

PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT
GENERAL COMMITTEES

Public Bill Committee

BUILDING SAFETY BILL

First Sitting

Thursday 9 September 2021

(Morning)

CONTENTS

Programme motion agreed to.
Written evidence (Reporting to the House) motion agreed to.
Motion to sit in private agreed to.
Examination of witnesses.
Adjourned till this day at Two o'clock.

No proofs can be supplied. Corrections that Members suggest for the final version of the report should be clearly marked in a copy of the report—not telephoned—and must be received in the Editor’s Room, House of Commons,

not later than

Monday 13 September 2021

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The Committee consisted of the following Members:

Chairs: PHILIP DAVIES, PETER DOWD, CLIVE EFFORD, †MRS MARIA MILLER

† Amesbury, Mike (<i>Weaver Vale</i>) (Lab)	† Mann, Scott (<i>Lord Commissioner of Her Majesty's Treasury</i>)
† Bailey, Shaun (<i>West Bromwich West</i>) (Con)	† Osborne, Kate (<i>Jarrow</i>) (Lab)
† Baillie, Siobhan (<i>Stroud</i>) (Con)	† Pincher, Christopher (<i>Minister for Housing</i>)
† Byrne, Ian (<i>Liverpool, West Derby</i>) (Lab)	† Rimmer, Ms Marie (<i>St Helens South and Whiston</i>) (Lab)
† Cadbury, Ruth (<i>Brentford and Isleworth</i>) (Lab)	† Saxby, Selaine (<i>North Devon</i>) (Con)
† Clarke, Theo (<i>Stafford</i>) (Con)	† Young, Jacob (<i>Redcar</i>) (Con)
† Clarke-Smith, Brendan (<i>Bassetlaw</i>) (Con)	Yohanna Sallberg, Adam Mellows-Facer, Abi Samuels, <i>Committee Clerks</i>
† Cooper, Daisy (<i>St Albans</i>) (LD)	
† Hopkins, Rachel (<i>Luton South</i>) (Lab)	
† Hughes, Eddie (<i>Parliamentary Under-Secretary of State for Housing, Communities and Local Government</i>)	
† Logan, Mark (<i>Bolton North East</i>) (Con)	† attended the Committee

Witnesses

Sir Ken Knight CBE, QFSM, Independent Panel Expert

Dan Daly, Head of Protection Policy and Reform Unit, National Fire Chiefs Council

Graham Watts OBE, CEO and Chair of the Competence Steering Group for Building Safety, Construction Industry Council

Adrian Dobson, Executive Director Professional Services (member of the Industry Safety Steering Safety Group), Royal Institute of British Architects

Public Bill Committee

Thursday 9 September 2021

(Morning)

[MRS MARIA MILLER *in the Chair*]

Building Safety Bill

11.30 am

The Chair: Before we begin, I have a couple of preliminary announcements. I encourage Members, if they are able, to wear a mask when they are not speaking, to try to accommodate the fact that we are quite a large number of people in this room. Please can you also give members of staff space when you are seated, and think about social distancing when you enter and leave the room? *Hansard* colleagues would always be grateful if Members could email their speaking notes, if they speak. Can you also all ensure that electronic devices are silent? Teas, coffees and food are not allowed during the sittings.

Today, we will first consider the programme motion on the amendment paper. If you do not have a copy of that before you, please see one of our officials sitting at the side. Then we will consider a motion to enable the reporting of written evidence for publication, and a motion to allow us to deliberate in private about our questions before the oral evidence starts. In view of the time available, I hope that we can take those matters formally without debate. I call the Minister to move the programme motion standing in his name, which was discussed this morning by the Programming Sub-Committee for the Bill.

Ordered,

That—

(1) the Committee shall (in addition to its first meeting at 11.30 am on Thursday 9 September) meet—

- (a) at 2.00 pm on Thursday 9 September;
- (b) at 9.25 am and 2.00 pm on Tuesday 14 September;
- (c) at 11.30 am and 2.00 pm on Thursday 16 September;
- (d) at 9.25 am and 2.00 pm on Tuesday 21 September;
- (e) at 11.30 am and 2.00 pm on Thursday 23 September;
- (f) at 9.25 am and 2.00 pm on Tuesday 19 October;
- (g) at 11.30 am and 2.00 pm on Thursday 21 October;
- (h) at 9.25am and 2.00pm on Tuesday 26 October;

