

Housing, Communities and Local Government Committee

Oral evidence: Independent review of building regulations, HC 555

Monday 22 July 2019

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

Questions 635 – 730

Witnesses

I: Dame Judith Hackitt, Former Chair, Independent Review of Building Regulations and Fire Safety.

II: Kit Malthouse MP, Minister of State for Housing and Planning, Ministry of Housing, Communities and Local Government; Chandru Dissanayeke, Director for Building Safety, Ministry of Housing, Communities and Local Government.

Examination of witness

Witness: Dame Judith Hackitt.

Chair: Thank you very much for coming in today, Judith. We will start our session with members of the Committee putting on record any particular interests they may have that may be relevant to this inquiry. I am a vice-president of the Local Government Association.

Teresa Pearce: I employ two councillors in my office.

Helen Hayes: I am a vice-president of the Local Government Association. I also employ a councillor in my office and, because some of the questions today relate to leasehold matters, I will put on record that I am a leaseholder.

Mohammad Yasin: I also employ a councillor in my office.

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



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Mary Robinson: I employ a councillor.

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

Q635 **Chair:** We have put our interests on the record. We know your interest in this matter by now and, thank you, Dame Judith, for coming once again. We know who you are as well, so I will not ask you to repeat that for us. Thank you for your time on what continues to be an interesting subject with lots more documentation going on.

The Government have very recently put out a detailed consultation proposal. Do you have any views on that? Does it do what it should do? Does it adequately follow up the report that you produced?

Dame Judith Hackitt: In terms of scope, I am hugely encouraged by the consultation document. It sticks very closely to the recommendations that I made in my initial report, so, yes, I am hugely encouraged in terms of the scope. It sets out to implement the aims and objectives of my review.

Q636 **Chair:** How far have you personally been involved in the production of it, or at least advising on it?

Dame Judith Hackitt: To a very limited extent, because this has been detailed work going on within MHCLG. I have continued to be involved to the extent that they have used me in an advisory capacity to sense-check things and say, "Is this what you meant?" and, "Is this how you intended it to work?" but I have not been directly involved in the policymaking work around crafting the regulatory framework. My involvement since I completed my report over a year ago has largely been around trying to drive the culture change within the industry.

Q637 **Chair:** You are there to give the Ministers your views if they need them.

Dame Judith Hackitt: Yes, and I regularly attend the MHCLG programme board meetings.

Q638 **Chair:** When you last came, you said to us, quite rightly, that you were disappointed that it had taken the Government seven months to come to the view that they agreed with your report and were going to get on and implement it. During the evidence we have taken from other witnesses leading up to this session, there has been a lot of criticism with people saying that it is two years since Grenfell and nothing has happened on the ground, with building regulations still being the same and the same cladding still being on lots of the buildings. Do you think the pace of change has been sufficient, or do you think it needs to be picked up?

Dame Judith Hackitt: No, not at all. It is a matter of some regret that it has taken this long to get this far. I set out on the task of producing this report and the urgency of doing that was impressed upon me. We stuck to our timetable and produced that in a matter of 10 months. It seems unfortunate that from then on it has taken so long to get this far. Indeed, I warned in the report that, unless we kept that momentum going, one of the things I had encountered when I first started on the review would



continue, which was a sense among many of the stakeholders that we had been here before and made recommendations for things that needed to change and it had not been followed up on.

As we have highlighted in the annual report of the industry safety steering group, which I have been chairing, we have encountered, throughout the whole of the last year, this sense of a lot of people waiting to see whether things were actually going to happen. Whilst it is great that this proposed regulatory framework is out there now, we have lost momentum. It is an important statement of intent now but we really have to get on with it.

Q639 Chair: Do you think that one of the problems is that the Government have not committed themselves to the sort of timetable that you committed yourself to when you did the inquiry?

Dame Judith Hackitt: Yes. We can all come to conclusions of our own as to why it has taken this long—focus has been on other matters and all of that—but, to the people who matter at the heart of this process, this is hugely important, and it is really disappointing that we have not been able to move more quickly to give them the assurance that they needed that things really were going to change. Certainly from my perspective, in terms of trying to drive culture change in the industry, it is a really important thing to be able to say to industry, “Change really is coming and here is the evidence of that”, because that is the only way to get them out of their status quo in many cases—not all but in many cases.

Q640 Mr Dhesi: Dame Judith, while serving as the Chair of the Independent Review of Building Regulations and Fire Safety, you actually called for a new regime focused, albeit initially, on multi-occupancy, higher-risk residential buildings, which are 10 storeys or more in height. The Government have proposed to extend this to buildings that are only six storeys or more, but surely height is not the only risk factor for buildings. For example, Lord Porter, during his witness session with us, said, “The height is a bit of a red herring, really. It is the complexity of the building”. Should we be using more complex determinants of risk, such as the vulnerability of residents?

Dame Judith Hackitt: Let me try to answer all of those points in turn. First, I recommended 10 storeys and more because the data that was available, which we looked at at the time of producing the report, showed a clear step-change in terms of the number of fatalities that occur in fires when they occur in buildings of 10 storeys or more. Even if you took Grenfell out of the picture and did not include that in the statistics, there was a clear step-change in the level of harm and fatalities that occurred in buildings of 10 storeys or more.

Equally, at the time when I put that report together, I was clear that it should not stop there and that “10 storeys or more” was the starting point and that we should extend the regime beyond there in due course. I would certainly agree that we should not do it simply on height. There



are other factors, and there are factors on both sides of the equation in terms of vulnerability of people, numbers of people, whether they sleep there and all of those things. On the other side, there is also the part of the equation that is about intrinsic protective measures in the buildings. Some buildings will inherently be at lower risk because of the way they have been built.

My concern is this: height is a very simple and very effective way of getting started on this process. My frustration is that we have to start somewhere. It would be eminently sensible to develop a more sophisticated tool for determining risk in the longer term, but what I would hate to see is that becoming yet another reason for not getting on with it. Let us at least get started on this and then refine the methodology later to include more buildings, but let us not introduce yet more reasons for delay into this process.

Q641 Mr Dhesi: The pace of change has been very slow. We have had evidence sessions where the likes of Grenfell United and others expressed their anger, disappointment and frustration at the slow pace of change. In your opinion, would it not be better for us to be more ambitious from the outset with regards to the scope of the new regime?

Dame Judith Hackitt: The intent is very clear. The intent, in terms of changing the dynamics of this regulatory process to one where you place clear responsibilities on individuals, is in itself an ambitious culture change that we need to drive. It is really important that we get that in place as quickly as possible. That, to me, is at the heart of this.

My concern is that, if you try to do that and you extend the scope too far in the first instance, you will make a task that is unmanageable. There is no doubt at all in my mind that introducing a new regulatory regime of this magnitude will need to be done in a phased way. Although the numbers are only based on estimates, when I looked at "10 storeys or more", we were talking about something like 5,000 existing buildings coming into scope. By extending it to "six floors or more", that number is increased to 12,000 or more. In addition to doing all of the new stock that is coming through, we have that work to do around existing buildings and we have to manage that in a phased way. We will not be able to do all of that in the first year; that is for sure.

Q642 Teresa Pearce: The Government have amended some of your recommendations, most notably that there should be a single national building regulator instead of the separate organisations that you proposed. Do you think that that is the right approach? How do you feel about that change?

Dame Judith Hackitt: What the organisational structure looks like is less important than whether or not that single regulator brings together all of the necessary competences. My aim and my proposal, when I proposed a joint competent authority, was to, again, for speed, say, "Let us get all of the people together acting jointly to bring this scheme to



fruition and make it happen quickly". As long as all of those same people are involved in the single regulator, we will achieve the same aim. I am not overly concerned about the organisational structure as long as the right people are involved.

Q643 **Teresa Pearce:** It is about the outcome rather than the structure, and you are happy with that.

Dame Judith Hackitt: Absolutely, yes.

Q644 **Teresa Pearce:** Do you agree that the independent review of building regulations every five years is the right approach? I am particularly interested in that given what you have said about the length of time it has taken to get going. Do you think that that is the right approach to having an independent review?

Dame Judith Hackitt: Five years initially is right, yes, because, again, if you go too soon, especially with the extended scope that we are now looking at, you could find yourself asking questions like, "Is this working?" and maybe concluding that some of the things were not working because you had not had time to implement them fully yet. Five years is a realistic timeframe for the first review.

Q645 **Teresa Pearce:** We have also heard calls for greater public engagement in the periodic review. Is that something that you would support?

Dame Judith Hackitt: Very much so because, again, it depends very much on what you think the questions are that that independent review needs to ask. The question is not whether we need more regulation but whether we are achieving the right outcomes. One of the tests of whether this new regulatory regime is working is bound to be whether the people who live in high-rise buildings feel safer and feel more assured of the safety of their buildings. The only way to answer that question is to ask them and involve them in the process. It is one of the key tests.

