building control for the work it actually does once we start the new regime, there is a need to gear up in advance of the new regime so that we can hit the ground running and support the building safety regulator from day one. We need some assistance. So far, local authorities, and certainly Local Authority Building Control, have not had support in that way. Yes, some support would be very much welcome.

Q111 Brendan Clarke-Smith: In a similar vein to what Rachel has just been



talking about, now thinking more about the individuals within the new regime, are there already enough people within the system that have the necessary skills to fulfil the various roles? That is not just around building control but also accountable person and building safety manager during the occupation phase.

Lord Porter of Spalding: The answer to all those questions, and the ones that you have not asked about the construction industry delivering the products in the first place, is no. We do not have enough people who are yet ready. We have just had a good explanation of what LABC is doing to try to get its teams ready. If we are able to deliver this Bill within a few months, which I do not think we are—I think this Bill is going to be three or four years in the system before it becomes anything—we do not have the capacity in any of the necessary areas. I still have concerns that some of the jobs are going to be so onerous that I am not sure anybody who is of sane mind would want to take them on.

Brendan Clarke-Smith: The capacity was going to be my next question, so thank you for that. Lorna, do you have anything to add?

Lorna Stimpson: Yes, very briefly you will be glad to know. Competence is a new concept to the construction industry, more so to others than those who have been involved in these meetings and working groups for the last three years. People still think qualifications are competence; they are not. I have a 25-year-old degree. I used to work in building control. On paper, I am competent to work on an HRB. Believe me, I am not any more. Competence is something entirely different. It is not about book knowledge; it is about application of learning and experience. The whole industry needs to start to understand that and grasp that things will have to be done in a very different way in the future.

Steve Wood: The competence point is fundamentally important. We have a well-established approach to ensuring that the skills and competence of our surveyors and inspectors are appropriate to the risk they are reviewing. That needs to be extended across the whole market in the way that many others are seeking to do.

The competence point is a broader one across the whole construction industry. There are structural issues that work against it because of the fragmented nature and the long supply chain. It is quite a challenge. It will not be addressed quickly or overnight, but it is fundamental that it is grappled with to help improve the quality of what we have built in the UK.

Q112 **Brendan Clarke-Smith:** My next question was going to be about how the Bill improves competence levels in the building control sector. Are there any other issues that need to be considered in the Bill, such as professional indemnity insurance? Lord Porter, do you want to answer that one, please?

Lord Porter of Spalding: I would leave it to other people in this audience who are better qualified to talk about insurance.



Lorna Stimpson: With regards to competence of building control professionals, it absolutely needs to happen. LABC is massively supportive of this. We do see that there may be potential loopholes in the Bill whereby not every building control surveyor may need to be assessed and regulated. We would like to see all practising building control surveyors licensed to practise on whatever level of work it is that they are doing. It is an absolute basic necessity.

I have been working with NHBC colleagues on the subject of competence for quite some years now, and they have worked on a licence to practise within their organisation for many years. The whole industry should absolutely have to have it, and we should all be regulated. Whether we are working on a loft conversion or a high-risk building, we should be able to prove the competency and be registered to do that work. It is vitally important that we close the potential gap in the draft Bill to ensure that the profession is regulated appropriately.

Brendan Clarke-Smith: Steve, I could see you nodding to that.

Steve Wood: Yes, I agree with that. We do work with the industry and other providers on competence. It is fundamental. The licence to practise approach we have is well established. There is strong oversight and reporting on that, and indeed sanctions where we find anybody who falls short. Everybody needs to embrace that, as the industry is seeking to do.

In terms of professional indemnity, NHBC takes that risk to its own balance sheet and account. That is not an issue for us, but it is an issue for other approved inspectors. We do not write professional indemnity for other companies. I am afraid that the broader commercial market needs to respond on that one.

Q113 **Ben Everitt:** I know we are already into extra time, but instead of golden goal we are going to go on to golden thread. Golden thread is one of these ideas that are so good that we cannot believe we have not thought of them before. But the reason we have not thought of it before is probably that it is very complicated. What are the challenges to rolling out golden thread? What information needs to be included? Then this is the crucial question: is the Bill sufficient in setting who has access to that information and how they can access it?

