

Housing, Communities and Local Government Committee

Oral evidence: Independent review of building regulations, HC 555

Monday 8 July 2019

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Members present: Clive Betts (Chair); Bob Blackman; Mr Tanmanjeet Singh Dhesi; Helen Hayes; Kevin Hollinrake; Andrew Lewer; Mr Mark Prisk; Mary Robinson; Matt Western; Mohammad Yasin.

Questions 523 - 634

Witnesses

I: Edward Daffarn, Grenfell United; Bellal El Guenuni, Grenfell United; Adel Chaoui, Grenfell United.

II: Victoria Moffett, Grenfell Programme Lead, National Housing Federation; Richard Silva, Executive Director, Long Harbour; Dr Nigel Glen, Chief Executive Officer, Association of Residential Managing Agents; Lord Porter, former Chairman of the Local Government Association.

III: Adrian Dobson, Executive Director, Royal Institute of British Architects; Roy Wilsher, Chair, National Fire Chiefs Council; Dr Jonathan Evans, Chairman and CEO, Ash & Lacy.

Examination of witnesses

Witnesses: Edward Daffarn, Bellal El Guenuni and Adel Chaoui.

Chair: Thank you very much for coming to the Committee this afternoon. Welcome. This is the first evidence session we are taking with regard to building regulations and fire safety. Before I come over to you, I will ask members of the Committee to put on record any particular interests they may have that are relevant to this inquiry. I am a vice-president of the Local Government Association.

Helen Hayes: I am also vice-president of the Local Government Association and I employ a councillor in my staff team.

Mohammad Yasin: I employ a councillor in my office.



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Kevin Hollinrake: So do I.

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

Andrew Lewer: I am a vice-president of the LGA as well.

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

Q523 **Chair:** Thank you very much for coming this afternoon. Could we begin with going down the table and saying who you are for our records? That would be really helpful. Thank you.

Edward Daffarn: My name is Edward Daffarn.

Bellal El Guenuni: I am Bellal El Guenuni, ex-resident of the tower and a Grenfell United committee member.

Adel Chaoui: Adel Chaoui, bereaved family member and committee member of Grenfell United.

Q524 **Chair:** You are all from Grenfell United. Welcome to the Committee this afternoon. I appreciate in some cases these are difficult issues for you to come and discuss with us. We still have a responsibility to remember what happened on that dreadful day. All our efforts now, in terms of exploring issues, are to make sure that lessons are learned and nothing like that ever happens again. That is what the Committee is intent on. In terms of information for us, could you say what the situation is now with regard to the survivors? What progress has been made on the various challenges and issues we have talked to you about before, about a year ago?

Bellal El Guenuni: If we want to start off with housing, for example, would that be useful?

Chair: Yes.

Bellal El Guenuni: With the housing, I think we are down to single figures now for people to be rehoused. It is a little bit frustrating, considering a three-week promise was made early on and then a three-month promise. We are 25 months in. There are some difficult cases, in terms of people still waiting for properties to be prepared or ready to be safe for them to be lived in. There are a lot of households that have not been prepared due to their disability access or what have you. The main issue we are facing now, in terms of housing, is more to do with the repairs and the state of the houses people have been moved into. That is the main issue we are facing now.

Q525 **Chair:** We are down to single figures now.

Bellal El Guenuni: We are down to single figures. If you spoke to us two years ago, we would have thought everyone would have been housed by now. Like I said, the main issue we are facing now is to do a lot of



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repairs. There are some serious repair issues that are still not being addressed.

Q526 **Chair:** Are these repairs to houses that have already been allocated to people?

Bellal El Guenuni: Absolutely, so they cannot move in.

Q527 **Chair:** They cannot move in because of the repairs.

Bellal El Guenuni: Absolutely, yes. You have two sets of houses. You have the houses that are not prepared, not ready for people to move into, and you have the houses that people have moved into but there are issues in the properties. We are not talking about faulty lightbulbs. We are talking about serious issues that have gone on over the last two years. Off the top of my head, I could give you a small example.

Q528 **Chair:** Yes, please.

Bellal El Guenuni: That is people locked in their homes. You could not leave your home because the front locks were faulty. It has been addressed now, where all the locks have been changed, but considering what people went through two years ago it beggars belief. It is quite frustrating that people are still going through these issues.

Adel Chaoui: There are structural issues as well. We have had the ceilings of balconies falling down into the balcony cavity in brand new buildings effectively, so construction methods have just failed them again. Given where they lived and what they went through, the last thing you would expect is a brand new building to be constructed in such a way that parts of the building are falling down on to the balcony where you could be sitting.

Bellal El Guenuni: As Grenfell United, as grieving survivors, we need to make clear that we are here on a voluntary basis. We on the committee, everyone who is fighting and campaigning for this change and for these issues to be sorted, across the country, not only for Grenfell residents, are all bereaved and survivors. We are here on a voluntary basis. We have all been through our own trauma or been through our own issues. We have a voice. Sorry for not mentioning it earlier on, but thank you for inviting us here today. This is a prime example of our voice being heard.

This is what concerns and worries us, as Grenfell ex-residents, from the tower and from the walkway: if these issues are happening to us, what is happening across the country? That is whether it is housing association or local authority, because the issues are split. Some properties are owned by RBKC and some by housing associations. If people are being marginalised and ignored, even the ex-residents of Grenfell, it worries us what other residents across the country are going through and how bad their living conditions are.

Q529 **Chair:** We will come on to the wider issue of social housing reform in



another question. It is a really relevant point. You have been mentioning the difficult position people can be in, having gone through the awful trauma of Grenfell, then to find the property they are in has difficulties. One thing we discussed last time was mental health support for people, not merely those who have been through the Grenfell disaster itself but the wider residents in the vicinity. How is mental health support going now? Is it available? Is it sufficient? What is the experience?

Bellal El Guenuni: With the NHS, a lot of people say, "How is the NHS? How is your relationship with the NHS? Is it doing enough for you?" That splits into two. You have CNWL, which deals with a lot of the mental health issues you are talking about now. I remember Natasha saying here last year that the working relationship was good with them, and that was due to individuals within the trust. It was due to building relationships. It was due to red tape, and Natasha mentioned this last year. On mental health suppliers, I think you would be surprised, if adequate resources are put into the NHS, how effective they can be. We have witnessed that first hand.

The biggest success we have witnessed the CNWL go through is that it has come down to our level and said, "Okay, we are going to try things differently. We are going to work around the service user or the client, instead of working around our systems". The biggest obstacles we face are the systems in place, whether it is RBKC, whether it is the NHS, whether it is CNWL. The systems are constantly blocking good practice from being done in our community and for the people who need it the most. In terms of mental health, things are still improving and we are working on improving things with them. It is a long process and they are going to be involved for a very long time in the future.

Another issue Natasha touched on last year was CAMHS. We have emphasised that it is one of the most important departments in CNWL in mental health. For children, that is part of the prevention. With an adult, you are coming and addressing a load of issues they may be going through now, in terms of PTSD, but they may have had pre-existing mental health issues. With children, you are getting them early and preventing them from growing into serious mental health issues and later on being a serious concern. CAMHS needs a little more resource, a little more push, in terms of funding, staffing or whatever. Again, we are working on that with them.

The other side of the coin is the physical health. The physical health is not as successful. Your issue is that we are 25 months in now. There were people who directly inhaled large amounts of toxins, smoke, on the night. The response from the physical health side of things was inadequate and, frankly, unacceptable. People were not followed up after they left hospital, and I am talking about people who were in hospital for prolonged periods of time. They were not followed up until a year later in some cases. The coroner kindly wrote a very important letter to, I think, Public Health England, stressing that people need to be screened for



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these kinds of issues. The screen that is undergone in the community right now is more a general kind of screening.

Adel Chaoui: There is no screening at all. The advice from Public Health England, if you feel like you are not well, is to go see your GP. That is the extent of it. We saw hydrogen cyanide, whatever the toxin is. That is the prognosis: "Let us not worry about it right now. Let us just send you to go see your GP. Hopefully they might be able to do something, or might not".

Q530 Mr Prisk: Can I look at your relationship now with the council, which you mentioned already, how you feel the discussions are going and whether you feel there is a sense of priority? I am going to quote Ed Daffarn. Last year, you talked about a "vast chasm of distrust between the community and the council", and you said it would take "many, many years" for this to rebuild. Do you feel that relationship has moved on? Do you feel they are beginning to regain your trust, or is it too early still?

Edward Daffarn: I will spend a couple of minutes answering that question. I would like to go back to the first report by the Independent Grenfell Recovery Taskforce. This is from winter 2017, just to remind us all where the council was at the time of the fire: "RBKC was a council that was too distant from the community it served; old-fashioned in its operational behaviours; limited in its understanding and commitment to collaborative inter-agency work; insular, despite cross-borough arrangements; and with a significant deficit in understanding of modern public service delivery. As a result, RBKC is starting from a particularly low base", both in terms of trust and in terms of the people it serves.

I would describe the council we had at that time as looking like a wristwatch. It was a wristwatch that did not work. When we complained about the wristwatch not working, they said to us, "No, sit down. Look at that wristwatch and twice a day it will tell you the right time. If you complain about that, we are going to take the wristwatch away from you". All the time they were doing that, they were going into the back of the watch, taking out its workings and handing them over to their contacts in property development and in private education.

I will move us on to where I feel we are now with the wristwatch. We have a council that acknowledged the watch is not working. They are very apologetic for the watch not working. They are publishing lots and lots of manuals—they have a housing strategy, a Grenfell recovery strategy—on how the wristwatch can work, and yet, when we look at the wristwatch, it is still stuck and not working. I believe there are individuals inside the council, both councillors and officers, who fundamentally understand the need for real change. I fear there is an element inside the council that believes they have suffered enough and it is time to move on and go back to business as usual.

I will sum up. Trust is going to take maybe a generation before it can be rebuilt. What we are getting from the council at the moment is a lot of



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good, progressive roadmaps moving forward. We are struggling to see that manifesting itself into a belief that we can trust them and things have changed.

Q531 Mr Prisk: There are two elements there. One is whether there is a competence to do the job they are tasked to do. It is also about the relationship, as to whether, at a personal level, you feel, and you as residents feel, that these people have had a change of heart and the wristwatch is indeed ticking as it should be. From what you are saying, it seems you feel maybe the competence bit now is heading in the right direction. What about that second part?

Edward Daffarn: There is a difference. Our dealings with national Government have led us to the conclusion that there is a mixture of incompetence and indifference. Throw in Brexit and you are getting absolutely nowhere. I do not think we feel that with the council. Largely, with RBKC, we feel they are definitely listening to us. They are definitely responding to what we are asking for. If you read these documents, they are progressive. It is just getting to that point.

I could back that up with two examples of how they are changing. One is their local plan. We have sat down with them and explained that the local plan is not acceptable, for us residents to be subject to the same local plan as was in place prior to Grenfell. To begin with, they said, "No, we are not going to look at it". Then they said, "We will take out chapter 7", which was to do with regeneration. We kept badgering them, and it is this badgering them. For the changes that come, we have to keep putting pressure on them.

We have got to a stage now where we are working with RBKC for them to come up with a progressive local plan. The idea behind that is that we recognise, as survivors bereaved from Grenfell, that we do not want to be remembered for the way we were treated before. We want to be remembered for the changes that come afterwards. We want RBKC to become really progressive, listening, the best borough in the country. That is what we want it to become as a result of Grenfell. Beforehand, they were the complete opposite. They would go round cherry picking the very worst for their residents, the worst housing policies. They would go around different boroughs and put them all into their housing policy, because that is how they treated us.

We want a complete and utter flip-flop. We want it to be completely the other way. We want RBKC to be somewhere other boroughs come and say, "We need to rejig our housing policy. Where can we go?" I know there are councils like Wigan that have turned things around. We want it to be a borough where people can come and say, "As a housing policy, for example, as a local plan, this borough is doing it the right way". I believe, when they have done that and when that is accomplished, we will be able to answer your question, or the answer to your question will be in there.



Bellal El Guenuni: It is exactly as he said, but, in summary, things are being said at a senior level. The attitude there comes across like it is heading in the right direction, but it is taking far too long to filter down to frontline staff and getting things in action. We have to differentiate. There are two sides to this. There are things that need to be done yesterday and there are things that are going to take a while to be done. We appreciate and understand that. We are patient with the things that will take slightly longer, but there are things that are unacceptable and we should not still be facing these issues.

It is difficult. I know you do not like speaking a lot about the past, but for us RBKC was partly responsible, at the minimum, for what happened with Grenfell. It was a bad borough. It was one of the worst boroughs there are, in our opinion, but it has a good opportunity to become a model borough, one of the best boroughs. The new officers who have come in place appreciate, understand and accept that, but it is going far too slowly. The process is far too slow, in terms of what needs to be done. We do not have long here, but the issues the community are facing—I am talking about the wider community—are unbelievable. It is like nothing has changed. It is like Grenfell did not happen. We have to watch that very closely, in terms of what is actually changing and how long it is taking to change.

Q532 **Mr Prisk:** On that, we have had reports about potential toxic contamination around the tower. We were straying into that a moment ago. Are you concerned about it? If you are, what should the Government and indeed the borough be looking to do now to make sure there is not a health risk?

Bellal El Guenuni: We were cut a little bit short on the physical health. It is the same kind of thing. You have the survivors who made it from the tower who inhaled a lot of smoke directly, which is a much more serious issue. With the toxicology report, with the soil contamination and everything else, it is a classic example of authorities not listening to the residents of north Kensington or the Grenfell residents. They asked and asked and put pressure on to have checks in place for soil contamination and toxicology reports very early on. They were ignored. They all said there was sufficient air monitoring in place and there is no need for it. It took 18 months for Professor Stec's report to come out, and then all hell broke loose and everyone started running around: "What are we going to do? What are we going to do?" We had PHE coming down. We had the NHS. We had RBKC. We had Government. Everyone was coming down, asking, "What are we going to do now?"