Q646 **Chair:** Can I follow up on the question of the national regulator? The LGA has been rather critical of this, saying that it will take away any local connection and that it will just become a big bureaucratic organisation that does not really get local circumstances. Do you have concerns about that?

Dame Judith Hackitt: First, I would go back to what I said earlier: I do not think we have yet seen enough detail, even in this consultation document, around how the regulator will work on the ground. What I know from my involvement with the consultation document is that the Joint Regulators Group is already looking very closely at how to preserve that local input to the process through planning and through local authority building control. Although there will be a national regulator at the top of this structure, when you get down into the detail I am confident that there will be local-level involvement.

Q647 **Chair:** That is obviously something that we will pursue with the Minister a



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little bit later as well. The Government have also proposed the introduction of a new “accountable person”, and witnesses to us previously have said that the risk to this person in what they are going to be required to do and their responsibility is so great that they cannot see how anyone would want the job.

Dame Judith Hackitt: That is a matter for conjecture at this point, because nobody has defined what that person will be responsible for yet. If you think about the implementation of this regime as I described it, I would suggest to you that, in terms of the responsibility of being that accountable person on a new building that is handed over with an assured status and a complete set of documents, it does not feel particularly onerous to then carry on with a process of maintaining that building in a state where it is fit and safe for people to live in. The challenge, undoubtedly, is associated with people becoming accountable persons for existing buildings where that information is not available to date and we know it is not.

Again, the role of the regulator in that will be very important in terms of how they go about assessing the suitability and safety of those buildings and working with that accountable person to help them identify the areas of priority for them to address and the areas for improvement. As long as the regulator is working alongside that accountable person, helping them to understand what the priorities for improvement are in that building, we can make this a role that people will certainly not back away from and one that, in many cases, people will want to fulfil because it will have a very sensible and worthy purpose behind it, which is to improve the state of our existing building stock.

Q648 **Chair:** Given the scope that that would involve in terms of the amount of work—the role comes in and then the national regulator has his responsibility for advising accountable persons right across the country for these buildings—do you think that that will have to be phased in in some way to allow it—

Dame Judith Hackitt: Yes. I said that earlier. Of course it will. You cannot have a day from which a new standard will have to apply; it will have to be phased in over that stock of existing buildings.

Q649 **Mr Prisk:** Dame Judith, I understand the principle, particularly for new buildings, where the track of information is understood and therefore someone taking the responsibility on can quantify the risks involved and, perhaps from their professional indemnity, they can quantify that. Are you aware that the insurance industry is now talking, as we speak, to many leading owners of these buildings and indicating that they are probably likely to withdraw from the market altogether? The prospect of being asked to take a building on where we recognise the information is incomplete—and we cannot tell that person what the regulator will do in any circumstance—means that it is quite unlikely that anyone would step forward.



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Dame Judith Hackitt: Part of the problem here, if I may say so, is that it just underlines the reason why we need to move more quickly in getting to certainty about what this regulation will look like and how it will work. I have a number of concerns about this interim phase that we are in now where the proposed legislation is on the table but not the detail and where people are, as you say, making pre-emptive moves in terms of “until this” or “until that”.

One of my big concerns right now is that, for the last two years, we have carried on building buildings to a set of standards that we now know are not fit for purpose. The longer we carry on before we put this regulatory framework in place, the more buildings we are putting on to our housing stock that will need that rectification process. The sooner we get on with this and remove that uncertainty for everybody, the better.

Q650 **Chair:** There is also a building safety manager to be appointed. Will that cost fall on leaseholders?

Dame Judith Hackitt: There will need to be a good deal of transparency in the system. Inevitably, there is scope in all of this for people to add to service charges unnecessarily and “overegg” it, so we will need to ensure that there is a good deal of transparency in the regulatory framework in terms of how costs are passed on. Equally, it is reasonable to make residents aware that there will be an element of their service charge that will be put on to them for the purpose of ensuring their safety. I am sure that lots of people will be more than willing, if they can afford it, to pay that, provided it is reasonable and transparent.

Q651 **Chair:** The Committee has been looking at leasehold reform recently, and the issue of commonhold has come up, with a lot of support for eventually making that the more normal form of tenure for flats. In a situation where commonhold came in, how would you get an accountable person? There is no freeholder and you have a commonhold arrangement. Is that more challenging in that situation?

Dame Judith Hackitt: I am not an expert on the legal structure of commonhold.

Chair: I appreciate that you may not be able to deal with that at this stage.

Dame Judith Hackitt: From the sound of what you are describing, yes, it would be more complicated, but I am sure that there are ways of addressing that in such a way that one individual would not carry the whole liability.

Chair: That is probably something we will explore further with the Minister. I appreciate your position on that one.

Q652 **Helen Hayes:** Dame Judith, your report made clear the need for significant cultural change in the industry and indeed your most recent report says that you believe that there is still a great deal to do to



achieve culture change in the industry. The Government have set out a three-step process for having a tougher building safety regulatory framework. Do you think that is enough? Do you think that is on the right track in any way to deliver the culture change that you believe to be necessary?

Dame Judith Hackitt: It is too early to say for the reasons I have already given. Our work in the industry safety steering group has certainly encountered this view of a number of players waiting to see whether the regulatory change is going to come. I would hope that, in the next 12 months—because we have already committed to be in existence for two years and we are only halfway through—people can see that change is most definitely coming to the regulatory system. We will see a shift in attitude now because that change is coming. I am fully expecting to see that shift in attitude in the next year.

We should also be very careful not to condemn everyone in this process. That would be far too simplistic a view to take. There are some very good people out there. There are some people who are leading the way. The sensible ones and the smart ones, I would hasten to add, are the ones who have joined the Early Adopters Group, who are looking to do this voluntarily and move in the right direction because they are the ones who are already thinking about how to build to that new set of standards rather than waiting to be told to do so.

All of that is helpful because, once you get exemplars out there doing the right thing, it makes it much easier for the industry to drive that culture change from within. That, combined with a new regulatory framework, should start to see some acceleration in that.

Q653 **Helen Hayes:** The LGA has told us that it is concerned that the Government intend to allow approved inspectors to continue to have a role in the regulation of in-scope buildings, something that both the Committee and you have described as a clear conflict of interest in the system. Is this your understanding of what the Government are now proposing?

Dame Judith Hackitt: No, it is not. There is some confusion here. You are absolutely right that I said that there is a clear conflict of interest in the current system. Where we have to make a difference here is that no one who is building a high-rise building should be able to choose their own regulator, which is what happens now. Let us establish that as a clear principle.

On the other side of the equation is this new single regulatory body. As a part of setting itself up and bringing together the expertise that it needs to carry out its regulatory function, it needs to recruit in experience from the private sector, and I see no reason why it cannot do that alongside local authority building control. There is no reason why you cannot recruit from the private as well as the public sector into that role, provided those people are employed as part of the independent regulatory body and they



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have no conflict, i.e. they are not also working for the client on the same job, because that would then be a conflict of interest.

Q654 Helen Hayes: Just to follow that up, how does that work in terms of the accountability chain for those individuals? The concern was not only about a very direct conflict where somebody might be working both in the role of approved inspector and in relation to the same job, but also more widely in the system, where you essentially have people acting as poachers and gamekeepers across the industry as a whole, which is part of the culture-change problem that you have also identified.

Dame Judith Hackitt: You cannot act as poacher and gamekeeper at the same time. That is the principle. At the moment, what you have is a system whereby the builder chooses either to be regulated by the local authority or by an approved inspector from the private sector. That approved inspector is then paid for by the builder and, to me as well as to most people, it is very clear that that is a conflict of interest because, to be an effective regulator, there has to be a degree of independence.

In the new system—given that we have already talked about the increased workload that will be required to assess these high-rise buildings even in terms of the new stock but also this backlog of anywhere between 5,000 and 12,000 buildings that we have to look at again—there is clearly going to be a large tranche of work to be done that will require resourcing. It is highly unlikely that the local authority building control resources will be enough to get us through that backlog of work in a reasonable period of time. It is very likely that other people will need to be contracted in. That is not a problem as long as they are contracted in by the regulator and are working for the regulator and the regulator is ensuring the independence and impartiality of the assessment that they are doing.

Q655 Helen Hayes: Do you agree with some of our witnesses that there was too much focus in your report, and the Government's subsequent consultation, on addressing bad behaviour rather than looking to the causes of the cultural problems and changing the industry to attract higher-calibre individuals in the first place? It is another take on the same question: is a regulatory approach sufficient to achieve culture change, or are there deeper causes that also need to be addressed?