(2) the Committee shall hear oral evidence in accordance with the following Table;

<i>Date</i>	<i>Time</i>	<i>Witness</i>
Thursday 9 September	Until no later than 12.20pm	Sir Ken Knight CBE QFSM, Independent Expert Advisory Panel; National Fire Chiefs' Council
Thursday 9 September	Until no later than 1.00pm	Construction Industry Council; Royal Institute of British Architects
Thursday 9 September	Until no later than 2.45pm	Construction Products Association; The British Standards Institution

<i>Date</i>	<i>Time</i>	<i>Witness</i>
Thursday 9 September	Until no later than 3.30pm	The National Housing Federation; Local Authority Building Control; Local Government Association
Thursday 9 September	Until no later than 4.15pm	UK Cladding Action Group; End Our Cladding Scandal
Thursday 9 September	Until no later than 5.00pm	Landmark Chambers; Anthony Gold Solicitors LLP
Tuesday 14 September	Until no later than 10.15am	The Health and Safety Executive; Office for Product Safety and Standards
Tuesday 14 September	Until no later than 10.45am	Long Harbour; Home Builders' Federation
Tuesday 14 September	Until no later than 11.25am	Councillor Jayne McCoy, Sutton Council; The Institute of Residential Property Management
Tuesday 14 September	Until no later than 2.45pm	Leasehold Knowledge Partnership; Association of Residential Managing Agents
Tuesday 14 September	Until no later than 3.30pm	BRE Global Limited; Association of British Insurers; National House Building Council
Tuesday 14 September	Until no later than 4pm	Fire Brigades Union
Tuesday 14 September	Until no later than 4.30pm	UK Finance
Tuesday 14 September	Until no later than 5.00pm	Alison Hills; Stephen Day

(3) proceedings on consideration of the Bill in Committee shall be taken in the following order: Clauses 1 to 2; Schedule 1; Clauses 3 to 21; Schedule 2; Clauses 22 to 26; Schedule 3; Clauses 27 to 42; Schedule 4; Clauses 43 to 54; Schedule 5; Clause 55; Schedule 6; Clauses 56 to 120; Schedule 7; Clauses 121 to 128; Schedule 8; Clauses 129 to 133; Schedule 9; Clauses 134 to 147; new Clauses; new Schedules; remaining proceedings on the Bill;

(4) the proceedings shall (so far as not previously concluded) be brought to a conclusion at 5.00 pm on Tuesday 26 October.—(*Christopher Pincher.*)

Resolved,

That, subject to the discretion of the Chair, any written evidence received by the Committee shall be reported to the House for publication.—(*Christopher Pincher.*)

The Chair: Copies of written evidence that the Committee receives will be made available in the Committee Room and will be circulated to Members by email. I am sure that you have already received that initial email. Thanks to all the Clerks and all the staff, who are doing an amazing job on what is a lengthy and complex Bill.

Resolved,

That, at this and any subsequent meeting at which oral evidence is to be heard, the Committee shall sit in private until the witnesses are admitted.—(*Christopher Pincher.*)

The Chair: We will now go into private session to discuss lines of questioning.

11.33 am

The Committee deliberated in private.

Examination of Witnesses

Sir Ken Knight CBE and Dan Daly gave evidence.

11.40 am

The Chair: We are now sitting in public again and the proceedings are being broadcast. Before we start to hear from witnesses, I encourage Members who wish to make a declaration of interest in connection with the Bill to do so. First, I will put my own interests on the record. My husband is a partner in Kingsley Napley LLP, whose clients include those involved in the building industry.

Rachel Hopkins (Luton South) (Lab): I am a vice-president of the Local Government Association.

Ian Byrne (Liverpool, West Derby) (Lab): I am still a sitting councillor in Liverpool.

Daisy Cooper (St Albans) (LD): I am also a vice-president of the Local Government Association.

The Parliamentary Under-Secretary of State for Housing, Communities and Local Government (Eddie Hughes): I am a member of the Chartered Institute of Building.

Mike Amesbury (Weaver Vale) (Lab): I am a vice-president of the Local Government Association.

The Chair: Thank you. I remind colleagues that if you feel there are things that you should register, you can talk to the Clerks during our proceedings.