Grenfell United facilitated a meeting in October 2018, to have a whole panel with everyone. They said, "Absolutely, we are going to do a full test to do the soil". As of yet, I do not think we have received any reports to do with that test. How long has it been now? It has been nine months. Nine months later, the test results still have not come forward. We are 25 months in. Grenfell residents warned about this. There was serious



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concern about the soil being contaminated and what local residents inhaled on that night. It is another example of the people who are most affected having to hold people's hands through this whole process and tell them what they should not be doing. We are not experts in any of these fields, but it is common sense sometimes. You go to Google. You do a little bit of research and you find out that certain things need to be checked.

Coming back to the physical health of people, we are worried that there is screening in place but the screening is minimal. You go to your GP and he will say, "Blow in this tube and see how your lungs are functioning". Absolutely, that needs to be done, but there have to be deeper checks in terms of long-term effects of cyanide poisoning, all these toxins that people have inhaled, and they are not in place yet. Are they waiting for someone to come up with an illness that is unexplained and then relate it back to Grenfell in five years' time? We are not willing to take that risk. It is to do with timelines and having to hold their hand through this process.

Adel Chaoui: If we talk about the response to date, it has been to say, "How can we put a process around the response?", rather than dealing with the issue. As Bellal said, in reality, we need to bring some common sense to the table here and accept we do not know what was burnt. It was a cocktail of chemicals. We have to accept that telling people to go back and see their doctor if they are not feeling well is just not acceptable. It is not right and something fundamentally different needs to be done.

Q533 **Mr Prisk:** Thank you. That is helpful. It is a shift towards being preventive and making sure that whatever has been found is published, and it is open and transparent.

Bellal El Guenuni: Yes, absolutely.

Q534 **Mr Prisk:** You touched on the social housing issue and perhaps this would be an opportunity to explore this. The aims of Grenfell United are about the broader issue of social housing. Ed has already mentioned some of that. I would be interested to hear your views about what the Government need to do now, and indeed what the council needs to do, to get principles you have been pushing for adopted.

Edward Daffarn: We recognise that the legacy of Grenfell, or a large part of it, is going to come from the Green Paper on social housing that is currently passing its way through Government. We are not going to get this kind of fundamental change from the public inquiry and we are not going to get it from the police inquiry. The one opportunity we have to fundamentally challenge the institutionalised indifference experienced by people in social housing is through the Green Paper on social housing. Grenfell United has been putting a lot of time and effort into working with our third Housing Minister now to try to make sure that, when this document is published, it is robust and will fundamentally change the way people who live in social housing are treated.



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Grenfell United ourselves have identified tenant voice and regulation as being two of the most important elements of that. The reason they are the most important to us is that they were where we were fundamentally let down. We were faced with a dog that did not bark in the Regulator of Social Housing, in the way that our concerns on Lancaster West were ignored. It was not as if we were not highlighting the kind of abuse we were experiencing. We were highlighting it and we were ignored. The idea that those same agencies, the same dog, the same kennel, can respond to what we were saying is not acceptable to us.

We are looking for something very robust in terms of regulation. We have asked. We have gone to the banking industry to look for a model that splits up the financial and the consumer regulation. The truth of it is that, at the moment, if you live in social housing and you have a complaint about where you live, whether it is mould or health and safety, the primary way you get this complaint addressed is by getting a mobile phone, taking a photograph, uploading it on to Twitter and hoping you can embarrass your housing provider enough that it does something about it. That is not good enough post-Grenfell. Post-Grenfell, we need people who are experiencing those problems to have an agency or regulator that is proactive and that they can go to with complaints like that.

The last time we were here, we left and got on the underground, and saw adverts for the Financial Conduct Authority around PPI payments. If you watch television, there are adverts on television. If the financial industry, the banking industry, can have robust regulation that stretches to adverts on the tube and on television, it is very sad that we are struggling so hard to get our voice heard inside this Green Paper on social housing for a regulator. We are advocating for a split regulator but, if we get a split regulator and that is all we achieve, that will not be enough. We are asking for tenants' voice, so residents who live in social housing are listened to.

We did some work a little while ago with Shelter and a commission was set up. That was cross-party. That had Baroness Warsi and Ed Miliband. I believe that, inside this document here, there are lots of ideas that can be carried forward, and should be looked at and implemented in the Green Paper for social housing. I am not saying this document should act as a template. I am just saying there are a lot of good ideas. My feeling is that a lot of hard work has already been done for the Government. All they need to do is pick up this document and implement some of the findings from there.

We believe we are going to be badly let down with the Green Paper on social housing, that it is not going to be the document we hope it is going to be. That will feel like a failure to our whole community. It will be letting down the lives of the 72 people who did not make it out of Grenfell. Parliament needs to create something, a document, that makes a difference. We cannot do that. We can only come and advocate for that.



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It is up to Parliament. It is up to Housing Ministers, Secretaries of State, to roll up their sleeves, understand what is needed and deliver.

We are sick and tired of being told by Ministers, "Government is difficult. Government takes time". Life is difficult. Life is not easy, but if you want to get something done you can do it if you apply yourself and set your mind to it. I use the example of Hillsborough and Andy Burnham. We know things can be done, so it is up to people in here to show the will, determination and perseverance to deliver for us. That is what we are asking.

We have a couple of other issues, like freedom of information. We are told currently that the difficulty in applying the Freedom of Information Act to housing associations is that the housing association debt will be brought back and the public sector will start inheriting the housing association debts, which does not make any sense to us at all. The most important thing is that people who live in social housing have access to the information concerning their fire safety reports and the issues that concern them. We are a little baffled at what we are being fed. Some of the reasons we have been given look a little disingenuous. We have even been told that the reason the consumer regulator could not be implemented is because it will bring housing associations back into the public sector debt. We would like you to investigate whether that is true. I asked James Brokenshire in our last meeting to send us detail and we have not received it yet. I hope that is helpful.

Mr Prisk: That is very helpful indeed.

Adel Chaoui: We talked about the FSA earlier on and banking regulation. It is an important concept to quickly cover. We have the banking regulatory structure now because of the global financial crisis. To us, Grenfell Tower was a housing regulation scandal. We had the will. We had people get up and get things done in the banking sector because, frankly, it mattered to the people who were involved in it. We need to see that same level of action in housing to keep people safe. We need people to get up, to hold our representatives to account and put in regulatory change that makes a difference to people's lives.

Q535 **Bob Blackman:** I have a couple of issues I want to cover, as you have raised the Green Paper, because that was published a year ago. Specifically on the powers of the regulator, can I invite you to inform the Committee what the powers of the regulator should be, in your view? Given that you would get what you wanted, what powers should that regulator have?

Edward Daffarn: Inside the Green Paper, we liked this idea of the senior managers regime that applies to banking. It holds those senior managers responsible for the actions of staff down the organisation. We have been campaigning for that to be implemented inside the Green Paper, inside housing. Housing chief executives earn £250,000 a year and then can



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turn up at inquiries and forget what they were doing on the night of the inquiry. These are the kinds of changes that we need to see.

Q536 Bob Blackman: Sorry, can I just interrupt you? We are obviously very sympathetic to what has happened to all those people from Grenfell, but it is this direct intervention by the regulator and the power it would have to intervene, not whether people forget what they are doing. That is unforgiveable anyway, but the key is getting a regulator that can come in and say, "This is wrong and you must change". I just invite you to elucidate on what powers you believe that set of people should have.

Edward Daffarn: When we first spoke to Dominic Raab who was the Housing Minister before the last one, he was very keen on league tables as a way of judging how a housing association would perform. The trouble is that, if you live in social housing, you cannot just up and off to another housing association. The idea that you go up and down a league table if your regulator finds you are not providing the correct service is not that helpful. As I have always looked at it, the problem for the regulator should be how you gate-keep the kind of sanctions that you may want to hand out. From our experience of living in social housing, no standards were kept. It is the way the regulator can try to keep housing associations up to certain standards. I would say "fine them", but that is obviously problematic if it turns out to be the residents who end up paying those costs. We do not have all the answers.

Q537 Bob Blackman: To give you an example, there are things like CQC, which does inspections on health services and has the power to intervene. In this Committee we have heard, unfortunately, of scandals affecting different sorts of care homes. You have the power to intervene in schools through Ofsted and so on. Those are powers of intervention and correction. Would you like to see those mirrored in a regulator?

Edward Daffarn: Most definitely. We have experience of the ombudsman. The ombudsman has a lot of power. Unfortunately, it takes—

Q538 Bob Blackman: But it is a very slow process.

Edward Daffarn: I was just going to say it takes a long time to get your complaint to the ombudsman. It publishes its findings publicly. It is a big slap in the face for a housing provider to be called out by the housing ombudsman. I guess I am saying that the change, when it comes, needs to be really meaningful for people. It is about trying to change. At the moment, people feel that the way you get your concerns addressed is literally by taking a photograph and putting it on Twitter. There has to be a better system than that. There has to be. There has to be some comeuppance for housing providers. I can fairly safely say, as a resident of Grenfell Tower, that the provision of housing services for us by the KCTMO was its lowest priority. The one thing it really did not care about was providing any sort of service to us as tenants. Its focus was somewhere completely different and was on, I believe, what it could get



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out of providing housing services. How do we change that? It is a big problem, but it would definitely include investigative powers and the power to publish results.

Q539 Bob Blackman: That is clearly a cultural change, which is key. The other thing I wanted to touch on follows up from Mark's question earlier on. In relation to health scans, you were saying the advice has been, if you feel ill, to go to the doctor. Was there not a health screening programme or anything at all?

Adel Chaoui: No.

Q540 Bob Blackman: It has not been offered at all to survivors or residents locally, despite the toxicity in the atmosphere.

Adel Chaoui: No, not health screening as you and I would understand it. There have been "blow into the tube" type breathing exercises, but there has been no real, meaningful health screening: "Let us take blood; let us take a sample". There has been none at all. The only people who were initially screened were those who were taken into hospital, if they were lucky to survive, but that is it.

Q541 Matt Western: On that point, do you know about follow-up and how frequently you will be having any tests?

Adel Chaoui: No, there are no plans for that at all. If you are not well, contact your GP. That is the extent of Public Health England's plans.

Q542 Matt Western: There is no tracking.

Adel Chaoui: No.

Q543 Matt Western: I want to pick up on the point you were making, Ed, about the tenant voice. Do you agree with the point that so many tenants suggest to us, which is that, without accountability of representation or elected representation, through the middleman of TMO or whatever it may be, the tenant is more distant from the decision-making? Therefore, as you were describing it, you are not being listened to. Therefore, you have to have direct representation of, say, social housing in an authority; otherwise people will not listen.

Edward Daffarn: That sums up our experience entirely, the helplessness you feel when you are identifying that things on your estate are unhealthy or just plain dangerous. You have a voice, but that voice is not listened to. The problem for us is how you translate that voice into something meaningful and having it heard. That is what we are struggling with. That is what we are looking for these answers to come up with. Whether it is done through regulation or tenant voice, these are the ideas and the notions we want to be properly recognised. It is what failed us first time around. If we want to prevent Grenfell happening again, these are the drivers that are going to stop it: if you have someone who is identifying and vocalising problems, that they are listened to, and that



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there is someone with robust powers to come and address those problems.

Q544 Matt Western: Surely it is better, rather than just sending images on your mobile phone—I understand it is, sadly, the way we have got to across the country—to have a direct elected representative to complain to. Rather than through an association or some other management organisation that is a third party, you are direct into the council.

Edward Daffarn: I do not think the model for how that tenant voice is heard has properly been explored at the moment. I know at the moment there are requests for more consultation. I know that, prior to the last Government, there was a National Tenant Voice. When the coalition Government came along, within weeks it was disbanded. Whether that is the mechanism we need, I think even the Government would acknowledge, and James Brokenshire would acknowledge, that, when he went around the country listening to residents, he found it a very rewarding experience. People have genuine stories to tell. They need to be heard and we need to have a mechanism to hear them. Whether that is elected representatives, tenants' unions or residents' unions, that may be the way to go. From my way of looking at it, it needs to be something that comes from the bottom up, rather than top down, but I do not have any more thinking on it than that.

Q545 Mr Dhesi: Thank you very much for coming to address our Select Committee on behalf of Grenfell United under what I can well appreciate are very difficult personal circumstances. Let me also reassure you that many of us have been highlighting on the Floor of the House of Commons the horrors of the tragedy, the unacceptable delays in rehousing the survivors and the families of the victims, and what needs to change going forward. In terms of today's questioning, I would like to concentrate on the Government's response and their action on cladding. Mr Daffarn, if I can start with you, what is your assessment of the Government's efforts thus far to remove cladding from residential buildings?

Edward Daffarn: I am going to hand this over to Adel, with your permission. I will say one thing. In my understanding, a primary job of Government is to keep the people safe, and I believe our Government are failing to do that.

Adel Chaoui: To be brutally blunt, two years after the worst fire since the Blitz, the Government's inability and reluctance to recognise the scale of the problem means they are still playing with fire. You will pardon the pun. There is nothing funny about that at all. Continuously placing people's lives at risk by not dealing with the scale of the issue is horrifying.

They have plans on what to do, but are they adequate? For instance, they have had the Hackitt report, which had some really good findings, really good recommendations, but way it has been implemented seems to be cherry picking and damage limitation. If we are talking about cladding,



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for example, we are focusing on ACM only because that is going to resolve all our problems and suddenly we are not going to have flammable buildings because we have dealt with ACM. We know they have had a report since October 2018 talking about the dangers of other forms of cladding and they still have not dealt with them. The importance they place on everything seems to be about the process of testing, et cetera. They have these reports from establishments like BRE that tell them this stuff is dangerous.