Dame Judith Hackitt: No, the regulatory framework will only take you so far, but it provides you with an essential way of driving the right behaviours and creating a balanced approach that gives every reason for the majority to comply with what is a sensible approach going forward.

I would argue quite strongly that the culture change that is required in this industry was front and centre in my report. In spite of the fact that I was doing a regulatory review, I more than emphasised the fact that this needed this industry to wake up to its moral responsibilities, let alone its legal responsibilities. Quite frankly, it is shocking to see the extent to



which hitherto the construction industries have not taken responsibility for delivering buildings that are fit for purpose and fit for people to live in.

Chair: That is a very good point at which to conclude today, Dame Judith. Thank you very much again for coming and giving us your independent advice. We do recognise that and appreciate it. We may well ask you to come back in due course. We are going to continue to follow this, to try to make sure that the changes that you recommended will actually be put into practice.

Dame Judith Hackitt: Thank you. I appreciate that very much.

Examination of Witnesses

Witnesses: Kit Malthouse MP and Chandru Dissanayeke.

Q656 **Chair:** Minister, thank you once again for coming to meet with the Committee on this important issue. I see you have brought an official with you as well. Perhaps you can introduce your official.

Chandru Dissanayeke: I am Chandru Dissanayeke. I am the director for building safety reform. I was appointed to implement Dame Judith Hackitt's report.

Chair: No doubt you are here to do all the detailed technical stuff that we have tried to keep pace with. I am sure the Minister will accept that it is quite a challenge.

Kit Malthouse: Exactly, Mr Chairman. As I have said before, I do not pretend and should not pretend to be a fire safety expert. Some of these matters are very technical, so having some technical expertise is always helpful.

Chair: Yes, we appreciate that.

Q657 **Mohammad Yasin:** The consultation was published 14 months after the final report of the independent review and two years after the Grenfell Tower fire. Several witnesses who came here, including Grenfell United, told us that they were really disappointed by the pace of change. Do you agree that the Government should have done and achieved more by now?

Kit Malthouse: There is always a demand on Government to move as fast as possible, and I understand the impatience around such an important issue and one that came after such a horrific event. However, there has been a huge amount of work over the last 14 months or so, including something like 34 announcements and 22 advice notes. Obviously you have seen a number of measures in place such as the banning of combustible cladding and the restriction on the use of ***** [16:38:25]. We have started quite a lot of forerunning work with the



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Department. We have obviously been working heavily on remediation. There has been a lot of work with the industry generally and lots of groups have been set up. There has been a massive amount of work that has taken place, but one of the challenges of Government is to move quickly in these circumstances. Given the complexity of what we have had to pull together, I am relatively pleased with progress.

Q658 Mohammad Yasin: The Royal Institute of British Architects told us that it looks like “we are potentially still constructing unsafe buildings”. Will the Government set a deadline by which we will have an updated set of building regulations and by when the new regulatory regime will be in place?

Kit Malthouse: I have not heard anyone claiming that we are still currently building unsafe buildings, and I would be very surprised if there was any developer who was doing so. If the organisation that you mentioned has specific buildings that they believe are unsafe, I would urge them to bring them to our attention as quickly as possible.

One of the pleasing things, if you like, that has come out of this process and the work that we have been doing has been the front-running by the industry and a general recognition across the whole of the development industry that, first of all, the building regulation system needed to change very significantly but also, critically, that there needed to be massive cultural change in the development industry, to embrace the paramount importance of building safety. I would be amazed and alarmed if anybody was currently constructing a building that was deemed unsafe, and I would be grateful for notification of specific examples.

Chair: We will certainly follow that up, Minister. You obviously did not hear Dame Judith’s comments where she made reference to the cultural change necessary and indicated that that was coming from some parts of the industry but not all, so there are still concerns out there. Dame Judith also had concerns about the pace of change. She was just saying that it is not going quickly enough. She did her report precisely in the time that she agreed with the Government. Since then there have been reviews and Government documents and some cladding has been removed, but nothing else has actually changed yet, has it?

Kit Malthouse: We have made significant progress on ACM remediation, in particular, and the social sector is looking good. You are quite right that things could have been faster in the private sector, but we are pushing hard for that now. The team involved in the building safety programme has been beavering away to get us to where we are now, and there is now a comprehensive consultation out there on a number of measures that we want to bring in to address the issues that were raised in the Hackitt review and embrace them and embed them.

As I say, I would reflect on the fact that, even given the pace of movement by Government, the industry has been shifting itself. While the cultural change obviously is not complete—and the reason for having



a new regulatory system is to make sure that it is—there has nevertheless been significant progress.

Q659 **Bob Blackman:** I just want to follow up on that, because obviously the point behind Mohammed Yasin's question was about new buildings, not the remediation of existing ones. Because there have been these various different reviews, there appears to be some confusion in the industry. There is a question as to whether builders and developers are therefore putting buildings up that are now going to be in conformity with what we expect to be ending up with in terms of building regulations. The concern is that there may be buildings being put up that are going to be deemed to be unsafe after all the reviews are completed. Can you give us an assurance on that position?

Kit Malthouse: We have obviously issued a number of advice notes over the last couple of years, most recently in May, in which we have illustrated to developers and building owners the measures they need to take to ensure the buildings are safe. In the end, the ultimate responsibility for the safety of the building has to lie with the building owner or indeed the person who built it. We have worked quite hard over the last couple of years to embed that sense of responsibility with those people. What we have said to people is that, if they are in doubt, they should obviously play safe. I do not know if Chandru wants to say anything further, but I would hope that everybody who is currently building a building has that safety case in mind.

Chandru Dissanayake: The building owner is absolutely responsible for the safety of the building. Building regulations are quite clear that the external walls of buildings should adequately resist the spread of fire. We and the Minister understood that building owners were not doing that as well as they should and so they have put that completely beyond doubt by banning combustible materials on the external walls.

I should say that the clarified ADB, which has now been published, is not introducing new policy but is just clarifying it in plain English with better diagrams. We did a call for evidence on a technical review and we have yet to move forward on that but, if there are any changes in policy, that would be subject to consultation and would be subject to a normal transition period, as is the norm. I would say that what we have done so far is to clarify and put beyond doubt that which we expect building owners to do anyway.

Q660 **Mr Dhesi:** Thank you. Minister, you mentioned earlier the remediation of ACM cladding. The Secretary of State announced in May that there will be a £200 million fund to remove and replace unsafe ACM cladding from around 170 privately owned high-rise buildings. In your opinion, will £200 million be sufficient to remediate all the buildings with ACM cladding?

Kit Malthouse: We think so, yes. There are 154 buildings that we think are eligible to apply, but there are 22 on top that have had successful warranty claims that will be covering the cost. There are a further 36



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buildings where the owners and developers have said that they will maintain their commitment to do the remediation themselves, which leaves us with 118 buildings to be covered. It is certainly the case that there is still work to be done with some of those owners, and there are a number of warranty claims still outstanding that are waiting for conclusion. We think that, when all of that process is completed, £200 million will give us enough leeway to get the work done.

Q661 **Mr Dhesi:** It is good to hear your confidence on that. Crucially, this is not new money because the £200 million, as I understand it, is to be paid out of existing programme budgets. Has this arisen because of an underspend within the Department?

Kit Malthouse: The money has been taken from other programmes where there has been underspending or there is spare money. I know we always get hung up in Government on this idea of “new money”. There is no new money; it is all the same money. Whether it comes from the Treasury or from programmes within the Department, it will either be borrowed or taken from other programmes elsewhere in Government. You will understand that, in a Department the size of ours with many varied budgets that move at different paces, capacity becomes available that can be directed to other uses, and this is one of them.

Q662 **Mr Dhesi:** If it turns out, as many of us expect, that more than £200 million is ultimately required, would it be sustainable to do this from underspends, or would it need to come out of other programme budgets?

Kit Malthouse: We would have to address that at the time. As you will appreciate, the management of a departmental budget is a dynamic process where issues come and go, where programmes rise and fall and where some programmes that are given a budgetary allocation prove to be slower in execution and some prove to be faster. There are then circumstances that arise like this that need funding. We are confident this will not be the case but, if more is required, we will need to have a conversation with our Treasury masters.

Q663 **Mr Prisk:** I wonder, Minister, if I might just drill down a little on the guidance and the fund. As you said earlier, there are some shady areas where people want to know exactly how the fund applies. Thank you for issuing this—we got it on Friday—in terms of the guidance. Does this include insulation? It would appear to in the footnote, but I want to just confirm whether the application of the fund does include insulation.