Steve Wood: Other people are probably better equipped to answer this question. We agree with the approach of the golden thread and duty-holders being held to account. If there are lessons to be taken across from the health and safety and CDM regulation-type approach, they should be deployed to building safety, too.

The point about accountability is fundamental. It has to stay secure and solid all the way through that golden thread and the handover. There must not be any ambiguity in the interface between one duty-holder and another. I suspect that needs a lot more detailed work. I am an insurance



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guy rather than a building control or construction specialist, so I will probably leave it at that if you do not mind.

Lorna Stimpson: Again, I have been asked three questions and can only remember the first one. How hard is it going to be? From our perspective and a local authority perspective, it is going to be about the practical and operational sides of that. We do not have one IT system across all local authority building control teams in England and Wales; we have 330-odd. Couple that with all the different fire and rescue service IT systems, the building safety regulator and all our new duty-holders. It is an enormous task and one that will not be settled overnight.

As our previous panel talked about, we can probably quite easily make this work on future new-build projects. Getting 12,500 existing HRBs to have that level of detailed information is going to cost a fortune. The platform is going to be enormous. Just gaining IT access to that platform for local authorities is going to be complicated. It is a big puzzle and I do not have the answer. I just know it is going to be difficult.

That was the answer to your first question. I have no clue what the others were; I am ever so sorry.

Ben Everitt: Do not worry, Lorna. What information should be in it? In terms of accessing that information, has the Bill got it right about the "who" and "how"?

Lorna Stimpson: As the previous panel said, security has to be a major issue with this. Residents need to have information. They need to be able to understand what is going on with their building. I can only imagine what it must be like to live in a huge building where there is work going on and you do not know what that is doing, particularly now when people are perhaps more enlightened than they used to be. It is going to be vitally important that residents and people living in these high-risk buildings have some understanding and comprehension of what is going on around them and that they are safe, while not having access to information that they do not need.

The fire and rescue services obviously need access to the information for work out of hours or should incidents occur. I do not think anybody has the answer to the problem, particularly for existing buildings, so far. It will be interesting to see what happens there. I am no expert.

Q114 **Ben Everitt:** I can summarise from that answer that what information depends on who accesses it, how and vice versa. Gary, do you have anything to add to those points that have been made?

Lord Porter of Spalding: I just have a couple of points. The LGA has done quite a lot of work since the morning of Grenfell. We have also met quite a few people from Australia and America. A couple of things strike me. From a building perspective, I have always thought it was far too complicated to know everybody who has done anything on a building, all the component parts and all the rest of it. But the aviation industry



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manages to do it really well. You can track any piece of an aeroplane: where it has been, how many hours it has been up, who was the last person to touch it and who has ever touched it. The pharmaceutical industry does the same. We should learn lessons from other industries about how to do that.

Somebody mentioned digital twins earlier. I have just started to explore those because it is technology. I am not very good at any of that sort of stuff, so I resist it. If we can trust the technology and have people who are capable of exploiting it to its full potential, there is a really good chance that, going forward, we can map new buildings for every single component part and every single person who has ever worked on them. It is possible for the new stuff. I do not think we have a flying chance of doing the retro stuff because it is just going to be too immense, but let us at least go forward in a better way.

Who should have access to it? It is whoever needs it, given a circumstance at any particular time. It is well above my pay grade to work out who should be able to do it. When people were asking us to identify the buildings with ACM, I know that we were very reluctant, because that allows people with bad intent access to information that you would not want them to have. It is very important that the security around any information about a building is restricted to only those who need to know in times that they need to know it.

Ben Everitt: That answer underlines the fact that we possibly need a whole new skillset in the administration of this new legislation at a local government level. This is another burden being shifted on to local government as a result of new legislation. Thank you to all three of you.

Chair: I reiterate the Committee's thanks to all three of you for giving those answers to us. That certainly provided very helpful evidence and information for the Committee to consider in producing a report on this draft legislation.