Q546 Mr Dhesi: I fully take on board what you have just said about dangers outside of ACM cladding, but let us concentrate on ACM cladding. The Government would say that, in the social sector, they have announced a £400 million fund to replace ACM cladding, and they did that in May 2018. In the private sector, I think it was a £200 million fund for the removal of ACM cladding. I have read some of your comments in the evidence, Mr Daffarn. From what you have seen thus far, do you think there is an adequate plan in place to ensure that cladding is removed quickly?

Adel Chaoui: That social housing plan was only put in place almost 12 months after the fire. You all saw it on television. Some of us were there live. Is that acceptable? Can we say that, 11 months after such a devastating fire, knowing what had caused it, it is acceptable that we wait 11 months before we do something about in social housing, then wait a further 12 months before we do anything about it in private housing? Again, people tell us that government takes time, but this is too big to just ignore, shuffle under the carpet and hope to limit the damage caused by a legacy of dangerous building and allowing dangerous building practices. We should have been doing something about this in the months immediately after Grenfell, not waiting up to 24 months.

Even then, we have this wonderful fund of £400 million we have this wonderful fund of £200 million. When is this stuff going to be removed? We still do not have a date for when people are going to be safe in their homes, let alone when we are going to deal with high-pressure laminate and all the others. High-pressure laminate is supposedly even more dangerous than ACM, even more flammable than ACM. When are we going to deal with that?

Bellal El Guenuni: What we want to put across to you lot is that you need to understand why this is so important to us. A lot of people are putting their faith into the public inquiry, into the criminal investigation, but this is also a form of justice for a lot of the grieving survivors. That is to have fundamental change. I know you mentioned the £400 million. It came too late and we had to campaign for that. We had to petition. We had to fight for that, literally meeting after meeting, hour after hour.

We come from different professional backgrounds. We are not experts in cladding, or experts in social housing, but some things are just so obvious that we struggle to understand why they were not done immediately. Us still talking about these issues 25 months in is



unacceptable. There are so many other issues that are wrong in systems, in local authorities, in housing associations, in Government. We have not even come to that. I know the words are “make people feel safe in their homes”. No, actually make people safe in their homes. It is not about feeling safe. People are not safe in their homes. That is what we struggle with.

Q547 Mr Dhesi: What do you think of the Government’s plans?

Edward Daffarn: We are aware that in July 2018 your Committee—I do not know whether it was Kevin Hollinrake himself—was writing to the Government, to the Treasury, asking for money for the removal of cladding from private buildings. We go from July through to May without any action. It feels like a complete abdication of responsibility by the Government that it would take that long to action a plan. The idea for any of us that you could go to bed and sleep in a building with the cladding on that did that to us at Grenfell is absolutely horrific. The honest answer is that it falls well below the necessary standard. If we were looking two months after Grenfell, maybe you could say things needed time to sort out. It is two years plus after Grenfell. One of your reports was about the testing mechanism: the rig they tested the cladding on was broken, so nothing was getting tested.

There is a casualness. There is a lack of focus. Every single night, they are playing Russian roulette, because while this cladding is still on buildings Grenfell 2 is in the post, and we said that last time we were here. It is only luck that has prevented another Grenfell happening. It is only luck. There is a 100% chance that fires will occur inside properties. All that needs to happen is for that fire to get outside the building and into the cladding and you will have Grenfell 2. The Government are not going to recover from that. The Government basically just about recovered from Grenfell, but they will not recover from Grenfell 2. People will not put up with that. Two years plus of inaction is mindboggling.

Q548 Mr Dhesi: I appreciate what you have just said. Many councils, for example within my own Slough constituency, are asking for funding for the remedial works they have undertaken or would like to undertake in terms of cladding. I note what you have said previously, in your written submissions as well, about Grenfell 2 very much being in post unless swift action is taken. You have partly answered the question, but for the record do you feel the Government are receptive to the concerns that Grenfell United continues to raise about the use of cladding on residential buildings?

Adel Chaoui: In a word, no. No, we do not, across more than just the issue of cladding itself. For example, we feel the one-size-fits-all rules they are trying to implement in this new regime they are proposing will not always work. We need to look again at types of buildings. For instance, there is the 18 metres. That is where we will define that you can put combustible fuel in on your house. If it is above 18 metres it is fine. It made no difference to Barking. It made no difference to St Albans



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two days earlier. That was an ACM fire, I believe. We are still enabling regulators to construct our homes, our schools and our hospitals with fuel material. It makes no sense. We need the Government to recognise that the scandal has gone further than just these nice-to-have rulesets, and they need to make a real difference and real change to people's lives and keep them safe.

Mr Dhesi: Thank you very much for your frank response.

Q549 Helen Hayes: Can I first commend you for the depth and the professionalism of your engagement with these issues over the last two years? In the context of what you have all been through, it is genuinely humbling for us to hear and see how your debate and your engagement with the issues has moved on further over the year since you were last with us. We have heard very clearly your frustration and disappointment with the pace of change the Government have implemented over the last two years. Starting from now and where things have got to over the past two years, what is your priority list for the requirements that you would like to see the Government ensure are introduced to keep residents safe in all residential buildings?

Adel Chaoui: Ed summed it up quite nicely, that the duty of a Government is to protect and keep their citizens safe. We can talk about the removal of dangerous cladding, combustible materials. We can talk about safe and working fire doors. We can talk about sprinklers and the ability to not fight fire but to just dampen smoke and give people the ability to escape. Really, that is only part of the picture. The entirety of this all is about people being ignored, people not being kept safe in their homes. It would be wonderful just to say, "Yes, remove combustible materials. Give them safe fire doors, fire alarms, sprinklers so they are able to escape". Again, sprinklers are about dampening smoke. It is not about fighting a fire. That will not solve it on its own.

Bellal El Guenuni: I would agree. It is a combination of issues, and that is why Grenfell is so unique, because the failure was from so many different angles and each one contributed to Grenfell. It is not one or the other. It is a combination of things that need to happen quite promptly. It is not a thing you can wait on. It is a bit of social housing regulation. It is very important to get combustible cladding material off buildings. It is also to do with culture change, how people are treated and how people are seen by their local authorities or housing associations. It is how they are treated, effectively.

Adel Chaoui: The gentleman earlier on was talking about your local authority, Slough. I know Government have made a big deal about how they now have the ability to help councils with enforcement. We have been asking the Government for numbers on those enforcement requests. Local boroughs are hard pressed already. Services are being cut left, right and centre. We all know about this. They cannot afford to now become the policemen with building regulations, having been told, decades ago almost, "You do not need to do that. We are going to send it



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off to private enterprise to deal with". Now they are being asked to man up and get all the resources necessary to go and check buildings. "Make sure they are compliant, and if they are not compliant we will back you to carry out enforcement on building owners".

Where are the stats? Where are the stats that say to us, "We have had X number of requests, we have backed the councils in Y and we have said to the rest of them, 'Sorry, there is no cash'", or whatever the answer is? It may not be that straightforward, but we have asked. We have not been given numbers. We are very keen to hear about that, because that is important to see if they are making a difference with this enforcement regime that they are talking about, or if it is still a case of saying, "We are not dealing with it. We are not interested in it".

Edward Daffarn: One thing that is crucial is that there does not appear to be a date for the removal of cladding. One thing the Committee could do is put pressure on to the Government to come up with a date when they are going to remove this cladding from buildings. Then they can work backwards from that date to make it happen. It seems that their plan is just reactive—"Oh gosh, we have done social. Now we need to do private. We will announce some money"—without thinking through how that money is going to be allocated. Now of course there is a problem with different people not taking responsibility and trying to pass the responsibility from the fee holder on to the managing agent.

It seems to me that there is not the focus. The focus should be on saying, "By Christmas 2020, no buildings are going to have the cladding on. How are we going to make that happen? Let us work back to two months before that". For me, it would be important that the Committee does that.

The second thing that would be most important is for the Committee to understand fundamentally what we are talking about when we talk about the Green Paper on social housing, our requests and the vision of that Green Paper. The change is not going to come any other way. It is going to come that way. That was the way we were promised by Theresa May when Sir Martin Moore-Bick said he was not going to look at social housing within the public inquiry. This is our opportunity. When we first met with Dominic Raab, we set the bar so high for him, in terms of our expectations. Since then, we have seen the bar be lowered and lowered and lowered. Time passes. Justice delayed is justice denied, and now we fear that when this Green Paper is released it is not going to be visionary. It is not going to be a legacy. It is just going to be a poor answer to what needs to be a fundamental watershed in the history of social housing in the UK.

Bellal El Guenuni: We also need sincere commitments from Government, from people, for change. If you go up and down the country and see the way people are living, the way people are being treated, it is unacceptable. Ministers may change. People go and come. It is important



for them to understand we are not going anywhere. We have a community of 10,000 people. Once we are gone, have had enough and are drained out, people will take our place and carry on this fight. It needs to be changed. This kind of delaying, putting a little bit there, drip feeding us bans here and drip feeding us some cladding off there is not going unnoticed. We notice what is happening, and it is unacceptable, to be honest.

Q550 Kevin Hollinrake: Adel, you mentioned removal of combustible materials. The Government said in future there will be no combustible materials on buildings over 18 metres in height, but the remediation fund for the removal of cladding does not necessarily replace the insulation as well. You could remove ACM but leave insulation. Does that strike you as a bit odd?

Adel Chaoui: It does, but it is interesting because the new regulation regime they are consulting on now talks about the whole wall. I am less concerned about that on new buildings than I am about the remediation fund for removing it off existing buildings. Does that make sense?

Q551 Kevin Hollinrake: Yes, absolutely. You would have concerns about that.

Adel Chaoui: I have concerns about it, yes. I believe the remediation fund is looking at combustible materials beyond cladding, but I have not had a straight answer to it either. It would be great if this Committee could extract that.

Chair: Thank you all very much for coming to give evidence to the Committee again. As you say, it has been a year since we last saw you and there are some areas where progress has been made, but it comes across very clearly to the Committee that there are a lot of areas where, if it is being made, it is being made far too slowly. That is the point you want us to take away and we will follow up on, absolutely. Thank you very much for coming.

Examination of witnesses

Witnesses: Victoria Moffett, Richard Silva, Dr Nigel Glen and Lord Porter.

Q552 Chair: Thank you very much for coming to be our second panel this afternoon. I would ask you to go down the table and say who you are and the organisation you are representing.

Lord Porter: I am Gary Porter. I am representing the LGA.

Dr Glen: I am Nigel Glen, and I represent the Association of Residential Managing Agents, ARMA.

Victoria Moffett: I am Victoria Moffett from the National Housing Federation.

Richard Silva: I am Richard Silva, director of Long Harbour and investor in residential real estate.



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Chair: Thank you very much for coming.

Q553 **Kevin Hollinrake:** I will start with Mr Silva. You heard the frustrations from Grenfell United about the time this has taken. For some time, the Government's position on private sector buildings was that they would rule nothing out. They expected private sector freeholders to carry out remedial work, which never really took off. Was that inevitable? Did you always feel it would end in the Government having to step in and put in this money to remediate these buildings?

Richard Silva: First, I would like to thank the Committee for inviting me to give evidence on this very important issue today and on the wider *Building a Safer Future* consultation.

To answer your question, it is very welcome that the Government have brought forward a fund for the remediation of ACM cladding in the private sector, but we regard it as one of the metrics, and in our case a last-resort fund, whereby we believe that leaseholders should not pay for the removal and remediation of ACM cladding, but we also believe that freeholders should not. It is absolutely the responsibility of the party that constructed the building or signed it off.

We have been working on the number of buildings we have in our business. We have about 15. Some of them have been remediated through us pursuing insurance claims or the developer. That has been successful. There are inevitably going to be, across the country, some schemes where there is no developer or valid insurance policy. We have not yet seen the details of how we can make applications to this fund, but we understand they are coming out this month. In those circumstances, if there is no other route to pursue, the fund is welcome.

Q554 **Kevin Hollinrake:** In the past, have you had to charge some of your long lease holders for the costs of the remediation work?

Richard Silva: None of our leaseholders to date have physically paid for any of the remediation works that we have done.

Q555 **Kevin Hollinrake:** Would they have had to do that if the Government had not stepped in?

Richard Silva: As a freeholder, we have funded the replacement of cladding on a number of these buildings or funded the waking watch requirements while we are working out what the solution is to a particular building. Under current landlord and tenant legislation, a number of leaseholders have been billed potentially for their fair share of the cladding. We have advised them not to pay us; we will cover the costs in the meantime with interest-free loans. We are continuing to pursue all the other avenues available to us.

Q556 **Kevin Hollinrake:** Potentially, leaseholders would ultimately have had to pay, had the Government not stepped in with 200 million quid.



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Richard Silva: Potentially, but I am not putting anything off the table at the moment. We also have a number of buildings, about 20 buildings, where there are non-ACM issues or where the ACM is below 18 metres. It was discussed in the previous panel. I question, and I have colleagues in the private sector who question, whether the 18-metre cut-off should be the only metric in looking at the building safety review going forward.

Q557 **Kevin Hollinrake:** Can we start with the other materials? You have other materials, HPL and whatever else. Is it inevitable that the Government will have to put some more money in?

Richard Silva: It would seem likely or possible. We do not know the scale or the depth of the problem financially. We also do not know, in other buildings, what potential other routes the developer might take or the insurance policies that are in place. Until that is fully quantified, it is very difficult to say with any certainty whether the funds put aside for ACM will be sufficient for the private sector.