Kit Malthouse: We recognise that there are elements of a building that are connected with the ACM and its removal. The primary focus is the removal of the cladding but, if there are connected products that need to be replaced as well, they would be looked at on a case-by-case basis. It may be, for example, that you get to a situation where there is a mixture of different cladding and you are unable to remove the ACM without removing and replacing the other cladding. We would obviously have to look at that case as well. While we are primarily focused on ACM, I do not



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think there are any particularly hard and fast rules about what is going to be covered.

Q664 **Mr Prisk:** The box that you provide on page 8 of your guidance tries to make a distinction about what is and is not included but it is not clear to me whether or not ancillary costs are included. For example, if I was doing a preliminary building survey prior to the works, the works clearly could not take place until I had done the survey, and it is not entirely clear whether it is the intention of the Government to include that or not.

Kit Malthouse: My expectation is that that would be included. Any cost that is directly consequent to the removal of the ACM would be included.

Q665 **Mr Prisk:** That is helpful, thank you. You mentioned the mix. One of the challenges here is that buildings will have part ACM and part not. How does the Department intend to distinguish on those? I have not had that long to wade through this but is there anything that you or your official could help on in terms of the record, so that people know exactly what the Government's approach is to distinguishing between the costs of removing ACM and non-ACM cladding?

Chandru Dissanayake: The key thing is that works related directly to the replacement of unsafe ACM cladding. That might extend to other cladding where replacing ACM cannot be done without replacing that cladding as well. We would need to look at that on a case-by-case basis.

Kit Malthouse: The process will be that people will apply through the fund and they will put forward a plan. As part of that plan, they will outline the complexities that may be involved and then we will have to make a judgment about whether it is fundable or not. These will be dynamic conversations between us and the building owners or those doing the remediation. While I understand that people want a hard and fast rule, we want to retain an element of flexibility because fundamentally no two buildings are alike.

Q666 **Mr Prisk:** I entirely understand that. Can I also just refer to the other aspect here, which is the notion of the responsible entity? Clearly, the policy commenced initially by referencing the building owner in terms of the responsibility for the administration of funding. You wrote to us again at the end of last week, responding to our letter from June, just seeking to clarify some elements to this, and it might be helpful just for us—and certainly for me—to better understand this. As you refer to in your letter, you recognise that some of these managing agents are quite small businesses. We have already had sight of one instance where a freeholder took the policy as meaning that it is actually an opportunity for them, as the freeholder, to push their responsibility elsewhere. Clearly, I suspect that that is not the intention. Could you just confirm that?

Kit Malthouse: Yes, the responsible entity is the building owner.

Q667 **Mr Prisk:** That is helpful to understand. Could you just explain the notion around the thinking here? You said, "We are unable to comment on



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individual cases. However, the Government's position remains that it will fully fund the replacement of unsafe ACM cladding [...] except where the building owner/developer has committed to fund it themselves or where a warranty claim has been accepted". In the context of having a building owner and a managing agent and so on, could you just explain the nature of that policy and how that will apply? Who is principally responsible?

Kit Malthouse: The building owner is principally responsible, but what I was trying to say was that obviously there are some buildings where there are warranty claims being pursued, and there are some where developers have already said that they will step in and cover the costs, and we are effectively excluding those from the fund. Beyond that, we have made very clear in the advice notes that we believe the owner of the building is responsible for the safety and therefore essentially they can delegate the management of the remediation to a managing agent as they would other functions of management, but in the end it remains their responsibility.

It is worth saying that the grant, if you like, is to the leaseholder, so it is the leaseholder that we are protecting, not the freeholder. Effectively, the routing of the grant is that we are paying it on behalf of the leaseholder, notwithstanding whether it is the managing agent or the freeholder who organises the remediation.

Q668 **Mr Prisk:** Yes. Obviously the nature of an agent is that they act on behalf of somebody else.

Kit Malthouse: Yes. There is a further complication in that there are some buildings where the leaseholders and the freeholders are the same people, and we just need to be slightly careful about that situation. In the end, it is the freeholder who is responsible.

Q669 **Mr Prisk:** You talked about the warranty. I do not know whether other members of the Committee are hearing this, but I am certainly hearing that the insurance industry is beginning to wonder whether it should withdraw from this sector altogether, because there are unquantifiable risks. There are some quite difficult conversations, I am told, going on between owners of buildings, developers and the insurance market, where the insurance market feels that the nature of the regulation is unclear and therefore the nature of the risks that are allocated are unclear, and therefore, for the time being, they are not prepared to issue any further cover. Are you aware of that and how would you regard that?

Kit Malthouse: The only area where I am aware of the insurance industry reacting that way is for approved inspectors, where there are a number who are experiencing difficulty in renewing their insurance. As far as I can see, given the work that we are undertaking and the new regulatory regime that is coming, that does not necessarily seem to me a completely rational response by the insurance industry, given that obviously these claims are historic. Prospectively, the system will obviously be much more tightly regulated and therefore, in essence, from



their point of view, de-risked, we hope. As I say, I hope that, once they realise that, the insurance industry will do what it is supposed to do.

Q670 Kevin Hollinrake: Kit, in my experience, you have done more than anybody else to try to resolve the issues with the ACM in terms of remediation, which everybody should appreciate. It is quite apparent that there is a problem other than with ACM. The Secretary of State has said that ACM was an exceptional case. Can I quote some of your words back to you from 2019? When we talked about non-ACM, you said, "By definition, it is then combustible cladding, which is now banned. We would obviously have to seek remediation as we are doing with ACM". Is the reality not that we are going have to expand the remediation scheme to cover other forms of cladding?

Kit Malthouse: In truth, we do not know that yet. As you know, we are going through a testing programme on other forms of cladding at the moment. That testing programme will conclude later this summer and then we will publish the results. If, during that testing programme, something alarming had occurred, you would know about it now. It is not like we would wait for everything to be done if we discovered something alarming, so you can take from that that, thus far, the testing of the cladding has been performing as expected. That is not to say that, if something unexpected were to occur, we would not take steps immediately.

The other complication is that cladding is only half of the issue. Cladding is used in combination with lots of other products and it would be almost impossible for us—and it would take a hell of a lot of time even if we tried—to test every single matrix of combinations that we possibly can. What we have said is that, for buildings where there is a combustible element to the cladding, building owners should play safe and remove it. That is the situation as it stands but, as I say, if anything goes wrong in the testing, you will hear about it immediately.

Kevin Hollinrake: As you say, we have now prospectively banned combustible cladding and combustible insulation. It is that prescriptive. HPL, for example, which I know you have tested, is combustible cladding. It is class B combustible.

Kit Malthouse: It is of limited combustibility.

Kevin Hollinrake: No, it is not.

Kit Malthouse: I have to tell you that, in the test we did just recently, the HPL performed in line with what was expected in combination with the product that it was tested with. I do not know if you want to talk about the testing.

Chandru Dissanayake: There are variants of HPL, some of which are combustible and some of which are of limited combustibility, and so it really depends on which type of HPL we are talking about.



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Q671 **Kevin Hollinrake:** Can I just talk about the one you tested, which is in advice note 22? It is class B, which is combustible. The only two forms that are limited or not combustible are A1 and A2. This is combustible cladding.

Chandru Dissanayeke: It passed the test.

Kevin Hollinrake: That is a different thing. The BS 8414 test has been discredited. The Local Government Association has said that it has “no faith in the ability of BS 8414 to reflect real-life conditions”, and that is not a lone voice; lots of people say that this is not a test that you can apply to a real-world situation.

Kit Malthouse: That is a quite a tricky one to answer. With a claim that a test is not suitable when it is obviously an established and well-accepted test across the industry that conforms with international standards, there needs to be a bit of evidence other than saying, “I just do not believe the test”.

In the end, we will publish the HPL test online. It was physically witnessed by experts who went there at the time. I do not know if you know how these tests work, but effectively they create a wall, to a certain height, and they start an enormous and very hot fire at the bottom, which is allowed to burn for half an hour. The fire at the bottom is then extinguished and the fire is allowed to proceed up, if indeed it does proceed up, for another half an hour. The wall obviously has heat sensors all over it, and the thing is then analysed and tested. That is broadly what they do.

Q672 **Kevin Hollinrake:** By being prescriptive about the future in terms of banning combustible materials, you have implicitly stated that the 8414 test is not fit for purpose because you cannot rely upon that to work in the real world. Long Harbour gave us some evidence this week that, in three of the remediations they had done, where they took ACM off, the systems behind them had incorrect fixtures in terms of the fire breaks, for example. That is a massive concern, because that would mean that perfect-world test does not apply in the real world. That is what you have admitted—

Kit Malthouse: You are right but that is not about the product; that is about how it is fitted. That is about the regulatory regime and the inspection regime, as to who is inspecting the product and making sure it is fitted correctly so as to satisfy the requirements of not being combustible or of limited combustibility. That is a different issue than the test. That is about who was inspecting the thing and who signed it off and said that it was safe.