We will now hear oral evidence from our first panel of witnesses: Sir Ken Knight, the independent panel expert, and Dan Daly, head of the protection policy and reform unit at the National Fire Chiefs Council. Before calling the first Member to ask a question, I remind all Members that questions should be limited to matters within the scope of the Bill and that we must stick to the timings on the programme motion that the Committee has agreed. For this session, we have until 12.20. Will the witnesses please introduce themselves for the record?

Sir Ken Knight: I am Sir Ken Knight. I currently chair the independent expert advisory panel at the Ministry of Housing, Communities and Local Government, which was formed immediately after Grenfell. My background—my DNA—is in fire. I was in the fire service for 40 years, after having been the chief fire officer in Dorset, then the west midlands, and then I was the London fire commissioner before becoming the Government's chief fire and rescue adviser.

Dan Daly: My résumé is somewhat shorter than Sir Ken's. I am currently a serving assistant commissioner in the London Fire Service. For the last 12 months I have been seconded to the NFCC to head up the protection policy and reform unit, working alongside government colleagues on new legislation.

The Chair: Wonderful. Our first question is from Mike Amesbury.

Q1 Mike Amesbury: It is great to see both witnesses. If there was one thing that you would like to see in the Bill to improve building safety for people, what would it be?

Sir Ken Knight: First of all, I think it is a very robust Bill. It will not be a quick-fix Bill, but nor should it be. It is a generational change. It would be wrong to suggest that there is an instant solution. The whole notion of putting a Building Safety Regulator in place and in charge of these matters will take time to work through. I am not sure there is a quick fix. I think the challenge will be in enhancing capability and competence throughout the sector, because that is still lacking in all areas, whether it is in enforcement or the built environment. I would like to return to that, if I may, at the end because there is something—probably outside the remit of this Bill Committee—that needs to be thought through. We need to educate fire engineers in competency and not leave it to chance, because there are very few at the moment to take on the new roles.

Dan Daly: I welcome the Bill. It is an important step change in building safety legislation. If I were to look at one element, the scope is fairly narrow at the moment. I understand the need to build the role of the regulator and the extent of the Bill in a proportionate way, but as Dame Judith pointed out, it was a broken system that led us to where we are today. This is our opportunity to fix it once and for all. The history of fire safety legislation is littered with disasters that people have sought to fix, and the fix has applied to one particular area of the built environment. This is our opportunity to look at that scope and certainly build gateways into broadening the scope at an appropriate point to make sure it takes full account of the built environment and the issues that are definitely there in buildings other than high rise residential.

Q2 Daisy Cooper: I have been struck by the approach of the Australian Government, particularly in the state of Victoria. Rather than just treating this as an issue to do with buildings, they have treated it as a public safety emergency issue. They have looked at the safety not only of people living in the buildings but of their neighbours, fire safety officers and people who might attend a fire. Do you have any reflections on whether this should be considered simply through a buildings lens or whether there is a broader public safety emergency issue here?

Dan Daly: There is a lot to be admired in what other countries have done, and certainly in that particular example, but you have to remember that they were some way ahead of where we are and where we started from. There was already a single regulator in place in Victoria that was able to be instructed to take on some of this work. The number of buildings and the scale of the issue were much smaller than where we are. I think in total there were around 2,300 buildings, looking at a much broader spectrum of buildings—healthcare buildings and schools above two floors, and all other buildings above three floors. We know that, when we are looking in this country at buildings above 18 metres, we are already talking about 12,000 buildings—that is just high-rise residential. When we talk about buildings

above 11 metres, we are probably closer to 100,000. If you take on the full range of where they were in Australia, the numbers just keep increasing exponentially.

There is something to admire in where they were—certainly the fact that sprinklers and alarm systems were in much wider use in those buildings, so that, in the fires that they saw, nobody died. There were measures in the buildings to tackle those instances early, and equally to alert people to the fires. It is certainly something that we have been talking about and pushing for: the wider use of sprinklers and alarm systems. It is good to see that there has been some change and movement in that, as part of the work that we have gone through so far. You cannot discount what has gone on. We should always look to learn, but there is something about scale and scope here that is different.

Sir Ken Knight: Can I just add to that, Chair? I had the privilege to host both a political head and an official head from Victoria very early on after the tragedy at Grenfell. Remarkably or not, they were very complimentary about the work taking place in the building safety programme—as you will recall, the Victoria high-rise fires occurred several years before Grenfell itself. They were impressed, even though none of us is satisfied that the pace is enough on all of these things. Of course, they had the luxury that they had no fire deaths at all. It was a wake-up call for Victoria as well—to realise that they could not wait for the tragedy of the 72 fire deaths that we saw here to do things.