Dr Glen: I agree with Rich on what he was saying there. We met with the Secretary of State about two weeks after Grenfell and we pointed out that, within the private sector, leasehold would have some unique problems, particularly the fact that leaseholders would have to pay. The suggestion was that Government should step in, because time was more of the element, and then work out who should pay later on. To be fair, there were other committees that I was involved in trying to find other ways for payment to be made, such as a small pool for insurance, a charge on building permits and so forth.

There was other work going on that would have delayed things, because we wanted to see how those worked out. The idea there was to put a fund up not just for Grenfell but so that, if this ever happens again with something else, there would be a fund available for people. Unfortunately, those fell through, but that is one of the reasons it was a little bit delayed.

Q558 **Kevin Hollinrake:** In terms of the fund itself, I take it from your comments, Richard Silva, that it is not clear how it is going to work yet. How readily available are the funds going to be, for example? Do you know that yet?

Richard Silva: We have not been apprised of the minute detail yet. However, we have been made aware that it is unlikely to cover some of the ancillary costs in relation to where we have got to today. Until we know what the right solution is for a particular building—every building has a different solution, depending on its age, build quality and so forth—we do not know whether, for example, the costs of the waking watches will be covered. There are other things, but the detail has not come out so I am reluctant to go into too much detail until we see what is available.

Q559 **Kevin Hollinrake:** Do you have any other concerns? I understand that



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waking watches definitely were not included.

Richard Silva: Yes, exactly, but I do not know what else is not covered.

Q560 **Kevin Hollinrake:** Do you have any other concerns on these issues?

Dr Glen: Our big concern is, once we start taking the cladding down, what we will find behind it, particularly compartmentalisation. Will funding be required for that? Again, will that fall on the leaseholders? If so, we could find ourselves in a situation where a building has its cladding removed and is exposed to the elements, and we spend two years fighting in the courts about who should pay again.

Q561 **Kevin Hollinrake:** You still think it is possible that there may be bills for leaseholders as a result of this remediation work.

Dr Glen: I believe it still is an issue, and the £200 million is not enough, I am afraid. We have about 6,800 units or homes under cladding in ARMA. On average, they cost £1.6 million. We can do 124 buildings with that money, and that is not enough.

Q562 **Kevin Hollinrake:** While I have you, Dr Glen, the Government have announced that they have changed their definition for the people responsible for carrying out the work from "building owner" to "responsible entity". Some freeholders are now saying, "Okay, that is not our problem any more. We can pass that on to the managing agent". Is that a concern you hold as well?

Dr Glen: It is a huge concern. I saw the letter from the Chairman to the Housing Minister. That is what section 24 is all about. If you are trying to get rid of a bad landlord, you put the managing agent, under the First tier Tribunal, in their place. This would be very worrying for a managing agent. Contrary to popular belief, most managing agents are small family affairs and they could not afford the responsibility of doing this, if it was put on them.

Q563 **Kevin Hollinrake:** What could that mean for those family managing agents?

Dr Glen: They would have to withdraw, if they could, from that.

Q564 **Kevin Hollinrake:** What would happen if they could not withdraw?

Dr Glen: If I had that firm, I would shut it down. The liability is just too much.

Q565 **Kevin Hollinrake:** In terms of the interim fire safety measures, the waking watches and all of that kind of stuff, who has the liability for those costs in your blocks, Mr Silva? Who pays for the waking watches at the moment?

Richard Silva: As I say, we have 15 blocks with ACM above 18 metres, and the solution for each one is different. Where there are proactive and



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responsible developers still around, they have stepped in and contributed to the cost to get the problem solved holistically.

Q566 **Kevin Hollinrake:** Do they contribute or do they pay it all?

Richard Silva: They pay it all. Say there is no developer around, and there is an insurance policy in place but it has been problematic to make a claim under it. We had this particular issue in Heysmoor Heights in Liverpool. We as freeholder funded all the costs, including waking watches and ancillary costs, to get that building fixed. That was done and fixed last year. We still have not been paid out under the insurance policy yet, but we are very confident we will be. Again, there are lots of different solutions depending on the age, size and development of the building and the insurance that is available.

Q567 **Kevin Hollinrake:** Are there some where the leaseholders will have to pay?

Richard Silva: It depends, again, from a freeholders' perspective, on what financial resources they have available and what they can do. We have publicly stated that, in our portfolio, no owner-occupier will lose their apartment or flat over an ACM cladding issue. Again, I am loath to be too precise about what that means. It could be a solution in which we look to finance that over the very long term. We have the ability to raise capital, as a freeholder, in different markets, to pay for it and to amortise that cost. Again, it depends on the circumstances for each building.

Q568 **Kevin Hollinrake:** Essentially, you are saying, if the developer will not pay and the insurance company will not pay, you will pump-prime it or you will put some money in, but you will expect to get that back from the leaseholders over some timescale.

Richard Silva: We would expect to get it back through whatever resources we could, and it depends on the scale of the problem. An owner-occupier, quite precisely, is in a very different position to a financial investor that has bought half a block of flats as a business enterprise. They will have different tax breaks and different solutions, and, frankly, will have taken a different risk profile as opposed to living in the flat as their home. We make a distinction there, but we do not have any hard and fast rules. We look at each case on its merits.

Q569 **Kevin Hollinrake:** But there is no contractual responsibility for you to pay for it. Is that what you are saying?

Richard Silva: Typically, the contractual responsibility for the maintenance and ongoing reparations, including fire risk, over the life cycle of an apartment block, is with the leaseholders.

Q570 **Mr Dhesi:** My questions are more for the Local Government Association and the National Housing Federation. Within the social sector, the Government have announced the £400 million fund to replace ACM cladding, which they did last year. We have already heard what Grenfell



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United have had to say. In your opinion, are you satisfied with how that scheme has been operating in practice, Lord Porter?

Lord Porter: By and large, the £400 million that was made available for social stock is more or less sufficient to cover the main part of the issue for most social buildings. With the exception of just nine that are in Salford, all the council ones have been done; all the ACM has been stripped.

Q571 **Mr Dhesi:** Unlike Grenfell United, you are pleased with how the scheme has been operated.

Lord Porter: I am pleased that they reacted to our request to put the money on the table and I am pleased with the relative ease with which that money has been distributed. Unusually for Government, it was fairly easy to get it out of them, as opposed to having a big panic on the bureaucracy that was going to be built around it. Like I said, the only ones I am still concerned about, as a council leader, are the nine Salford blocks. They were built under PFI, and they have fallen between the £400 million for us and the £200 million for the private sector. There is still a row over where those Salford blocks fit.

Mr Dhesi: So we have the contrast there.

Victoria Moffett: We agree with Grenfell United that the fund was too slow in coming forward. In the period between Grenfell happening and the £400 million being made available, our members were remediating their buildings; they were identifying those risks and getting on with making sure their residents were safe. Had that money been made available more quickly, we might have been able to overcome some of those barriers in a timescale that was a bit more acceptable for the risk that was associated with those buildings.

Our concern at the moment is with buildings that have other types of combustible cladding and the funding not being available for those. Again, our members have identified those buildings. They are managing the risk in the interim period and they are removing those materials. Having funding to remediate them would help them to do that.

Lord Porter: That is a deviation from the position the national federation had when we first started these conversations. The national federation was not as aggressive as the LGA in terms of the need for central Government funding to deal with this. At the time, the national federation appeared to be less bothered about the amount of money and where it was coming from. I am surprised that the national federation thinks it has identified all the buildings that have failures to come outside of ACM, given that we have only had a couple of test results back so far.

Mr Dhesi: You can respond to that, if you want.



Victoria Moffett: I would disagree that we were not forthcoming. We have called for funding from the Government and for them to take a lead in overseeing the remediation of buildings from the outset.

Q572 **Mr Dhesi:** Obviously, there is a difference of opinion there, which I am sure we can explore later. Lord Porter, do the funds so far need to be extended to cover buildings with non-ACM cladding, especially with regards to the social sector. Do you have an estimate of the number of buildings that would be affected?

Lord Porter: My biggest fear is that we are just scratching the tip of a very big iceberg in dealing with the ACM buildings. It is not just the external cladding; it is the insulation behind the cladding. You may well have a fairly safe cladding material, but, if you have solid-petrol insulation, the building is no safer than a building with ACM on the outside of it.

Q573 **Mr Dhesi:** What about extending the fund to non-ACM?

Lord Porter: The Government will have to adopt the same principle. Once we have the test results back on all the external cladding materials and all the insulation, the Government will end up having to stand that bill. You would not be able to morally justify why somebody living in a building with cladding made from one type of material could get compensation to fix it and somebody living in another equally unsafe building could not get compensation to fix it. The Treasury will have to be prepared.

Q574 **Mr Dhesi:** I agree with you in terms of the moral argument for that. Ms Moffett, what are your opinions? Should the fund be extended to non-ACM cladding?

Victoria Moffett: Yes, absolutely it should. Our members are identifying these buildings; they have identified these buildings. After Grenfell, our members carried out audits of tall buildings. They will be aware of which of those buildings present a risk.

Q575 **Mr Dhesi:** What is the estimate of the number of buildings that are likely to be affected?

Victoria Moffett: We do not have the data on how many buildings are affected. We think Government should be taking a lead on gathering and stating that, and leading the plan to remediate those buildings.

Q576 **Mr Dhesi:** Lord Porter, in November 2018, the Government announced new powers, through an addendum to the HHSRS, for local authorities to undertake emergency remedial work on buildings with potentially dangerous cladding. How many local authorities have actually used that power?

Lord Porter: The addendum came live in the New Year. My best estimate is that none have done it successfully, with the reason being that, even if you identified the building, it would probably be somewhere



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between six months and 12 months to get it done. Ultimately, the cost of that building being done would sit on the leaseholders. We have all agreed that the one group of people who should not be picking up the bill for this chaos is the people living in the buildings.

It may well be down to the people who own the buildings, the people who built the buildings or just us generally as the rest of the state, but the route that power would take us down would mean that the people least guilty of the problem were picking up the bill for it.

Q577 Andrew Lewer: Looking at the Government's consultation now, should the Government extend the scope of the new regulations beyond high-rise residential more than 18 metres high?

Lord Porter: The height is a bit of a red herring, really. It is the complexity of the building and the complexity of the needs of the people who live in the building. A five-storey building full of elderly, infirm people is probably more of a health risk than a seven-storey building full of relatively fit young people. A building with two fire escapes is a lot better than one with one fire escape. The height is missing the point; it needs to be the complexity of that building. Overall safety factors should be taken into account, not just an arbitrary height.

Dr Glen: I agree with that. I was on one of the Hackitt working groups, WG8. We were identifying that there is a range of buildings. The proverbial one would be a flat over a chip shop. That is obviously extremely at risk. As Lord Porter says, height is a bit of a red herring. You could come up with a gradation of the risk in each building and manage it from that point of view, rather than purely on height.

Victoria Moffett: My understanding of the height threshold is that it relates to how fires are managed. If that is the threshold the Government want to go with, that is their decision to take, with fire experts. However, we do have lots of examples of our members who are looking at buildings in terms of risk in the way the other witnesses have described: looking at who lives in the building, what other factors need to be considered, and understanding the risk associated and managing it.

Richard Silva: Yes, I agree with all the previous comments made. There needs to be a risk matrix for each building to understand exactly what the right solution is. It is a good move in the right direction under the current consultation that the Government have decided to look at safety for buildings over 18 metres, because the Hackitt report clearly set it at 30 metres. That is a start, but it does not go far enough.

Q578 Mr Prisk: If I may come back briefly to Lord Porter on the scope, it seems to me that we are looking at the physical nature of the building separate from how it is occupied. Do you agree that the scope here should extend to housing management policy so we are looking at the individuals concerned? You highlighted the issue of the elderly. You can see these as two separate regulatory areas, looking at the building and



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then, entirely separately, at who is living in it, but unless you regulate the two together, and understand the risk together, you are missing the point.

I personally do not understand why we put people who are severely disabled in a property taller than five storeys, unless the crush on the housing numbers is such that it is an emergency. It seems routine to me. Do you agree that the two elements, the physical regulation and the housing management regulation by councils, need to be looked at in the round?

Lord Porter: It is not just housing, is it? We are talking about housing when we are talking about care homes, but it might be hospitals or complex buildings, where you have commercial at lower levels and residential above it. The whole lot needs to be looked at. Somebody needs to go back to the core principles of how we keep people safe in the buildings they happen to be sleeping in each night. It should not be that one building is high enough and another one is not, or that, in this one, nobody cares about who your neighbours are and, in that one, they do. It should be all of that. All of that should be in the mix.

You cannot let people just say, "Sorry, my building is low enough". We saw the B&D fire. That was low. We were lucky it was not at night or there would have been more fatalities there. That was a fluke of time rather than the tenure or the height of the building. Yes, we need to look at more than just the physical regulation around what the building is for, but I am not sure where you would go to find the person most capable of being good enough to do the regulation. If it is to do with fire regulation, we probably ought to be talking to the fire brigade. That is what they do for a living. I am not sure we would want them to be the regulators of tenants.

Q579 **Mr Prisk:** I accept that, but is it not peculiar that the fire standards for people working in an office, particularly around the way in which regular fire tests are undertaken, are very different, and indeed higher, than when one lives in the property? Why is it that councils, as part of their housing management policies, are not required to conduct regular fire tests and regular drills? One test or one fire drill will immediately show whether residents would be able to exit that building. Immediately the policy would be put into focus.

Lord Porter: The vast majority of people who live in unsafe high-rise buildings live in private accommodation; they do not live in council homes. Councils own the fewest high-rise buildings that have not met the standards. Just testing council tenants—"Can you get out of this building?"—would miss the vast majority of people who are at risk at this moment.

Q580 **Mr Prisk:** If it was extended across tenures, the principle that we should be regularly running fire drills is surely as important as what the standards are for the physical building itself.