Q673 **Kevin Hollinrake:** Do you not stand by what you said to us in January: that, if it is combustible cladding, which HPL is, you would have to seek remediation?



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Kit Malthouse: No, what I said is that, if it was on the same scale as ACM, we would have to seek remediation, and that would be a logical thing to do. The expert panel will tell you that HPL is not on the same scale as ACM and is not as combustible as ACM. Certainly, the system that was tested by us performed as expected and did not require an immediate announcement as to its safety or otherwise.

Q674 **Kevin Hollinrake:** Only when it was in a perfectly constructed situation with non-combustible, rock-based insulation, which lots of these systems simply do not have.

Kit Malthouse: You are right but alongside that, as we said in the written ministerial statement last week, we have commissioned a data-gathering exercise across the country to look at what has been used and where. At the moment, nobody really knows the extent of different combinations, where they have been used, for what buildings and at what height, so it is incumbent upon us to gather that data and work out what is out there.

We do not know if the HPL test, which was done by a private sector company—it was some years ago, I think, back in 2014, but we became aware of it last October—has been used anywhere in the country in terms of that particular combination. Nobody does. It may not have been used at all. The stage we are at now is gathering the data that we need to ascertain whether it is there or not. As I say, with the test we have done thus far, I am informed that the cladding has performed as expected.

Kevin Hollinrake: The expert panel themselves say that it is not as high a risk as ACM, which should be the priority, but that, as soon as that is done, it should be followed by immediate action to remediate unsafe HPL systems. The Fire Protection Association, which did the test for you on that HPL rig, says that there should not be any kind of combustible cladding on the outside of buildings.

Kit Malthouse: We agree and, as a result, that is why we are doing the data-gathering exercise. You will remember that after the Grenfell tragedy, there was an immediate exercise to identify the population of buildings in the country that had ACM cladding. We are in the middle of remediating that. We have to be logical about this and take it in stages, and the next stage is to test cladding, come to a conclusion about what is and is not acceptable, and at the same time go looking for it if it is out there. That is what we are currently doing. We have a data-gathering exercise. We will know whether there is a building with this unsafe cladding or not because local authorities are going out there to have a look. We can then take further steps and, if it needs to be remediated, we will obviously have to have a conversation again with Treasury colleagues about whether and when and how we might do that if we need to. The point is that we do not serve anybody well by rushing to judgments in a situation that is complicated and that requires a methodical approach to getting it right.



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At the same time, though, we have said—and I should reiterate this—that the primary responsibility for building safety lies with the building owner and they have a duty now, today, to satisfy themselves that what they are building in terms of cladding is safe and, if it is not, to remove it. As we are discovering particular combinations and as the industry is realising that particular products are not suitable, they should be being removed.

Q675 **Kevin Hollinrake:** Is that not the key? Section 12 of Approved Document B starts by saying that provisions are made in the section for the external walls of a building to have sufficient fire-resistance to prevent fire spread across the relevant boundary. That is how you achieve it in section 12. We were criticised in 2013 by the coroner of Lakanal, who said we should revise Approved Document B. That still had not happened at the time of the Grenfell fire. The large-scale test has been discredited. You have accepted and are now saying that we are going to have to remediate these buildings and that in the future we are not allowed to use combustible materials. That is what we have said and that is our position, yet we seem to be saying that it is okay to leave those combustible materials on existing buildings.

Kit Malthouse: No.

Q676 **Kevin Hollinrake:** That is what we are saying.

Kit Malthouse: First, you have repeated this claim that the large-scale test has been discredited.

Q677 **Kevin Hollinrake:** Why have you banned that if it is not discredited?

Kit Malthouse: I would be very grateful if you could send us the data about the testing regime and why it is discredited.

Kevin Hollinrake: I am happy to do that.

Chandru Dissanayeke: We have not banned the test. We have put beyond doubt that combustible materials should not be used on buildings. Retrospectively, you are right that the way that cladding is fitted and its combination of materials is important, and the large-scale test enables you to look at the way it is fitted and the way it is used in combinations to ensure that it is safe. It is very important—and the expert panel advice note on other cladding says this very clearly—that building owners are satisfied that they are both using the right types of materials and that those materials are fitted effectively to resist the spread of fire. A way of demonstrating that is the BR 135, which is the certificate you get from a successful BS 8414 test.

I should state the expert panel was very clear that ACM poses a particularly high risk. In December 2017 it did issue guidance on non-ACM external walls and action that building owners can take, which it updated in 2018. After the HPL guidance it issued further guidance on HPL as well, but it was very clear that it is a very different risk to what we saw with ACM.



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Q678 Kevin Hollinrake: You accept that the previous guidance allowed the legal application of combustible cladding on the outside of buildings, which you have now banned. Is it not the reality that sooner or later that conversation with Treasury colleagues is going to be, "We are going to have to remediate all this stuff"? Because the guidance was ambiguous and because our future guidance is about only using non-combustible materials, is it not a fact that we are going to have to say, sooner or later, "We are going to extend this fund to cover 2,000 buildings", which is probably going to be £3 billion or £4 billion, but we are sooner or later going to have to do that?

Kit Malthouse: I guess the answer is we do not know yet, which is why we are gathering the data.

Q679 Kevin Hollinrake: You know it is combustible.

Kit Malthouse: We do not know what combinations do not satisfy the requirement of limited combustibility and should not have been used. We are doing the testing at the moment to try to work that out and we are gathering the data to find out what buildings have got what on them so that we can make a judgment about that in the future. It is worth also saying that we have beefed up the HHSRS test so that, where local authorities believe there may be a category 1 risk, they can step in and do work that is required to get the stuff off the building. We have said that we will support them financially if that is the case.

As I say, we have to be methodical about this process because, while there are something like 12,000 buildings over 18 metres in this country, we do not know yet what is on them. The vast majority do not have any cladding on at all, and we just need to make sure that we know what populations and products we are dealing with before we can make a judgment about that. That is exactly the process that we are trying to do. Our primary focus is to get the ACM sorted and off, because that is a particular risk. We are testing the other products to find out what is out there and what might present a risk as well. Thus far, as I say, the testing programme is telling us what we already knew. If it does not, we will obviously have to take steps. In the meantime, we will find out what products have been used and in what combination, and if action needs to be taken then I have no doubt that it will be.

Q680 Chair: We did draw attention to concerns that were raised with us in the evidence we took for our report in July of last year. Many organisations have concerns about the effectiveness of the testing regime and whether it really reflects real-life conditions. Indeed, Dame Judith herself said we needed a more effective testing regime. Are the tests that are now been carried out the same tests that were in existence before the Hackitt review?

Chandru Dissanayake: Sorry; I did not catch that.

Kit Malthouse: Has the test been changed since Grenfell?



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Chandru Dissanayeke: No, it has not been changed; it is the same test. We did meet with the commercial companies that put the evidence to you, to understand their concerns, and we have looked to understand that fully. We understand where their concerns are, and that is around the fitting and the installation of the materials in combination. That is why the expert panel advice is very clear: that the way the panels are fitted is as important as the materials being used. That is very clear advice.

Q681 **Chair:** The tests of that have not changed.

Chandru Dissanayeke: No. It is an internationally recognised test.

Kit Malthouse: Given that the test is a physical test, if what we are saying is effectively the product becomes combustible when it is fitted badly, to do a test of something that is badly fitted, in the variety of different ways that it could be badly fitted, is a problem. What we have to do is get a regulatory inspection regime in place to make sure that the stuff is properly fitted.

Q682 **Kevin Hollinrake:** There are two separate things on that, one of which is the material and whether or not it is defined as combustible. You will accept that HPL, which you tested recently, is combustible. It is defined as combustible, it is class B, Euroclass B, so it is combustible. Then there is the issue of whether you can put it in a combination with other materials that then passes the 8414 test. There are two separate things. The guidance in Approved Document B lets you qualify under either scenario, so you can put combustibles on buildings that are acceptable under building regulations, but those materials are combustible however they are installed.

Chandru Dissanayeke: I do not want to speak for Dame Judith, but I think her point was that we should not be testing materials in isolation; they should be tested as part of a system, which is what BS 8414 does. It essentially tests the cladding as part of an installation wall system. I think that was her key point in the testing.

Q683 **Chair:** Coming back to Mr Hollinrake's point, then, he is right, is he not?

Chandru Dissanayeke: Do you mean that the material is combustible?

Kevin Hollinrake: About combustibles being allowed to be put on buildings.

Chandru Dissanayeke: Certainly it would not be allowed moving forward prospectively.

Q684 **Kevin Hollinrake:** You accept that they have been allowed in the past, under the Approved Document B.

Chandru Dissanayeke: What was tested and the way it was tested was allowed, because it had a BR 135 certificate. That would have been allowed.