For all of us who have been in touch with other countries, there is lots to learn from them. However, it is also about the capacity: the numbers of buildings, and the significant number of high-rise buildings, that will be covered even in the first-stage proposal in scope in the Bill, compared with the total number in somewhere like Victoria.

Q3 Ms Marie Rimmer (St Helens South and Whiston) (Lab): Good morning to you both. Will the reforms to the building control profession fix the problems identified by Dame Judith Hackitt? In particular, are the Government right to return the power of duty holders to choose their own building control body?

Sir Ken Knight: It is quite a significant part of Dame Judith's report, of course, and that mixed economy has come through into the Bill. It is actually something that I support, providing that there is a level playing field in the competency, ethics and assurance of those doing the work. That is covered in the Bill, in a great deal of how the Building Safety Regulator will need to bring that to bear. The Bill makes the point, though, that in those buildings of higher risk the Building Safety Regulator is the enforcing authority for building control purposes—not either of those two bodies. I think that that is right. However, it is about levelling up the playing field for the competencies and assurances that are in place with some bodies and not others at the moment. There is a bit to go, but I personally do not object to that outcome, providing that the private sector actors involved in that are not directly employed by those for whom they are doing the work in seeking the outcome for the approvals.

Dan Daly: I do not have much different to say. The inability to choose your own building control body is important, particularly for developers that have wrapped up a number of those services within their overarching companies. Having some independence of that is important.

There needs to be some robust checking if there is private sector involvement; that is the important element, and hopefully that is part of the role that the Building Safety Regulator will be able to take on. I suppose that is something to come in the guidance that will follow this Bill. We have issues of competency and capacity across the sector, so we need to keep our mind open to all those avenues, but with the appropriate checks and balances in there and the appropriate safeguards to ensure there is no compromise on safety in favour of profit.

Q4 Ian Byrne: It is good to see you both again. Is height the best measure of risk? If so, is the threshold in the Bill appropriate?

Sir Ken Knight: I am sorry; I missed some of the early part of the question.

Ian Byrne: It is my Scouse accent. Is height the best measure of risk? If so, is the threshold in the Bill appropriate?

Sir Ken Knight: I promise you that it is my hearing. Height is pretty arbitrary in risk. I think any professional would say that; I am sure Mr Daly will comment from a national fire chief's point of view. It is right that there is at least a point to start, and the threshold in the Bill of 18 metres or more than six floors is a place to start. I would not want to presume that that means that high-rise is necessarily high risk, because risk is a difficult equation with two axes—one is probability, and the other is the catastrophic outcome risk.

Dame Judith's report, and indeed the Bill, are based on the idea that the more people who could be involved in a single fire, the greater the catastrophic risk. In reality, more deaths occur in the home in bungalows, but that is not about height; it is about the demographics of people living in bungalows and the effects of that. It was right to set the bar somewhere.

Helpfully, though, the Bill allows the Building Safety Regulator to look at that first flush of buildings in scope—that will result in something like 12,000 buildings, a significant capacity issue to deal with—and then to move on from that in a dynamic way to look at other risk features that are not necessarily height-related. One might want to include in the next stage care homes and hospitals that are not necessarily over 18 metres. However, as a first tranche, the place to start is right.

The Chair: Mr Daly, would you like to reply to that?

Dan Daly: The short answer from our perspective is no. We talked about broadening the scope, and that is a nod toward the fact that we recognise other premises as being high risk. Part of that risk is about not just the physical attributes of the building, but the people who live in, use and work in those places, particularly our most vulnerable people, and the reliance they may have, in terms of the evacuation strategies from those buildings, on the building's performing in a way that allows time for horizontal evacuation or phased evacuation, supported by people who are there to enable them to escape from the building when they need to.

There are a number of factors that I do not think are yet covered here, and I would like to see the opportunity to broaden the scope at some appropriate point, but I understand the proportionate start in the way that Sir Ken has described.

The Chair: Marie, did you have a supplementary question on this?

Ms Rimmer: No.

The Chair: Then I will bring in Brendan, who is just catching my eye.