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Lord Porter: I am not sure you would get people who were living in their own homes to jump out of a building at a time you told them to because you wanted to run a test. We are straying into much more difficult territory than the things we can be dealing with in the immediate future.

Q581 **Mr Prisk:** I know you are not happy with it, but it seems peculiar still that we do not even attempt to have regular fire drills in people's homes where we know and we have seen that there have been fires before.

Lord Porter: We run a policy in this country that, if you have a fire in a high-rise building, you stay put. You do not evacuate the building. That is the whole point of where we have got to. We have a policy that we thought was the right policy to adopt, but it has now been proven not to be the right policy.

Q582 **Mr Prisk:** You are saying that staying put is not the right policy.

Lord Porter: If compartmentalisation of a building has been compromised, staying put is not the right thing to do. In the chaos of evacuating a 22-storey building with only one access in the pitch darkness of night, with the panic of a fire and the toxicity of the smoke going into that building, I am not qualified to say whether it would have been better or worse for people to stay where they were. I have no idea how you would quantify the number of casualties you would have had if you had evacuated that building as soon as the fire was seen.

Q583 **Mr Prisk:** You would change the current scope.

Lord Porter: I am not qualified to decide that. It is for somebody way above my pay grade, who can work out the logistics of evacuating a building in those circumstances. All I can say is that I am glad I was not there and my family were not there that night.

Mr Prisk: It was the drill rather than event itself, but thank you.

Q584 **Andrew Lewer:** Does anyone else want to comment on that? I just wanted to ask a general question to give anyone an opportunity to identify any obvious specific gaps within the Government's consultation rather than the holistic one that we have identified already.

Dr Glen: If I might chip in, I have a couple. It would help if fire risk assessments were made mandatory period-wise rather than just "when reasonable". Speaking as a managing agent, since Grenfell there tends to be less argument about paying for a fire risk assessment, but I suspect that will start creeping back again when people start forgetting things, which will be a great shame.

Also, who gives those fire risk assessments? My members are reporting now that they will have a fire risk assessment done by somebody, who will come in and say, "This place is deadly dangerous and you must evacuate it immediately", and the next day another fire risk assessor will come in and say, "No, it is okay. It is manageable". It places you in an



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impossible situation. Frankly, anybody can be a fire risk assessor. Those are issues you need to look at.

The other thing is on the scope. We applaud the idea of it extending down from height, but I am worried about the initial capacity of the industry and the regulator to accommodate that, particularly with current stock. I do not know how many buildings there are over 30 metres or how many there are in the 18 to 30-metre range. It might be sensible, in the first year, to say, "For any new build, it is 18 metres plus, but for anything current there should only be investigation from 30 metres plus", and then in year 2 to make that 18 metres. That is something to look at.

The final issue is the ugly thing of who pays in leasehold. Quite a few leases will not allow you to recover the cost of intrusive investigation. Who is going to pay for it? That will be an issue.

Q585 Andrew Lewer: The point there in a sense is that, while six storeys might seem quite arbitrary for all the reasons we have identified, unless you start somewhere you will end up staring nowhere, because you will say, "There are too many risks; we must deal with this and we must deal with that", and then you get overwhelmed.

Lord Porter: The consultation does that at the moment, because gateway 1 is at 30 metres and gateways 2 and 3 are at 18 metres. If nothing else, there is some inconsistency there. This current document has two different heights. If 18 is the right height, even if we think it might not be, make it 18 for all three gateways.

Q586 Chair: Moving on to the Government's proposals about future safety in buildings, there is the idea of having an accountable person who is responsible and a separate building safety manager. Do you support the general thrust of the Government's consultation?

Lord Porter: In principle, it is a really good idea to have somebody responsible. Does anybody here fancy being one? Does anybody fancy taking on that responsibility? I am not sure where that responsibility would end up lying, apart from there being a wanted advert in a magazine that says, "There is not much work necessary and we will pay you a £10,000 fee, but can we put your name on this document?"

That is the real risk with it: that it becomes such an onerous position to take on that nobody actually does it for real. It becomes a charade. It is the same as how you can get directors of companies who are not necessarily of director-quality material.

Dr Glen: I would agree with Lord Porter on that. The Government pressure is towards commonhold, easier RTM and easier RMC, but this would be absolutely counter to that, because it is a very rare person who would be prepared to put their name down as an amateur unpaid director on a commonhold board, RMC board or RTM board and potentially end up in prison.



Victoria Moffett: We support the principle of there being clear lines of responsibility. From your question, I think you want to explore a bit about the difference between the accountable person and a separate building safety manager. In terms of that, we would like to see that the proposals allow for flexibility in how the building safety manager role is carried out, entirely because that is quite a broad job description. Many of our members will have different people and teams of people who already have some of those skills, so they may deliver that as a co-ordinating approach rather than specifically as one building safety manager. We just need to make sure there is that flexibility to deliver it in a way that works for a very varied sector.

Richard Silva: There are two pieces to this. First, if we look forward at new build, with the concept of the “golden thread of information”, the three stages of preplanning, construction and occupation in phase B, then a lifecycle approach that is holistic, with good information upfront and a robust regime for sign-off at each phase, we are more likely to get responsible building owners and freeholders to take on those obligations and liabilities, and to take them very responsibly. They can delegate those down, on a development-by-development level, to the building safety manager and come up with a safety regime to go forward. That makes a lot of sense.

The challenge is retrofitting these proposals and this great ambition on the existing stock that is out there. That is a real challenge. Many buildings are 20, 30 or 40 years old. There are no O&M manuals for how they were constructed. The only way to retrofit that is to do an intrusive survey. These things are not cheap, but that could effectively create a modern day assessment of a particular building, which could be used to work out what needs to be done to it over the next one, five, 10 or 15 years, whatever the transition period is. At some point, then, you can enforce the proposed regime on the existing stock.

The point was made by some of my colleagues on this panel as to who would want to do this role. If it was fit for purpose at the beginning, you would find an industry of people out there who were prepared to sign up to it, so long as they had the right control. There is one other element to that. You need to be able to control what people do inside their own flats, which is controversial. If there is a concern that there is inappropriate fire safety behaviour behind the front door of somebody’s unit, how are we going to deal with that? That is a much more complicated point.

Q587 **Chair:** Coming on to who might take the responsibility for an existing building not built under the new system, the Government are suggesting that it might be either the freeholder or the managing agent. Would you agree with the Government’s view on that? What concerns would you have about either of those parties being responsible?

Richard Silva: From a freeholder’s perspective, it is quite right that we should take that responsibility, with the rights and abilities we have to make sure the building is safe. At the moment, we are effectively



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responsible for making sure a building is safe in the common parts and to some extent the exterior, and there is some ambiguity as to whether the balcony forms part of the exterior. It is complicated.

Delegating that role under the current regime to a managing agent is fine so long as they are fit for purpose. The problem going forward is that, if there is no role for a responsible freeholder like us because there is no future ground rent to invest in, which is the direction of travel of other reforms, effectively the person appointing the managing agent is going to be the residents' management company or the commonhold association. Therefore, the liability and accountability would need to shift to the person who is responsible for collecting service charges and paying bills on that building. That is probably not really what is intended, but that is what will happen if there is no role for a freeholder going forward.

Q588 Chair: Can we come on to the issue of managing agents, then, Glen? You mentioned the issues under the current proposals from Government about the responsible entity, and highlighted the problems for some small family companies that are managing agents. Indeed, we have one in Sheffield that my colleague Paul Blomfield has drawn attention to. They were put there by the First-tier Tribunal and then said, "Hold on a minute. We do not want responsibility for this. It is not what our fees are meant to cover, so we are out of here". Is that going to happen in terms of the government proposals on the accountable person?

Dr Glen: If managing agents are made the accountable person, it will be very damaging to the industry. As you mentioned, the profitability just is not in there to cover yourself for insurance. The average profit is probably about £10 per year per unit, which is risible; 5.5% is the average return on equity. That is a problem.

A building safety manager is likely to be a new role that is created as a contractor. You will have firms popping up who can do that. It will be expensive for leaseholders, I believe. That is a concern, but we just have to be upfront about that. These people are not going to be cheap. Every building needs a named individual who is available. That will fall fair and square on the leaseholders as part of the service charge, which could be an issue. That is probably what will happen. We will have firms springing up that have the right sort of insurance, the right capability and the right training that will provide that service, and the managing agent will contract with them on behalf of the duty holder.

Q589 Chair: We will get round the problem of liability falling on a small managing agent.

Dr Glen: Yes, unless you have the FFTP thing, where it says under section 24, "Dear managing agent, you are now the responsible entity". There is no way round it because that is what section 24 is designed to do.

Q590 Kevin Hollinrake: To follow on from that, the future ahead you see is



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leaseholders having to pay a lot more for their blocks to be managed. Is that what you are saying?

Dr Glen: Yes, this is a layer of cost that we hope everybody agrees is right. It will become a service charge item. Whether you will then get a secondary level of professional directors who are prepared to take that responsibility on with their insurance as well is, yet again, another interesting question.

Q591 **Chair:** Are there challenges where there is a complex freehold structure?

Richard Silva: Yes, there are challenges where there is a complex freehold structure. For example, we are the intermediate head lessor for the site in Barking that had that horrific incident on 9 June. Fortunately, nobody was severely injured, but it is very regrettable. The freeholder in that instance is Barking Riverside Ltd, which is a collaboration between two local government entities. In that context, we are not even the freeholder; we are the intermediate head lessor. Then there are housing associations and private owners living within that wider development scheme, with different managing agents doing different roles within the scheme. Complex ownership structures mean it needs to be very clear where the accountable duty holder lies for a specific block, in my opinion, rather than a wider development.

Q592 **Mohammad Yasin:** Giving residents a stronger voice is an issue that Grenfell United raised many times. Their view was supported by the report from Shelter's commission on social housing. Now the Government have put forward some proposals to give residents a stronger voice. Are these proposals likely to make a significant difference to how you currently manage buildings?

Dr Glen: Yes. An important word there is "resident". Do not forget that the managing agent generally has a relationship with the leaseholder, the person who owns the flat. In London, 40% to 50% of those will not be owner-occupied. You actually have no idea who is in that flat. That has a follow-on consequence. You asked how far we could take this. It would be nice if the fire brigade, when going to a fire, knew that flats 5, 10, 57 and 85 had vulnerable people in them so it could go and check on them? Can we capture that?

So it definitely will do. ARMA is proposing to run a trial with our IT partners, with managing agents and leaseholders, to try to figure out how we can do this in a proactive way. Technology will obviously play a large part in this. Is it a portal? Is it that, as Mr Daffarn said, residents' committees need to be set up, recognised tenants' associations need to filter through and so forth? There are things that can be done there that are new. We are finding our way through those. We are trying to do it proactively rather than waiting for the legislation to come along.

Victoria Moffett: Similarly, yes, in principle it will change the way we manage buildings. We already have examples of housing associations that are reviewing how they deliver fire safety information, for example,



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or escalate concerns to the most senior levels within the organisations. So, yes, it will change the way things are done.

Richard Silva: I agree. In the private sector, to some extent it is a bit more challenging to engage with residents, because a lot of them do not live at the development, as Nigel said. They rent their flats out. Someone living in a flat on a six-month AST is less interested in engaging with the builder owner and the managing agent.

It is a good thing for a building owner, in collaboration with the managing agent, to have a proactive resident engagement strategy, to make sure there are several different media through which people living in the flats, or owning the leases, if they are an absentee landlord, can be contacted, engaged and understood, and to create a forum. Social media is going to benefit that, providing a portal. Expecting a high percentage of residents to turn up at a regular meeting is going to be challenging. Quite often, when they are invited, we see that it does not happen.

Lord Porter: We published a joint paper in February with Tpas. A lot of our members have started to learn some lessons about better future engagement with tenants. I slightly differ to an extent from some of my LGA colleagues in how positive we are towards this agenda. The organisation is very positive. We should not lose sight of the fact that the K&C building was managed by a TMO.

Q593 **Mohammad Yasin:** From speaking to a number of residents as a councillor previously, they are concerned that, yes, there are committees and proposals, but nobody is taking action on them. What complaint system should we have in place so the residents have some powers and are definitely listened to?

Lord Porter: If you have a set of complaints coming in, the council, if it is a council building, must be accountable to those residents. There is nowhere for us to hide. We are accountable on two levels. We are accountable by Government inspection and we are also accountable by election. A wise council will always make sure it has taken on board its comments.

What worries me is that the more layers of interest groups you put in between the council and the tenant, the more chance there is for that message to be either lost or watered down. I am a great believer that councils should run council houses and tenants should be able to hold councillors to account for the quality of the life they lead. That is the whole point of direct elections for councillors.

Dr Glen: Within the Government proposals, there is a mechanism for escalation to the regulator if something is not done within a specified period of time. As we said, perhaps IT is a way to do that.

I would like to see something the other way round, though. As Mr Silva said, fires start in flats, almost always. At the moment, it is very difficult



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to get people to change their behaviour. If somebody takes down fire compartmentalisation within the flats, you probably do not even know they have done it. Technically, in the lease, they should probably have gone for a licence to alter, but many people just do not bother because it will cost them a licence fee. People have barbeques on their balconies and so forth. All we can do is send them a fairly stiff letter. We can threaten them with forfeiture, but that is never going to happen and people know that.

Some way of enforcing the other way round, such as a council order or a fire brigade order to say, "You cannot do that", would be tremendously helpful for the managing agents, because we feel quite powerless at times. Changing flat front doors is the classic one. It is within their demise, but that is an integral part of the fire safety for the whole building. There is nothing we can do if they put a cat flap in. That is what is done.