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Q685 **Kevin Hollinrake:** No. It says that external walls should either meet the guidance given in paragraphs 12.6 to 12.9 or pass a full-scale test data from BS 8414.

Chandru Dissanayake: Yes.

Q686 **Kevin Hollinrake:** It could be combustible as long as it passes the full-scale test.

Chandru Dissanayake: If it passes the test we would assume it is not combustible, or the way it has been used prevents it from being combustible, so it resists the spread of fire. You cannot pass the test otherwise.

Kit Malthouse: The test is designed to demonstrate its resistance to the spread of fire.

Q687 **Kevin Hollinrake:** There are two different systems. Is it not correct that the materials are rated according to their combustibility? The other way of passing the test is to use a combination that resists the spread of fire. That does not make them non-combustible; it simply resists the spread of fire. Is that not correct?

Chandru Dissanayake: The reason I am pausing on that is that what Dame Judith intimates is the way materials are used, be it combustible or non-combustible, matters. The combination of materials and the way it is used, whether it is combustible or non-combustible, matters in terms of safety. The only way of having assurance that it resists the spread of fire is by testing it as part of a system, which is what she was getting at in her report. To assume that a material is non-combustible and is automatically okay might be okay, but the best way of demonstrating that is to demonstrate it as how it would be used in real life.

Q688 **Kevin Hollinrake:** I am sorry. That is not what you said going forward. You have said you were only allowing non-combustible materials on the outside of buildings. That is definitive and prescriptive. That has not been the case in the past. There is a change there, is there not?

Chandru Dissanayake: Yes.

Kevin Hollinrake: By definition, combustible materials have been allowed in the past on the outside of buildings.

Q689 **Chair:** If you are banning them in future but you are not banning the same ones now, materials that are combustible are on buildings now.

Chandru Dissanayake: It has to demonstrate it can pass the large-scale test.

Q690 **Kevin Hollinrake:** Nobody is arguing that. The BS 8414 test is a way of getting through the system. That does not make the materials non-combustible.

Kit Malthouse: There is a higher bar now.



Q691 **Kevin Hollinrake:** Yes, exactly. That is exactly what we are saying. Our issue is you have not put the bar as high for existing buildings where people are still living in those buildings. That is our concern.

Kit Malthouse: It depends on the combination of product that is used. As Chandru said, we should be careful here. There is limited combustibility and there are things that resist the spread of fire—that is what we are testing to find out now—and at the other end of the scale there is ACM. We are trying to work out where these different products sit on that calibration. We have said for the future that there should be no sense of scale. That is it; it is just not in scope at all. It cannot be on there if it is combustible. However, there are products that have been used, like the one that we tested just the other day, that resisted to an acceptable level so it is okay to use.

Q692 **Kevin Hollinrake:** It was a combustible product. HPL is a combustible product.

Kit Malthouse: It depends on what combination it is used.

Q693 **Kevin Hollinrake:** No, it does not. It classes as a completely separate thing.

Kit Malthouse: Yes, but it is never used on its own. There is a wall system that is required.

Kevin Hollinrake: As a system it resisted the spread of the fire—it passed the test, I agree—but the classification of that product is that it is a combustible product. It is Euroclass B. That is a combustible product.

Q694 **Chair:** It might be helpful, when you have finished your work on testing and have concluded which materials you are prepared to accept should be taken off existing buildings, if you could then give us a list of those products that would not be allowed on new buildings but that you are content to see remain on existing buildings.

Chandru Dissanayake: Yes.

Kit Malthouse: We are more than happy to do that. I understand why you are pressing us on this issue, but we are going through a process at the moment to identify risk. You are exactly right. We have said that there is a level of risk going forward, which, because we can prospectively say definitively, “You should not use X, Y, Z”, we can do that now. Retrospectively, given the thousands of buildings that are out there, we have to establish the calibration of risk, from ACM at one end to nothing at the other end. That is the process that we are going through at the moment. You are pressing us to try to make judgments about that calibration today, and we just do not have the information to be able to do that. The point is that if we find something as bad as ACM, as we have said before, and it needs remediation, then it will have to be done.

Q695 **Bob Blackman:** A lot of the discussion is around combinations of cladding, installation and other things. How many combinations do we



know exist?

Kit Malthouse: We do not. That is what we are trying to understand at the moment. That is the data-gathering exercise that we have initiated through local authorities.

Q696 **Bob Blackman:** When will that data-gathering be completed?

Kit Malthouse: That is a good question. We have to go through many thousands of buildings. It is going to take some months to gather the data, but it will become clear fairly early on, as data comes in, if there are common combinations that have been used. You hope that the vast majority of them will be fine but we just do not know yet, because over the last 20-odd years that cladding has been used, Government have not kept a central register of different combinations that have been used. That is just not how the building world has worked.

Q697 **Chair:** Would the end of the year be a reasonable target to collect information?

Kit Malthouse: I would certainly hope we would be getting some indication of the broad combinations that have been used, because the industry generally will have accepted modes of operation, and so we might get the top five or six by then. It took us quite a while to establish a non-moving population of ACM buildings because there were quite a lot where ACM was suspected, or maybe it was not. Was it over 18 metres? Was it below 18 metres? There were quite a lot, and so that number did not become static for some time. There is an investigation job to be done.

Q698 **Helen Hayes:** I do not believe the Committee is pressing you for answers on this issue today out of nowhere, Minister. What the Committee is seeking to do is to probe the adequacy of the Government's response over the past two years since the Grenfell Tower fire. I would just ask, on the basis of the last several minutes of discussion, on what basis you expect residents living in high-rise buildings with any form of cladding at the moment to sleep peacefully in their beds at night. Where do they go for that reassurance right now, two years on from the Grenfell Tower fire, when the Government's response, from what we have heard today, is about pushing responsibility back onto building owners, who may or may not be responsible, who may or may not be identifiable and who may or may not have a transparent relationship with their residents, on a building inspection process that is not yet in place and on the basis of the identification of materials that is not yet done and where there are many questions that you find very difficult to answer today? I want to know, because residents want to know, how you expect them to sleep easily in their beds at night with the uncertainty, two years on from the Grenfell Tower process?

Kit Malthouse: As I say, we have specifically said on a number of occasions that all owners of those buildings should ensure and satisfy themselves that they believe the building is safe, and that if it is not they



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should do work to make sure it is. If residents are concerned, they should be taking it up with the freeholder or the managing agent of the building to make sure that they have taken that advice into account and they have undertaken the required investigations to make sure that they think it is safe. If they get no response from the freeholder or managing agent, they should be contacting the local authority. If the local authority believes there is a risk, they can do a HHSRS test and establish whether they believe there is a category 1 risk. If there is, they are able to intervene to do the work in the absence of the freeholder doing the work themselves.

There is a process to be followed there to keep people happy, but I cannot pretend to you that this is an easy situation. I do recognise there are lots of people in high-rise buildings who are living with concern about their safety. What I am saying to you is that we are trying to methodically establish whether they need to be concerned at the same time as making clear to freeholders of their buildings that they have a primary duty to make sure the residents of those buildings are safe.

Q699 Helen Hayes: Grenfell United said to us several times during their evidence that they believe the next Grenfell tragedy is in the post. Under that process of being reliant on raising concerns with the freeholder, then escalating to the local authority, then requesting an inspection, and so on, I am inclined to believe them. Are you content for the next Grenfell Tower tragedy to happen on your watch and then just simply to blame the building owner for that happening?

Kit Malthouse: No, I am obviously not content, which is why we are doing the huge volume of work that we are trying to do. However, the solution to this problem, as you are gathering, is not going to magically appear overnight. What I am trying to do is be proportionate and measured in an approach to this that does not cause undue concern and that illustrates to people that the Government are methodically trying to work out where the risk lies, at the same time as dealing with what we know is the acute risk, which is ACM. The ACM remediation programme is taking place against a backdrop of lots of interim arrangements in all of the buildings, which I recently asked to be reviewed, to make sure that all those people are safe as it stands. Given however many buildings we are talking about—I do not know how many thousands of buildings that have other forms of cladding on—we need to make sure, as I say, that we have a proportionate and methodical approach to making sure those buildings are safe.

In the end, the primary duty has to be on the freeholder. I would hope and believe that they have taken that duty properly. If residents do not believe that is the case, they should be going to their local authority for assistance.

Q700 Helen Hayes: I want to turn now to another issue, which is that of sprinklers. From our evidence we have heard a very wide consensus that sprinklers would save lives by suppressing smoke and heat and allowing



residents living in tall buildings to escape. The Government's approach to sprinklers has so far been similarly laissez-faire. The Government have not introduced a requirement for sprinklers. The Government have said to local authorities that they can use their housing revenue account borrowing in order to fund sprinklers if they want to. That would obviously come at the expense of delivering much-needed new homes and other refurbishment works and repairs. The Government have said, again, that for private building owners it is up to them to seek professional advice and to decide what to do. Do you think that approach is good enough in response to substantial evidence and a very wide consensus that sprinklers are now necessary in tall buildings?