Q5 Brendan Clarke-Smith (Bassetlaw) (Con): Sir Ken, good morning. Given that, thankfully, the number of fires and deaths in buildings is low—although ideally it would be zero, of course—do you think the market has overreacted?

Sir Ken Knight: It is a very fair question. That is in the area of probability or likelihood of risk. Most of us do not run our lives in terms of anything other than likelihood, whether it is flying in an aeroplane or crossing a road. We do not tend to judge the catastrophic risk of those. There is a good deal of risk aversion at the moment, which is natural after the tragedy at Grenfell, but unfortunate, because, as you say, last year fire deaths in the home were at a 40-year low. If we think of the past year, where for the first time most people were in their homes and not in offices, that is quite a significant statistic.

Even in high-rise residential flats, most fires occur in the room and flat of origin and do not spread beyond the flat of origin, and most deaths do not occur outside the flat of origin either. That is not to make light of all the deaths that occur, of course. I think the question that you have asked is key for me in ensuring that we do not suggest there is no risk below 18 metres—going back to the previous height issue—nor is it all risk above 18 metres. It is a risk-based, proportionate approach, according to a competent risk assessor. What we have seen at the moment are both lenders and insurers moving that risk aversion to the point that people in their homes feel unsafe when they are not, are anxious about living where they are, and are finding the effect on the value of their flats very difficult. I think we have to bring the pendulum back to a proportionate approach, allowing competency and risk assessment, not a binary “is it safe or not safe?”

Dan Daly: What I would add to that is the fact that there have been some well-intentioned actions over time in order to keep people safe and try to build some reassurance back into the built environment. People have seen Grenfell, and they have since listened to the evidence at the inquiry. Quite understandably, public confidence is undermined, but what we are now seeing is undoubtedly that some of the measures, whereby those costs are being passed back to leaseholders, are causing actual harm. The effort to protect people from potential harm is now generating real harm to people’s mental health and wellbeing, so there needs to be a reaction in order to try to bring that back to the centre. Fires are mercifully rare, but as a professional fire officer, I can say that one fire is too many and one fire death is too many, wherever it occurs. I understand the need to bring the pendulum back, as Ken has described.

The Chair: Daisy has a supplementary question on this point.

Q6 Daisy Cooper: I do, thank you, Mrs Miller. I am very much of the view that the Bill has taken a rather arbitrary approach by using height as well as the distinction between leaseholders and social tenants. Given the question

around risk, do you agree that it would have been far better, and would still be far better, if the Government did a comprehensive audit of all buildings that are affected, then approach them on the basis of risk rather than height, the arbitrary ownership of the buildings, or the people who are living in them?

Dan Daly: Let me go back slightly to your first question, which was about what happened in Australia. I said that they were ahead of where we are because they knew where their buildings were, and they knew a lot more information about them. Right from the start, that has been an issue that has plagued efforts to understand the risk, where buildings are, what they are made of, and what are the other construction elements of their external envelope. That has been a difficult starting point. There is some work under way that the NFCC and fire and rescue services up and down the country are supporting through the building risk review, which is looking at high-rise residential buildings and trying to understand in more detail the exact condition and circumstances of the buildings. Given the focus of what brought us here today, I think that is the right place to start to try to rebuild that confidence.

For the future, we need the golden thread of information that we are talking about in the safety case regime. We need to start to understand more about the built environment completely, not just high-rise residential buildings, so that should we find ourselves here again—hopefully, we never will—we are in a better place to look at where the risk is, prioritise those buildings and maybe take some direct action in the first place. Unfortunately, we were just not in that place to start with.

Q7 Daisy Cooper: But yes to an audit, or not?

Dan Daly: It depends on what the check is for the building and what the circumstances are. If you have the information, you can find what the appropriate intervention is. Realistically, when we talk about the numbers involved, where do you find the competency and capacity to do all buildings in an audit process? You have to find some risk-based approach.

Sir Ken Knight: Perhaps I could just add to Mr Daly’s point. The capacity and competency are important, because some of these are not just building checks. They are invasive and involve taking parts of buildings down and looking inside walls. It would be a very long process to do a whole system check on all buildings, which is why I think it was inevitable to take an 18-metre approach and talk about those buildings as higher risk in terms that I have described, rather than pause and do a whole system check on all the buildings. We would still be doing that some time ahead. The NFCC, for which Dan Daly is responsible, has done a great job in using fire and rescue services to check whether buildings are at risk or at multiple risks. It has had some very helpful results, because they have all been found to be risky buildings.