Victoria Moffett: We have been doing some work with our members recently on accountability and transparency. We recognise that we are not good enough at this, and we want to be better. That piece of work is leading towards a charter that would describe things like what a resident can expect from their housing association, routes for redress when things go wrong. I would be really happy to follow up with more information about that piece of work as it progresses, just to recognise that we know we could be more accountable to the people we house.

Richard Silva: Nigel Glen made the point that there are challenges with engaging with people inside their own homes. There is an obligation on us—we do not do a good enough job—in terms of the education process for the residents who live in our blocks, so they understand more frequently the rules of engagement for living there. If you walk past the laminated fire safety card that is next to the lift shaft at the bottom of the stairwell every day, you just see a piece of paper. You will read it once. We need to be much more proactive, whether it is through online acknowledgements, getting people to tick boxes or whatever it might be. The boring stuff is very important when you live in a flat.

Q594 **Mary Robinson:** Specifically regarding local authorities and their tenants, we heard from Grenfell United that they felt that there was almost an institutional indifference towards social housing tenants and there were difficulties in actually getting any complaints listened to. Unless you put it on Twitter, nobody seems to bother about it. That seemed to be the way they were looking at it. Do local authorities have a greater responsibility in terms of improving their engagement with tenants?

Lord Porter: I do not know whether we would. Greater than whom?

Q595 **Mary Robinson:** The impression from the Grenfell United people we heard from earlier was that social housing tenants were not listened to. Is there any difference in the way we should be looking at this?



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Lord Porter: I would object strongly, as a council leader, if I had to justify my council based on the actions of a London borough council that failed and is recognised as having failed on so many counts. I am not sure their interpretation of how badly they have suffered at the hands of the council they happen to live with is reflective of councils up and down the country.

In my own council, when the Blair Government tried to get rid of our council houses, my tenants did not want to transfer and become an arm's-length organisation, an RSL, by the backdoor. There are good councils where tenants have a good voice in what happens. We are not a perfect council. No landlord is a perfect landlord when looking after multiple properties. I do not distinguish between private and social tenants in that regard. Wherever you live, if your house is not fit for purpose, you should be able to tell the person who owns it and takes your rent that it is not, and they should have an obligation to make sure it is. The more rent you pay, the greater that obligation must be.

As a council, we all know we have the lowest rent per unit and the best value per unit. In terms of that, I am confident that my members are in the right place. There are always things we can do better. Anybody who says they have a perfect world is living in cloud-cuckoo land.

Q596 **Kevin Hollinrake:** This is on a previous matter, really. Of all the blocks for which you have been involved in remediating the removal of ACM cladding, have you had to replace any insulation that did not meet the standard at the same time?

Lord Porter: Yes. If you have the wrong insulation up, and you take down the cladding because that was the thing you were looking for and then leave the insulation in place, you must be mad.

Q597 **Kevin Hollinrake:** Yes, but has it happened?

Lord Porter: Whenever any of our members have had the wrong insulation behind the wrong cladding, it has all come off and been done. The problems you are going to have, particularly with retrofitted buildings, are going to be with fire breaks. The intermeshing strips are all geared up for a 20 millimetre close, and you could end up with a 30 millimetre or 40 millimetre lean on the top of a building. Even if they work perfectly, they can never work properly because the building is in the wrong place.

Q598 **Kevin Hollinrake:** Could you let us know how many buildings did not have the correct insulation when you took the ACM down?

Lord Porter: Yes, somebody else behind me will find that information, as best we can.

Kevin Hollinrake: Does anybody have anything else?

Richard Silva: I do not have the information to hand, but I will also write back to you with that detailed information.



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Q599 Helen Hayes: I have a question for the LGA and the National Housing Federation. You have both expressed concerns about the funding that would need to be put in place by the Government to implement the new regulatory regime. Are the Government's estimates of the costs realistic? What risks would be entailed in insufficient funding being provided?

Lord Porter: We have not seen all the costs that are likely to be necessary to implement it in the way the Government want, but the risks of it not being sufficient are great, because generally, when central Government regulate local government, we get a lot of wish list and not a lot of cash.

If you are not prepared to pay for it, do not clear your conscience by wishing that we did it. The Treasury has to be prepared to write the cheque for whatever is necessary. If the Government are going to be serious about it, it is not going to be a cheap solution. We do not yet have all the details of what is likely to sit in there, but, again, we can get the office to check more as it becomes apparent.

Victoria Moffett: I would agree with that. The costs in the consultation are very much about how the regulation would be paid for. They do not recognise the remediation works that need to take place. You might be familiar with the Hyde example. They have looked at all their buildings over 18 metres and identified remediation works that they have put aside £50 million to pay for. In terms of the risks of that not being funded, housing associations will start to look at the ambition they have to build homes as the place they might have to take money from to spend on essential remedial works.

Q600 Bob Blackman: Could I ask one quick question? Lord Porter, given your view that there is insufficient funding—the estimate is up to £570 million a year—has the LGA produced any figures for what the cost would be to meet what the Government are asking local authorities to do?

Lord Porter: We have not yet.

Chair: Thank you all very much for coming to give evidence to the Committee this afternoon. It has been most helpful. Thank you.

Examination of witnesses

Witnesses: Adrian Dobson, Roy Wilsher and Dr Jonathan Evans.

Chair: Good afternoon. Thank you all for coming to give evidence to the Committee this afternoon. Could I ask you to give your name and the organisation you are representing, please?

Dr Evans: I am Jonathan Evans from Ash & Lacy. I am a director of the Metal Cladding and Roofing Manufacturers Association.

Roy Wilsher: I am Roy Wilsher. I chair the National Fire Chiefs Council.

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

Chair: Thank you very much for coming.

Q601 **Helen Hayes:** Are you satisfied with the pace of change set by the Government since the Grenfell Tower fire over two years ago?

Roy Wilsher: The simple answer is no. As Grenfell United said earlier, we are two years on. We were one of the organisations that said very early on that perhaps Government should pay for it all to be remediated and then find out where to get the money from later. We are still a bit worried about how that might move forward and we would like some things, perhaps emergency powers, to force people to remove their dangerous cladding.

Dr Evans: Two years after the fire, the fact that there are still polyethylene-clad buildings around is, more than anything, totally unacceptable. It would not have been too difficult to have given very specific advice to say, "At all costs, you have to get that off, even if you make it temporarily remediated". That would be my main concern. Two years on, we are now up to 21 advice notes from the expert panel and we are still learning of new materials that previously were thought safe and now apparently are not, through finding out about either tests that have been failed that we were not made aware of or fires, unfortunately, with materials that are allowed by Approved Document B.

Adrian Dobson: We have had one helpful change, which is the restriction on combustible materials, but other than that the regulatory regime and the regulations remain absolutely the same. We presumably have not only unsafe buildings out there, but we are potentially still constructing unsafe buildings. It is 10 years since Lakanal House, which is when it was originally suggested that this review of Approved Document B was very urgent. That is why the RIBA has suggested that we should have some prescriptive measures in the short term and not just wait for the full review. The issue of combustible materials is the first of those, but I am sure we are going to talk about sprinklers, alarm systems and means of escape as possible steps.

Q602 **Helen Hayes:** Was Dame Judith right to suggest that the Government



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had lost momentum by waiting seven months to accept her recommendations formally?

Roy Wilsher: We always want change to be quicker to move things forward. Ideally, the Government would have accepted those recommendations earlier. The National Fire Chiefs Council supported the vast majority of the recommendations. I understand that they have to consult with people and move things forward, but ideally it would have been a bit quicker, yes.

Dr Evans: I am not sure whether the Government had any momentum to start with. Adrian has just mentioned the introduction of the combustible cladding ban. You cannot attribute that as a product of this process to MHCLG. In my opinion, that was Dominic Raab's reaction, on the day that Hackitt published her report, to widespread anger that she did not actually do what the title of the report said, which was to review building regulations and fire safety. She went off and looked at the system itself. It did not question the regulations themselves, who writes them, how they are arrived at and so on. We have ended up with a report that is largely a failed opportunity to thoroughly review the entire building regulations process and, importantly, what they actually stand for.

A lot of good things have been said this afternoon, but the one thing I am quite surprised nobody has mentioned is the dichotomy we have between the public's perception of what building regulations are supposed to deliver and what the Government intend them to achieve. Particularly with fire safety, people have this opinion—there was a YouGov poll that reflected this—that fire safety regulations will protect their property and assets in the event of a fire and so on. In reality, in my view, the way you could best describe it is that they are simply designed to get you out of the building alive, and that is not acceptable anymore.

In my view, we have missed an opportunity with the Hackitt review to question the fundamental principle of building regulations and what they are meant to achieve. If you look at the website of MHCLG, it is all about trying to create great places to live and work. Designing homes, offices and so on so that all they are designed to do is get you out alive in the event of a fire is not consistent. She did not analyse any of that due to her terms of reference.

Adrian Dobson: I would be slightly more positive about what you might call the Hackitt implementation consultation. It is important to remember that it is just one part of the equation. It does not deal with the regulations and the guidance; it is the system. The Committee heard earlier today that, in a sense, the second Grenfell might be in the post. One concern is the scope of it, which we have heard about today. It is focused just on residential buildings, when actually there are lots of other higher-risk buildings. The next Grenfell could be a different type of building. That is one concern. The consultation opens up the space to say they may consider widening the scope.



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The other slight concern is that the new duty holder roles are only focused, again, on this narrow group of buildings, but the model has come from the CDM regulations. The CDM regulations changed culture in the construction industry, which is something Judith Hackitt focused on. The notion that you only carry out good fire safety practice and impose duties on supposedly high-risk buildings is a bit of a misnomer. It might be good to see that applied much more generally, as the CDM regulations are.

Q603 Helen Hayes: Dr Evans, as well as the concerns you have highlighted already, you have raised concerns that Hackitt had the wrong focus in her report, particularly with regard to the level of competence in the industry. I just wondered whether you would like to elaborate a little bit on those concerns.

Dr Evans: In general, my comment would be that the report does not look at what the root causes of the issues are. It looks at how to sort them out, for instance by sending people on training courses and so on. We do not just have an issue with competency in the construction industry; we have an issue with quite a lot of things: diversity, the gender pay gap and so on. It does not have very good metrics in a lot of areas. You have to question why that is.

My feeling is that the industry, as it stands, does not attract enough high-calibre individuals. Overall, though, the impression we have been given through the Hackitt review is that the construction industry is totally incompetent, and I also think that is completely wrong. Look at the amazing building we are sitting in now. There is plenty of competency, and there is an industry there that is perfectly capable of delivering high-quality, safe housing, if it is asked to do so at a sufficiently high standard. I believe that is perfectly possible. With her terms of reference, she was not able to look at what standards are being set in the first place and how they are being enforced. That is a big missed opportunity.

Q604 Helen Hayes: Mr Dobson, can I ask you about the issue of sprinklers? Last week it was reported that 95% of tower blocks do not have sprinkler systems. You have called on the Government to increase the requirement for the use of sprinklers. Could you elaborate on why you think that is necessary? Do you have any further comments on the current state of that debate?

Adrian Dobson: Yes. I should say that it is not just the RIBA that can see the value of sprinklers. You can think of fire prevention as being about various layers of safety. Usually, when you have a big loss of life, it is because multiple layers have failed. There is quite a lot of evidence around that sprinklers can be quite a key element of fire suppression early in that process. They are certainly used much more widely in other parts of the world. If you were to internationally benchmark, there would be a much greater use of sprinklers.



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The planning committee of the Greater London Assembly did a very valuable piece of work, which I would definitely comment, which looked particularly at the concept of retrofitting. That picks up on the point you have made. With existing buildings, some things, such as changing the means of escape, would be very difficult, but fitting sprinklers is a relatively straightforward way of improving fire safety. We have looked a great deal at what has happened in Wales. When they introduced the mandatory sprinkler requirement, there was a lot of talk about how it would be an inhibition to development and it would impose a huge cost. That has not really been the case in Wales.

Helen Hayes: Roy, do you want to comment on that?

Roy Wilsher: Yes, on a couple of areas. On sprinklers, to start with, we are fully supportive of that. We have been saying for many years that we should have sprinklers more widespread, not only in residential but in schools. Our position is that any new building above 18 metres, possibly 11 metres, in height should have new sprinklers and we should be retrofitting any building above 30 metres. I can remember that in my own fire service we lost two firefighters in a residential fire in 2005, and we recommended sprinklers going in to high-rise buildings. It is a long time coming, and we are fully supportive.

On competence, Dr Evans is very right: there are lots of competent people around, from architects to designers, planners, building control and fire service personnel doing inspections. Competency is really important for those areas. Our view—it is a view shared by others—is that the type of cladding that went on Grenfell did not comply with the building regulations now anyway, because the functional requirements are quite clear: preventing the external spread of fire, and health and safety. That competence to apply the current regulations, let alone improve them, is very important.

Q605 **Helen Hayes:** Mr Wilsher and Dr Evans, last year, it was reported that tens of thousands of council homes may be fitted with fire doors that will not withstand a serious fire. Are the Government doing enough to address that issue?

Roy Wilsher: I should declare that I am also a member of the Government's independent expert panel, and this has been a subject of conversation at the panel just last week. There are two things about the risks with fire doors. Fire doors do not start fires, like white goods, and they do not spread fires, like external cladding, so the risk is slightly different. We had a video today showing that any closed door can help prevent smoke and fire from spreading.

We are working through a process with Government, through the National Fire Chiefs Council, on a risk-assessed basis, to replace some of those doors. It is mainly composite fire doors that are the problem. Timber seems to be perfectly fine. The trouble is that, because we are putting so much strain on the industry, there is no replacement for those



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doors. We are trying to work on a risk-assessed basis. It will go to vulnerable people again, the same as we think the new regulations should.

Dr Evans: To be honest, I have had enough to worry about with cladding in its own right to be qualified to talk about fire doors.