Kit Malthouse: Prospectively on the review of Approved Document B we remain open-minded about sprinklers, and we have asked for a call for evidence on that review of the approved document. If the evidence comes forward—we are in a consultation process—then we will have to consider that as part of it. Retrospectively, what we have said is that where local authorities or others feel that the safety case of their building requires the retrofitting of sprinklers then that is what they should do.

Q701 **Helen Hayes:** Will you fund it?

Kit Malthouse: I do not think there is any intention at the moment to fund it, no.

Helen Hayes: That is clear. Thank you.

Q702 **Bob Blackman:** Moving on to the scope of the review, in terms of height, at the moment the initial view is that it should be above 18 metres or six storeys. The evidence that we have received, particularly from the LGA and RIBA, suggests that it is the vulnerability of the building that matters rather than the height. There are buildings that are lower than 18 metres that are very vulnerable because they only have one fire escape, and others that are much taller but are better protected. What is the basis behind fixing it at this particular level?

Kit Malthouse: We have not necessarily fixed. As I say, we are consulting on scope, and so we are obviously open to suggestions about variations with scope. You are quite right. We have had representations from people who say that, no matter what the height, if you have residents of limited mobility in that building, does that change the safety case? While 18 metres has become established in the industry generally as a height at which things change, we are consulting on the scope simply for that reason. What we want to try to do as well is to put a situation in place where the scope is easily variable in the light of experience and evidence coming forward in the future, because these things are dynamic.

We do not have a particularly fixed view about scope. We put it out for consultation at 18 metres; nobody seems quite able to explain to me why it is 18 metres. Theories range from the length of ladders, through to the water pressure that you can get a head of water to, through to the



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incidence of fire above and below that. Everybody seems to have a different story about 18 metres. We would be interested to see what comes back on scope.

Q703 Bob Blackman: You are open to a view of vulnerability as opposed to just a fixed position of height.

Kit Malthouse: Yes.

Q704 Helen Hayes: During the occupation phase of a building, the Government propose the introduction of a new accountable person. Do you agree with some of our witnesses that the risks that such a person would have to take on are so high that in reality nobody is going to want to take on that responsibility?

Kit Malthouse: No. I do not necessarily agree with that. There are other industries or other areas of activities where we do ask people to take on quite significant risk, and people do step forward and do that work, particularly where they are professionally qualified. For example, every police officer takes on quite significant risk responsibilities; directors of children's services do exactly the same thing. The chemical industry operates an individual accountability for safety regime where there is an office-holder. There are a number of parallels out there of individuals who carry risk.

What we are trying to do is embed the sense—this cultural change, fundamentally—that there is an individual who is responsible for making sure that the risk is handled. Most organisations will have somebody doing that job already. There will be a health and safety manager or somebody who has a responsibility for safety, and what we are doing—or what we would do, subject to consultation—is to put that in law and codify what the responsibilities are likely to be and makes sure that that person is a competent person.

Q705 Helen Hayes: Are you thinking through what the Government might do to make that role more attractive? We had a discussion with Dame Judith earlier about culture change in the industry. What is your view on the steps that are necessary to ensure that the industry is not only able to fill those positions but also to fill them with people who are taking on those responsibilities in the right spirit, in the context of culture change?

Kit Malthouse: One of the things that we hope will come back from the consultation is some of these suggestions about how this role can be enhanced and encouraged. It sits against the backdrop of a general professionalisation, if you like, of the housing management industry that we would quite like to see. For example, one of the areas that we have looked at in the social housing Green Paper is the professionalisation of housing management. If you look at a lot of the senior people in housing associations, they do not have any qualification at all. There is no sense of it being a profession. If a profession emerges of building safety consultants, responsible individuals and all the rest of it, then we are all



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the better for it. Those kinds of suggestions are exactly what we are hoping to get out of the consultations

Q706 Helen Hayes: How would the accountability of that role work? In a situation where, thankfully, fire is a relatively rare event, without a proper process for accountability, somebody could tick along in that role, exposing residents to quite significant levels of risk which would only become uncovered at the point at which there was a tragedy.

Kit Malthouse: That is absent, of course, of a regulatory regime that ensures that they are competent, that they are filling in the required safety assessments for buildings in scope and that the organisation around them is supporting them correctly. It is not just that we are producing this post and then leaving it. There is going to be regulatory oversight. Certainly for many buildings there will be a requirement to produce a building safety plan effectively, which will be assessable, inspectable and available to residents, for them to see work that is being done on their behalf.

The other thing to bear in mind is that it is very important in this process that residents have a voice. One of the things that we are consulting on is how that can be best encapsulated so that, if residents do have a concern, first, they are very well informed about work that is being done on their behalf on safety, and, secondly, that they then have an ability to get rectification or changes swiftly if they need to. That is about the regulatory regime and where they go with the complaint, effectively.

Q707 Helen Hayes: How would the new accountable person role work for commonhold properties where there is not a freeholder?

Kit Malthouse: That is a good question. I am not entirely sure I know.

Chandru Dissanayake: We would expect someone to be appointed by the commonhold board, effectively to appoint an individual who would take that responsibility on.

Q708 Helen Hayes: How could that position be made more attractive, in that circumstance?

Kit Malthouse: What do you mean? You are implying that it is not an attractive job to have.

Q709 Helen Hayes: The concern is that, in the absence of a freeholder, in terms of the level of direction that that person might receive, the kind of employment relationship with the residents in the building might be more complex.

Kit Malthouse: You think that residents might urge this person to cut corners.

Q710 Helen Hayes: There might be any number of difficulties around the level of cost experienced differently by different residents according to their own resources, differences of view about what the standard might be and



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potentially a line management arrangement that is more complicated but fits to a committee rather than to a larger entity.

Kit Malthouse: In the end, the primary driver of the conduct of that individual will be the legal liability that we will attach to it and the risk to which they are exposing themselves if they do not do the job properly, alongside the possibility of regulatory inspection and oversight to make sure that they are doing the work and to make sure that they are competent to do it.

Q711 **Helen Hayes:** Do you acknowledge any potential complexity with the commonhold arrangement that might simply make it so unattractive and high-risk for anybody who was properly qualified to do the role that potentially nobody takes it up?

Kit Malthouse: I do not see why it would be higher risk than any other. It might be more complicated because you are dealing with more people, and human interactions in those circumstances will often be complicated. You have raised a good challenge. I will go away and have a think.

Q712 **Helen Hayes:** In relation to leaseholders, have you made any assessment of the likely cost that the requirement to employ such an individual might result in for leaseholders?

Kit Malthouse: We have not made a specific assessment about the cost, no, albeit that the cost would effectively fall on the leaseholders for the administration of safety. For larger buildings that would be defrayed, but for small buildings it will be less so.

Q713 **Helen Hayes:** Do you think it is fair that residents, whether they are leaseholders or tenants, should have to pay for the assurance from their building owner of essential safety requirements that are the building owner's responsibility, or do you think the cost should in fact fall in full on the building owner whose responsibility it is to ensure that the building is safe?

Kit Malthouse: Most buildings will have this function being performed anyway. Most buildings should have some form of health and safety manager. Certainly if there is a managing agent there will be somebody who ought to be responsible for safety. I would not anticipate there being a huge uplift in cost, but at the same time you are right that we are imposing a greater regulatory burden, and that will come at a cost.

Q714 **Mr Prisk:** Is the truth here that regulation can help provide the legal minimum standards, but that we need to require that the people who are involved in this as accountable persons are professionals, qualified and committed to continuous personal and professional development? Is that not the answer, in terms of making this something that one might go on into for work but also in terms of being able to retain the calibre of people needed and so on?

Kit Malthouse: Yes. As I have said before, a regulatory regime is only ever as good as the culture in which it resides. This is why one of Dame



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Judith's primary objectives was a notion of culture change. We can bring in as many laws and regulations as we like, but if the culture runs counter to that then enforcement becomes difficult. We have a comprehensive speeding regime in this country, with a maximum of 70, yet you will find plenty of people doing 80, 90 or even more because the motorway culture in this country is that these speeds are tolerable, even to the extent that I think there have been suggestions that we should raise the limit to 80 rather than enforce more heavily. Our view is that safety is of paramount importance, and therefore, alongside new regulations, a new regime and a beefed-up regulator, there needs to be a cultural change. We cannot accept people speeding at 80. By doing so, they challenge their fellow citizens' safety.