Helen Hayes: Did you want to comment on that issue?

Adrian Dobson: I do not have anything particular to add, other than that this issue of fire doors comes back to the issue of the different tenancy arrangements within these buildings. That has clearly been a problem. There has probably been a problem around product certification, but it is complicated by the tenancy arrangements as well.

Q606 **Helen Hayes:** For each of you, what is your top priority list of the areas to which the Government need to turn more urgent attention?

Dr Evans: From the very beginning, the first meetings after the fire, I have been imploring the Government to release data—whether publicly, under non-disclosure agreements or whatever—to the people who give advice on what they know that we do not, so we can make sensible decisions on what is safe and what is not safe.

This is my constant complaint about all the advice that has come out from MHCLG. It has got to the point where the letters that are coming out pretty much say, “We have made it clear all along that the way to make those buildings safe is to remove dangerous materials”, but that is not advice; that is just a statement of the obvious. Engineers and building owners and managers need to know which exact materials are dangerous. It is not enough to know whether something has passed or failed; we need to know whether it has passed easily, failed badly and so on, taking into account all the other features of a building.

We learned—it was referred to earlier on—about the high-pressure laminate test conducted in 2014, which we now know has failed. It is purely by accident that it became public knowledge. There is a rumour that another significant material that is widely used failed a number of years ago. That has not been released either. I know of a 100-metre-tall building that has been remediated with exactly this system, which is believed to have failed. That could have to be re-clad again. All of this information is within the BRE and MHCLG.

Q607 **Chair:** Can you tell us what that material is?

Dr Evans: It is solid aluminium combustible insulation. The rumour has prevailed throughout the industry for a number of years that this system has failed an 8414 test at the BRE. In June 2017, all we needed was an open book and some transparency into what these systems are.

Two years ago, during the testing programme that went on in the summer, a question went around the table about what else we should be



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doing. I flagged it then and I followed it up in writing. You have to test high-pressure laminate systems. Having remediated these buildings, we know there are materials on them that are not the specification that was either ordered or specified. They are not built like you build a test rig. The chances are that the performance in real life is not going to be the same as you get in the laboratory.

I also suggested that the testing programme was extended a little bit, to retest the systems that passed, but introducing some errors. Let us see how sensitive combustible systems are compared to non-combustible systems if you do not do it right. A lot of information could have been gleaned from that in terms of how dangerous buildings are. Coming back to my point, information is really what we still need. A lot of people have procrastinated over the last two years because there have just been arguments about whether the building is safe.

Roy Wilsher: There are two priorities, really. Fairly simple is the identification and prioritisation of removal of any dangerous cladding system, not just the rainscreen cladding but any system that goes with it, and the prioritisation in the building regulations of the review of sprinklers and the use of sprinklers. Adrian mentioned that we are behind Wales. We are also way behind Scotland in its building regulations. It is only England that really stands out.

Adrian Dobson: I would make the point that we are very focused on retrofit, which is going to be very important, but, looking forward, the big challenge is that all these regulatory processes and reviews are inevitably going to take a further time period. You are probably talking about years rather than months. It would be around what could be done fairly prescriptively and fairly immediately, and to bring a bit of clarity to the industry. One concern we have is that you have these so-called functional requirements. Maybe I will just talk about two really briefly, because it illustrates the point. The one we are all so familiar with because we have talked about it so much relates to external fire spread. It says, "The external walls of the building shall adequately resist the spread of fire". That is fairly simple and straightforward.

It would not then be controversial to say that there might be some ambiguity, let us say, in Approved Document B, when you go to then say, "What does that mean?" We discovered that there are then a lot of other ways you could work through various British Standards tests and the BR 135. That is to do with the way our regulations are constructed. If you then go to look at means of escape, again, the functional requirements sound very sensible and straightforward. "The building shall be designed and constructed so that there are appropriate provisions for the early warning of fire"—that does not exist in most of the type of buildings we are talking about—"and appropriate means of escape in case of fire from the building to a place of safety".



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You then go to the guidance, which says, "There should be an alternative means of escape from most situations". Then the guidance introduces a whole series of guidance that tells you all the situations that are not those situations, where you do not have to have an alternative means of escape. Then, just as it does in parallel to the external wall spread situation, it refers you to the fire engineering solution BS 9991, which enables you to follow a whole series of different pathways or routes to compliance.

While we have this lack of clarity in the regulations, taking some basic steps, as we have done with combustible materials, is at least going to avoid us having a lot of stranded assets in the future. That is slightly more forward-looking. I appreciate that the more pressing question is what we do with the existing stock.

Q608 **Kevin Hollinrake:** Following up on that point, you talked about a 100-metre-high building that had combustible cladding. You know this better than I do, but 12.6 of Approved Document B says that insulation product must be of "limited combustibility". How can that be?

Dr Evans: Yes, but cladding is not an insulation product.

Q609 **Kevin Hollinrake:** I thought you said insulation.

Dr Evans: It had combustible cladding and combustible insulation on. They went to the huge expense and trouble of taking the cladding off and replacing it with solid aluminium, and left the insulation on.

Q610 **Kevin Hollinrake:** Yes, but how come the building had combustible insulation in the first place? It was not supposed to, according to 12.6.

Dr Evans: Yes, it should have had an 8414 test. It was definitely non-compliant in the first place. There is no doubt about that.

Q611 **Kevin Hollinrake:** It needed an 8414 test. In 12.6, it is simply "limited combustibility". You are saying that is combustible.

Dr Evans: Yes, exactly. They replaced it with a system that does not have an 8414 test either. Again, I come back to this point. In the early days, the Government could have said, "If you have got these materials on, this is what you should do". I asked this specific question a couple of times back in July 2017 and got a couple of answers that might give you an idea why some of the information Adrian has just referred to is a bit vague.

I said, "Why do you not produce a matrix? If you have this combination of materials, this is what you do". The answer was to say, "We do not want to give specific information because it might favour some manufacturers over others". Specifically on the issue of whether you remove combustible insulation, the answer was to say, "We cannot go around telling people to remove combustible insulation, because that would give Rockwool a monopoly on the market".



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Q612 **Bob Blackman:** We have had the recent fire in Barking. What does that tell us about the adequacy of the ban on combustible cladding, if anything?

Roy Wilsher: At the moment, it is inadequate. We, as the National Fire Chiefs Council, said it should not just be above 18 metres; it should be combustible cladding on all buildings where there are vulnerable people. That could be hospitals, care homes, residential buildings where people sleep. We did not think it went far enough, and we think the review of building regulations should go further.

Adrian Dobson: It tells us there is an awful lot of combustible material on the outsides of our buildings. As you go down the height threshold, you are going to discover more and more. As we have just said, the risk to people in buildings is not just about height. Height adds one risk. If the building is a place where people sleep, or where people lack mobility, that adds another risk. This is a set of risks.

It probably flags up the danger of unintended consequences. In a sense, this is the unintended consequence of pushing energy efficiency measures. We have been looking for lightweight materials that will improve energy efficiency and are relatively sustainable. Often, those materials are quite combustible. That is the fear this is now raising for us.

Dr Evans: On 1 July, Frances Kirwan issued a circular letter relating to this fire. It basically said, "If there are no provisions within the approved guidance or the guidance in the approved document is not specific, you still have to take into account the functional requirement of B4", which does make a lot of sense. It is very difficult for building control to refuse a material if Approved Document B says you can use it. Legally, that is the answer we keep getting. They will just go to another building control firm that will allow it.

The problem is that timber is specifically allowed in Approved Document B, or it was until Friday afternoon last week, when it was removed, becoming effective 31 August. Nine millimetre timber is specifically referred to as being permissible on a building of any height up to 18 metres. That is what you can get at with fire equipment and so on.

We learned a lot of things from Barking, though. First, we learned that timber is not particularly safe, particularly when it is untreated. There is no reference to having to treat that timber in Approved Document B. The other feedback we have from that building is that they actually ran out of water. Roy will probably know much more than I do about it. Within four minutes, that building was effectively uncontrollable due to issues about finding the hydrant and so on.

It also suggests that there are an awful lot of buildings out there clad in timber. That might give you the impression that is a safe material to build with, but then all of a sudden you have a big spectacular fire. If it had happened in the middle of the night, it would have probably killed five or



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10 people, perhaps. Relying on this outcomes-based approach is a very dangerous thing to do. Rare catastrophic incidents are very difficult things to base your designs on, because you really only know you have got it wrong when it is far too late.

The Hackitt reference is a bit like the duty holder reference. Nobody is going to want this job, but nobody wants to regulate or write the guidance either, because you are only going to get the blame when it goes wrong. Her suggestion that the Government could then backtrack to just presenting outcomes-based regulations and let industry sort it out is ridiculous. You will have regulations that basically capitulate down to saying, "Do not let it collapse. Do not burn people. Do not electrocute people. Do not let people freeze. You sort it all out, and we will punish you if you get it wrong". That model is just not going to work. We find it hard in this industry to attract high-quality people and to get companies to invest over the long term in their products, processes, training and so on.

It is a high-risk and low-reward industry as it is, where it is too easy for companies to compete effectively by coming in at the level of simply meeting building regs. Industries like offsite construction really do not stand a chance, because they have big overheads, they have to invest in product development and they have all the certifications you would ever need. That creates a high cost base, and then you will get a man in a van, who just has to meet building regs. It is very difficult to compete with that.

Roy Wilsher: I certainly agree with that. We cannot just leave it to the industry to move forward. On the thing about thermal insulation, we had this gap between the different approved documents. They were in silos rather than reading across. I know the Committee has talked about modern methods of construction. Modern methods of construction are great, but let us test them first and make sure they are fire safe and all the other things that go with that.

Dr Evans: Yes, absolutely. We seem to have an industry that allows anything to be put on a building until it goes wrong and kills somebody, and then it gets banned. If you compare that to the pharmaceutical industry with its clinical trials, you have seven years of trials to prove it safe before you subject people to it. We are back to front in that respect.

We are not going to be living in a world where you can never use plastics, polymers, thermal and so on, but at the moment there is just too much we do not know. It is a real shame that the Hackitt review did not look at the building regulations and what they are meant to achieve. As a professional engineer, she is bound by the Engineering Council statement of ethical principles. That requires you to put health and safety, not just safety, as paramount.

The question has been asked about whether it should be 11 metres, 18 metres or 30 metres. If you have a reasonably available non-combustible



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alternative, given that health and safety is paramount and that is a much stronger term than “as low as reasonably practicable”, you have to use it. There is no question in my mind that, in an engineering-led system, if you are choosing materials for building and they are within a comparable price bracket, performance and so on, you have to use the non-combustible, safer alternative.

Q613 Bob Blackman: Can I clarify a couple of issues very quickly? First, should the ban apply retrospectively to buildings below 18 metres that are high-risk, such as hospitals, schools and offices? Is that something that should be retrospectively applied?

Roy Wilsher: We would certainly like to see that.

Bob Blackman: I know there would be huge impact.

Roy Wilsher: There are difficulties with the cost and identifying buildings. I was fascinated when the National Housing Federation said it had identified all these buildings. I am not sure it has told us in the fire service, so we will have to follow up with that.

Adrian Dobson: It is another case where we might look fruitfully to Scotland, which seems to be a cycle ahead of us in this. I know that in Scotland, as a result of the Stollard report, they are now looking at this business of how to define the higher-risk buildings that would be subject to their enhanced regulatory regime. There seems to be universal agreement that there are more vulnerable buildings, but it is beyond what we have at the moment.

Ironically—I do not wish to sound glib—high-rise residential buildings are not in themselves particularly complex buildings. You could have a fairly simple rules-based system for high-rise residential buildings. Compared to an airport or a hospital, they are relatively straightforward. The risk factor in high-rise buildings is just height and whether you have people who are not very mobile and will have to have safe refuges even if you do evacuate. We need some way of assessing what should be encompassed within this regime. In those sorts of buildings, you probably need fairly hard and fast rules.

The whole performance-based structure is based on this slightly strange ecosystem where we have a research establishment that has to go to the industry for funding and then to the British Standards Institute, which has to go for funding. It is a slightly strange ecosystem that we have created.

Q614 Bob Blackman: Dr Evans, you have raised the toxicity of materials as well in your written evidence. Could you elucidate on your concerns for the record?

Dr Evans: Yes. As I have mentioned, one of the things the Hackitt report did not look at was the process by which building regulations are arrived at. One of the issues I have with that is the consultation process, that



part of it. The consultation part of the process that we use—you can compare it to Scotland and Wales—almost gives manufacturers of products a veto on any potential ban. The Government will go out to a number of bodies, and well-funded and resourceful organisations that represent certain products will produce carefully detailed, well-evidenced reports and so on. Very few other people will have the time or the technical knowledge to respond to these, so you get a very imbalanced response.

In 2017, the EU did a report on whether toxicity should be regulated, and it concluded that nobody could agree so they were not going to do it. That was published in October 2017 after the fire. That is quite a good example of where the consultation process effectively gives people a veto on any meaningful progress. Scotland and Wales demonstrate a little more leadership and recognise that companies and trade organisations are going to represent their members, and at some point you have to draw a line and say, “No, we are going to regulate this”.

For instance, on the large-scale 8414 test, I still believe that the industry needs a large-scale test, but one of the weaknesses of the 8414 test is that it does not measure toxicity because we do not regulate it. It only measures the rate at which the external fire will spread. One of the ways you can suppress that is by adding a load of flame retardants into the materials themselves. As the Fire Protection Association research showed late last year, even if you stop the fire from spreading, the amount of toxic gas that is produced from such a fire can kill the people who are told to stay put in the flats above anyway. You just replace one problem with another. It is a bit like the diesel/petrol scandal and so on.

Banning combustible materials pretty much addresses, with one fell swoop, the issue of toxicity anyway. If you look at the Barking fire, you can compare and contrast it with something like the Ocado fire, where there were big black plumes of smoke. The vast majority of times, that is what is going to kill you. The Barking fire, which was a timber fire, was much less toxic probably because it did not have any fire retardants in it. All the smoke was basically steam-based and clear white and so on.

Toxicity could be almost cured by having a total ban on combustible materials. The evidence is improving; it is increasing in that sense. In America, I believe 14 states have banned flame-retardant additives to mattresses, furnishings, cuddly toys and things like that, so momentum is growing. There is evidence that the flame retardants you add to these products are more dangerous than the benefit you get from them.

Q615 Andrew Lewer: Are you confident in a definition of what is combustible and what is not combustible as a material?

Dr Evans: Yes.

Andrew Lewer: You are saying, “It is easy. Ban non-combustible materials”. What is a combustible material?



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Dr Evans: There has been a bit of unfortunate terminology with the phrase “limited combustibility”, but, if you take the European classification for reaction to fire, you have the two A classes, 1 and 2, and then there is B to F. There is a massive difference between the As and everything else. There is largely now a consensus. MHCLG has specifically said that A2, with an S1 and a D0, so it has limited smoke production, is non-combustible as well as A1. Both are safe materials.

Q616 **Kevin Hollinrake:** On the toxicity, you did allude to this, but toxic smoke is not just created by the insulation or whatever else; it is also the furnishings in the house, the carpets and lots of other things. You do not just solve it by non-combustible materials in the building and outside the building. It is also what is in the apartments and the rest of the dwellings. Is that the case?

Dr Evans: Yes, absolutely. I am sure Roy has a lot to add to this. I just wanted to make one point, though. Some of the evidence coming from the public inquiry confirms what a lot of people suspect and what we based that Fire Protection Association research on, which is that, if a fire gets outside and into the cavity, you have an under-ventilated fire, which can produce some pretty nasty chemicals, and they can work themselves into a flat long before the fire actually breaks in. There is some evidence from the public inquiry already that people were incapacitated before the fire broke into their flats.

Chair: I am conscious of the time, but I want to get through all the questions if we can, to cover the subject.

Q617 **Mr Dhesi:** Mr Wilsher, the Government argue that providing the funding to replace ACM cladding was an exceptional scenario, because of the “unparalleled fire risk” that ACM poses. In your opinion, is ACM uniquely dangerous in a way that, for example, high-pressure laminate is not?

Roy Wilsher: It has been proven that ACM3 and polyethylene insulation is uniquely dangerous. I witnessed the 8414 test, and it demonstrates that quite clearly. We are not saying there is nothing else. There are some bespoke tests. High-pressure laminates is a wide range of products; it is not just one product. There are some bespoke tests going on at the moment to identify those. We are not saying that is the only material, but it is one we know about now.

Q618 **Mr Dhesi:** Basically, we are concentrating all our efforts on ACM, but we need to be concerned about things such as high-pressure laminates as well.

Roy Wilsher: Yes, there is a testing regime that has now started. I am at the Fire Service College this week, witnessing one of those.

Q619 **Mr Dhesi:** That is good. Dr Evans, is the Government’s testing regime for non-ACM adequate?

Dr Evans: It is adequate. It has been very slow. The Government managed to do seven 8414 tests in a matter of weeks after the fire. It is



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now 14 months since I sat in a meeting deciding which materials were going to be part of this non-ACM project, and we still have not heard anything. In addition, there was a test done nearly three weeks ago, which was a BS 8414 test, with what we believe was a fire-retardant grade of high-pressure laminate with mineral wool, and we have not been told what the result of that is. That is a combination that is definitely allowed by Approved Document B without any stretch of the imagination on filler and so on.

There are only two grades of high-pressure laminates on the market: there is a fire-retardant grade and a standard grade. We now know that the fire-retardant grade failed this test with combustible insulation in 2014. For the standard grade, if you transpose what happened with ACM, there are three grades of ACM: there is a polyethylene core, which is standard grade; there is a fire-retardant version; and there is a non-combustible version. I have them here if anybody wants to look at them. The standard grade ACM failed spectacularly quickly. The fire-retardant versions failed, but nowhere near as badly.

In the case of the fire-retardant version, the fire-retardant version of high-pressure laminate failed more quickly than the fire-retardant version of ACM. If you extrapolate that, it is also possible for the standard-grade high-pressure laminate, which contains 70% more combustible material. You do not get rid of combustible material by adding flame retardants; you just slow the rate at which it burns. It is still going to produce the same amount of smoke and so on, despite the fact you have added a flame retardant. Materials behave differently. Some may release heat faster; some may release energy over a longer period of time; some may generate more smoke. It is very difficult to do an exact comparison.

Q620 Mr Dhesi: Within the limited time we have, I want to pin you down on funding. The Government have banned the use of combustible materials in cladding and insulation. That is what they are saying. In your opinion, is it clear whether the funding the Government have provided covers both of these or is it only for cladding?

Dr Evans: I do not think anybody is clear about what it specifically relates to. I would probably hint back to what I said earlier on. The Government have tried to say as little as possible about what you specifically have to remove, because of the potential impact on the market.

Q621 Mr Dhesi: That is very important. Therefore, we need to delve further into that, Chair. Mr Dobson, do you have any other comments on funding?

Adrian Dobson: The logic must surely be that the restriction on combustibles for new buildings applies to both the rainscreen and the insulation. In retrofit, that seems the logical thing that you would replace. It seems pretty clear that this is what ought to happen, whether or not the funding is there.



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This Committee has heard evidence from an expert who said that ACM PE was the sole villain of the piece. Clearly, it is not. Over time, we will reveal more and more materials. There is probably more to go. The bit that needs to be stepped up is the speed of that testing programme.

Q622 Mohammad Yasin: The Government are proposing that there be five duty holders for the design and construction phase of a building and one during the occupation and management phase. Mr Dobson, in your view, is there a risk that during the construction and design phase this is overly complex and then very simple in the occupation phase?

Adrian Dobson: It probably looks complex at the design stage because we have this concern in the way we procure our buildings about making sure the designed solution that has been approved, what will be gateway 2, is what is actually delivered on site. You are almost getting dual oversight, but that is probably necessary because of the way we now procure many buildings in the UK. Having a single duty holder during occupation does make sense.

It is slightly tangential to what you asked, but I said before that the model of the CDM regulations was potentially a good one. Of course, in the CDM regulations, the weakest part is the handover of the health and safety file at the end. We know that transfer of information is not good. It would be very important that the building safety manager gets the right package of information from the design and construction team. If that becomes the weak link in that process, I suspect it will make it harder for the building safety manager to carry out their job properly.

Q623 Mohammad Yasin: Mr Wilsher, are you concerned by the resource implications arising from the additional responsibilities proposed for fire and rescue authorities, particularly prior to gateway 1?

Roy Wilsher: Yes, we want to be involved and we are concerned about some of the resource implications. We have been subject to austerity, the same as everyone else, but we have not had any protection over 10 years. We have lost 40% of our inspecting officers in 10 years. We are playing catch-up on the current regulations, let alone the new responsibilities that will come. The Home Office recognises that and we are in discussions about how we might resource that in the future.

Part of the difficulty is that, as we go for more responsibility, you cannot pick a fire engineer off the shelf; it takes five years to train a fire engineer, as Dr Evans will know. So we are worried about the resource and we are worried about competence, but we definitely want to be involved.

Q624 Chair: Presumably, the file that gets passed over to the fire safety manager should be passed over to the fire authority as well.

Roy Wilsher: Yes, we should see it as well.

Q625 Chair: Presumably it is all going to be put on computer systems. That is



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what you want to see, so that when you are going to a fire you have all of that information.

Roy Wilsher: Yes, we want as much information as possible. Going back to the previous panel, in terms of the difficulties of a single duty holder, we understand those, but it would certainly help us to enforce regulations if we knew who to go to.

Q626 **Chair:** Coming on to the other aspects of the building safety and regulatory regime, Dame Judith proposed a new joint competent authority and an overarching competence body, but the Government have just produced a recommendation for a national building safety regulator. Do you have any comments on that?

Roy Wilsher: We do not object to the idea, as long as we are involved. Something at a national level that oversees these processes would probably be a good thing. Certainly, when we replied to the idea of the joint competent authority, we said they need to be able to set standards and perhaps be able to inspect or audit people and deal with dispute resolution. We think the local regulation should still be done by local people, fire and rescue services and local authorities.

Adrian Dobson: We broadly welcome it. When Dame Judith's first report came out, there was a great deal of vagueness, because at the time she was not able to say whether it would be done regionally, nationally or locally. A single regulator that has responsibility for the overall regulations as well as the system is probably to be welcomed. It is not unusual in industries where you bring in regulation to have that single regulator.

Dr Evans: We need to make sure as well that it addresses some of the issues raised about conflicts of interest within building control. Too often, you hear stories about building control officers wanting to enforce something and being told, "If you do, you will be out of a job. We will just go to another firm". That kind of process must stop. Whatever gets implemented, there is a lot of work in progress there and everybody seems to be arguing about it now. Those are the fundamental issues. Building control bodies must be rewarded for delivering high-quality buildings. That must be the overall objective. At the moment, we do not have a structure that does that due to competition and market-share aims.

Q627 **Chair:** Is it clear in the Government's proposals what happens at a local level if you have an overarching national body?

Roy Wilsher: It is not 100% clear yet, but the direction of travel in our discussions is the right way, so we still have that local responsibility for enforcement but overseen by a single regulator. I absolutely agree with the point about conflicts of interest. Building owners should not be able to choose their enforcer.



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Dr Evans: The Health and Safety Executive's involvement post handover is a good idea. Running a business, I am very aware of how effective and how demanding they can be. I do not think that local authority building control, as an organisation, being the regulator of themselves is a particularly sound idea, but an overarching regulator above it all makes sense.

Q628 **Chair:** I just have two other points about the Government's proposals. Brief responses would be good. There is a proposal that building regulations should be reviewed every five years. Is that the right timeframe?

Roy Wilsher: Five years is reasonable, but, if there is an issue arising, there should also be a process for how we can do it earlier.

Dr Evans: On that point, we talked a lot earlier on about residents having a say when things go wrong in their properties and so on, but, equally, there is not enough representation of the public when it comes to creating the regulations in the first place. There is no accountability. Over the last 20 years, from Garnock and Lakanal coroners and so on, we have seen the anonymous body that comes up with our regulations practically ignore these changes that have been recommended by people like yourselves. There should be some representation of the public when it comes to creating regulations so they can actually force changes.

Q629 **Chair:** We probably do not have time to go into how that might be done, because it is quite a challenging issue. Again briefly, in terms of the conflicts of interest, we have mentioned the issue of building inspectors being appointed by the developer and the recommendation to change that. Are there any other conflicts of interest, very briefly, that need addressing or sorting out as a matter of priority?

Roy Wilsher: In all areas of regulation, you should not be able to give advice and then regulate the same thing you are giving advice on, whichever area you are in.

Q630 **Chair:** That applies to the fire authorities as well.

Roy Wilsher: It applies to everyone involved, yes.

Adrian Dobson: There is probably an issue. It is easy to define the public and the private sector in building control, but there is probably an issue about local authorities overseeing their own projects; that perhaps needs to be watched. That raises the same issue. If the local authority's own building control department is overseeing its own projects, maybe that raises some potential anxieties.

Dr Evans: On a slightly related point, which has been alluded to again, we have seen stories emerging from Australia about professional indemnity insurance and so on. One of my concerns with the idea of a duty holder, if you look at building control and so on, is that we could actually face a crisis where literally nobody wants to do this anymore.



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The Australians are complaining that they do not have enough inspectors, and they do not even have enough contractors to do the work anymore. People have had enough. It is too high risk.

Gary Porter made the point earlier on: you might just end up with professional duty holders, in a similar way that you do with directors in insolvencies. You have a director to hire, and they take on the responsibility for a fee. That is really not going to deliver what we want.

Q631 Chair: Finally, the Government have outlined the three-step process for a tougher building safety regulatory framework and credible and effective enforcement and sanction powers. Do they go far enough? In the end, you presumably have to have sanctions if people do not obey the rules. Some people will not, so is there enough deterrent in there?

Roy Wilsher: The principle of having sanctions is good. I do not know whether they are the correct ones or not. We are still consulting our fire and rescue services, but we certainly want tougher ones, yes.

Dr Evans: For clear unethical behaviour, undoubtedly the sanctions must be really tough, because people's lives are at stake. Where people get blamed because of things that are out of their control is something that is my concern, if they are having to work with these materials. The fabrication and the contracting industries do not want to be making buildings out of combustible materials. If it is a level playing-field, we want to make it out of safest materials possible.

Q632 Chair: This is about making sure people who want to cut corners cannot get away with it.

Dr Evans: Yes.

Q633 Chair: Equally, it is about making sure they are not allowed to get away with it legally by putting on materials that are not safe because they are cheaper.

Dr Evans: Do not let the construction industry be forced to use combustible materials by people who will undercut but will meet building regs and then expect to punish them when it goes wrong.

Q634 Chair: In the end, if people are guilty of wilfully not obeying the regulations and not following the rules now that are meant to make people safe, should prison in the end be the ultimate penalty? Is that what we are looking at for some people, some directors of organisations maybe?

Adrian Dobson: It is. If you use the existing HSE model on CDM, most of the cases do end up being civil cases, but there is an ultimate criminal law implication, and there have been some criminal prosecutions under that regulation. Statutory duty holders is a big step forward.

Dr Evans: There is a German car executive in jail now for fiddling emissions results. That did not even kill anybody.



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Chair: Thank you very much for coming and giving so much important evidence to the Committee this afternoon.