Chair: I thought you were going to hit the headlines with a personal admission there for a minute. We will stick to building regulations for the time being.

Q715 **Teresa Pearce:** Minister, you have mentioned the residents' voice proposals in relation to fire safety. Do you think that these could and should be extended so that residents are heard about wider management issues?

Kit Malthouse: Yes, absolutely. One of the big areas of the social housing Green Paper generally is about resident voice. I toured the country talking to groups of residents, in social housing in particular, and one of the strong messages that came through was that they did not feel that their voice was being heard at the highest level, and that, even if they were being involved at the highest level, often it was in a different meeting to where all of the decisions were being taken. The beefing-up of resident voice, not just on safety but on management generally, particularly in a social and affordable housing area, is key.

In private sector housing, we think there needs to be a residents' voice specifically on safety. On management, you would think that the residents and the managing agent would probably fight it out in a private sector situation anyway, but you would think, would you not, that all responsible landlords would be listening to their tenants?

Q716 **Teresa Pearce:** You would think, but given the ever-increasing number of housing ombudsman cases, that is clearly not the case, is it?

Kit Malthouse: No. As I have said to a couple of housing association chief executives, when I became an MP I was shocked at the number of complaints that came through my office. If I was a chief executive of a housing association and I knew the local MP was getting lots of complaints about my organisation, I would be mortified.

Chair: There is a lot of mortification going on out there.

Kit Malthouse: To be honest, Mr Chairman, since we started the Green Paper work, we have seen quite a number of the large housing associations putting their hands up to a failing on this and committing to



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invest a lot more money into customer care. Most recently L&Q did a mea culpa and said that it would be putting quite significantly more resource into this. Yes, residents' voice across the piece has to improve.

Q717 Teresa Pearce: You have mentioned the social housing Green Paper. When are you going to publish your response?

Kit Malthouse: September.

Q718 Teresa Pearce: Is that at the beginning or end of September?

Kit Malthouse: The House only sits for two weeks in September and I would have an aspiration to get it in. I wanted to get it out before the summer but it got caught in the system. The Prime Minister announced at the CIH conference that it would be September.

Q719 Chair: In terms of the oversight mechanisms, Dame Judith proposed this combination of organisations coming together in a joint authority approach, and then the Government are suggesting a national regulator around building safety. There has been criticism from the LGA, which feels that this is going to be a top-down imposition by a bureaucratic organisation and that the local accountability and local involvement in schemes will be lost. Is that the intention?

Kit Malthouse: No, that is absolutely not our intention. We want the local to be as involved. What we have suggested in the consultation is that having a national-level regulator will help remove or deal with complexity and help to co-ordinate the work across the piece, as well as being able to have a wider ambit than the current regulatory regime. We accept Dame Judith's recommendation; it is just a different way of coming at it that we think would be more efficient. Certainly, in the conversations that we had during working up to the consultation, people felt that that was the case. Absolutely not, no. if anything we want there to be more local accountability amongst local authorities.

Q720 Chair: How would the work of local authorities, in terms of the oversight of the approval for individual buildings and even the work of the fire authorities, fit in with this national regulator? People are a bit unclear of the mechanisms, in terms of how the two will work together.

Chandru Dissanayeke: We established a Joint Regulators Group, which brings together local authority building control, the LGA and the fire rescue services, through the National Fire Chiefs Council, along with the HSE, to actually start to iron out some of these issues. That work is still in train to get into the detail of what this will mean on the ground and how we establish that local accountability alongside a national oversight. That is still in train.

Q721 Chair: The two will work together but you have not quite worked out the mechanisms.

Chandru Dissanayeke: Yes, exactly.



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Q722 **Chair:** No doubt we will have a further report or paper on that in due course. We also heard from one of our witnesses that when we are doing the regular reviews of building regulations, which is generally welcomed, that there should be some way of involving the public, coming back to residents' voices, in this process. Is that possible?

Kit Malthouse: Yes, I do not see why not. We want a building regulation system that learns from experience, and experience will be that of the public, so I would imagine so, yes. Under the review that we are doing at the moment we had a call for evidence out there. The public are perfectly able to input into that.

Q723 **Chair:** How that is done is probably a slightly bigger challenge than agreeing to do it.

Kit Malthouse: Yes. The Government consultation generally and its exposure to a wider group of the public is key. One of the things that I learnt from the Green Paper exercise was that, touring the country and getting into meetings with several hundred people, you learn an awful lot. You would know that, because as a Member of Parliament knocking on doors, you learn a lot knocking on people's doors. Getting them in a room to talk about a specific subject can be very educative. Maybe we need to do something on those lines.

One of the things that has become clear as part of the building regulation review is that we have made buildings more and more airtight now, but more and more people are complaining about ventilation. We are doing a review of ventilation standards, and that largely comes from people who frankly would quite like a bit of draught in their homes.

Q724 **Bob Blackman:** We will not go on to ventilation and the impact of condensation; that is another issue. Looking at the strength in the enforcement and sanctions regime, clearly you have set out a much tougher regime with more sanctions and proper enforcement of the position. However, there is concern in the evidence that we have taken about cultural problems that still exist in the whole industry, and equally about attracting higher-calibre individuals in the first place. What are you proposing to do to change that culture, apart from just setting out this stricter regime? Changing culture is always harder.

Kit Malthouse: It is. We will have clearer guidance and we will have a more proactive intervention and regulation. There is a heavy enforcement regime that hopefully will focus people's minds. However, alongside that we are going to have to work quite closely with industry around the adoption of this code of practice. We have a number of industry-leading companies who are showing the way forward and adopting a safety-first approach before we even get to the regulation.

As I say, as part of the consultation we would be interested to hear from people who have ideas around cultural change. It is quite a hard one to achieve, as I say, from a Government point of view, beyond setting out the rules and hoping that they will focus people's minds. All I can tell you



is that a lot of senior leaders in the industry are very focused on this issue now, and, as I say, are embedding it in their organisations. We will have to see how we get on.

Q725 Bob Blackman: One of the issues that has drawn a lot of concern is the Government position that we appear to have: that approved inspectors will have a continued role in the regulation of in-scope buildings. This Committee, Dame Judith Hackitt, the LGA and the LABC have all said that that is a conflict of interest. Is that what you are proposing?

Kit Malthouse: We are not proposing that necessarily. What we are proposing is that we would deal with the conflict of interest on the basis that people building within-scope buildings could not select their own inspector. There is a conflict of interest at the moment. Essentially, the implication is that if you have a building inspector and that building inspector wants a stream of work from you, effectively you will be able to get things past them that you otherwise would not. That is effectively the implication. That only applies if you are able to choose your inspector. We are proposing for in-scope buildings that that is not the case. It is essentially that the regulator would organise for the inspection to take place.

Q726 Bob Blackman: One of the criticisms is that people could choose their own inspector. That clearly would be a conflict of interest. That is going to be ruled out, but, just to be clear, will it be a regulator that determines who the inspector is?

Kit Malthouse: Yes.

Q727 Bob Blackman: How is that to be determined? This is a very important aspect of preventing that conflict of interest.

Kit Malthouse: That would be for the regulator to decide.

Q728 Bob Blackman: You are not setting conditions or ways that that process would happen?

Chandru Dissanayake: We would have to make sure that there is no conflict of interest, et cetera. Dame Judith was very clear in her report that people could not choose their regulator. She was also clear that the AI market provided an expertise that should be utilised. The way we are looking at this is ensuring that no one can choose their regulator, and there will be principles under which I would envisage the national regulator works with local regulators and other expertise to ensure a building is inspected properly, which would ensure there was not conflict of interest.

Kit Malthouse: And to make sure that the same inspector is not being a consultant and then the inspector.

Bob Blackman: it would be very helpful if this could be clarified, because there appears to be a conflict of interest and it appears to be a concern raised by a number of people. If it is a lack of clarification, let us get it



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clarified.

Chandru Dissanayeke: To be really clear, we are not watering down Dame Judith's proposal.

Bob Blackman: Good.

Q729 **Chair:** Going back to the previous question, is this a regulator at national level appointing a building inspector for every building in the country that is going to be built, or is it going to be done at the local level?

Chandru Dissanayeke: Dame Judith's view here was that it should be the JCA, as she called it, that appointed the regulator for high-risk residential buildings.

Q730 **Chair:** That is at the local level. She was not talking about one JCA national.

Chandru Dissanayeke: She was talking about how they come together, of which the HSC was the national. When we are looking at the national regulator, we are absolutely saying the national regulator should be—

Chair: It would appoint the building inspector for every—

Chandru Dissanayeke: For high-risk residential buildings. That is the working assumption we are working to currently. We will work with the JRG to see how that works and if that holds.

Chair: Thank you very much, Minister and Mr Dissanayeke, for coming to speak to us this afternoon.