The Chair: Unless there are supplementary questions on that, I will bring in Siobhan Baillie.

Q8 Siobhan Baillie (Stroud) (Con): Mr Daly touched on this earlier. What role do you think the fire services need to play in ensuring that a future system is proportionate, in terms of both their own work and working with the Building Safety Regulator?

Dan Daly: Combining where we are now with the Bill and the secondary legislation to come along, I think the fire service has a role to play in helping to design that, to make sure that it is fit for purpose and that it complements what is coming through in the Fire Safety Act 2021, which will come out later this year. From what we have seen, there has been a clarification. The Bill does not mean any new powers for the fire and rescue service, but there is something in the information strands; this Bill will bring about a better knowledge of buildings. That is really important to the work of fire and rescue services in terms of targeting their regulatory role, adapting and making sure that their operational tactics are fit for purpose, and making sure that where we can target through our prevention activities, we are looking at the people who live and work in those buildings to make sure that the right prevention advice is provided to prevent fires in the first place.

Sir Ken Knight: I normally hesitate to comment on what fire and rescue services should do, having done it for 40 years and leaving it to professionals like Dan Daly and the NFCC, but I would just draw attention to the Fire Safety Act, which he referred to. The Fire Safety Act, of course, has recently passed through Parliament as an amendment. It does put, absolutely, enforcement authority with the fire and rescue authority, and that is the fire and rescue service. And it is much broader—this goes back to the height issue—because it is not just about height. It is about all those buildings where there are more than two occupancies, so it is a much broader piece of legislation, of which the enforcing authority is, effectively, the fire and rescue service. I think it will have a very close relationship both with local authorities and the Housing Act 2004 and with the Building Safety Regulator, because there is a wealth of knowledge in that background and experience and it is a key part of a modern fire and rescue service.

The Chair: I am going to bring in Ruth now, and I know that Mike and Marie have further questions that they want to ask.

Q9 Ruth Cadbury (Brentford and Isleworth) (Lab): Thank you, Mrs Miller. I get the point that Sir Ken made about the need not to be too risk averse, but an estate of hundreds of students and leaseholders in my constituency was evacuated with a week's notice. Also, Richmond House in south-west London burnt down in, I think, 11 minutes once the fire took hold, and it did not have what we think of as flammable cladding and was only four storeys high. I will ask both witnesses the question: to what extent does the Bill address that issue, or what else has to be done so that residents of all buildings, particularly those built in the last 15 or 20 years, can feel safe in their beds at night?

Dan Daly: I think you are referring to Worcester Park.

Ruth Cadbury: Yes, Richmond House in Worcester Park.

Dan Daly: There are a couple of things that I think are useful here. One is the competency issue. I think we have maintained right from the start that everyone involved in the build process, right the way through and from maintenance through to occupation, needs to be

competent in the role. That is the first part: how these buildings are constructed in the first place and the appropriate measures—barriers, fire-stopping arrangements and so on—being put in place.

There is also the work around product regulation, which I think is really important. We have all seen the evidence at the Grenfell inquiry that products not fit for purpose have been openly sold, knowingly sold. That needs to stop, so that people can build in confidence with the materials they have. I think those two things come together quite well to look at the issues. But there is something, again, about the scope of the Bill. It is starting where it needs to start. I can understand that the new regulator would want to start proportionately and get that right. But I think it is hugely important that we open up the pathways to extending that remit, to look at other types of building.

We have the issue of modern methods of construction. That can be any kind of new aspect of building. I think Worcester Park has an element of timber-frame construction. We are seeing lots of modular construction. We have the highest modular constructed building in Europe here in London. Those kinds of elements need to be looked at to ensure that competency goes right the way through, from the off-site manufacture and the materials used, to the on-site installation. Those are things for the future; that is a good place for us to be. My concern at the moment is this: what are we doing about the existing stock? I think that is part of your question. There is the issue about how we can reach back on building defects. I think there is a slight flaw in that.

There is a welcome extension to the timeframes on this, but the slight flaw is that it is to the date when the building was complete. We have already seen buildings for which even the 15 years proposed now would have elapsed. If it has not elapsed there certainly is not time between it coming in and the point in which it elapses for the legal action to kick in and take place. There needs to be something about whether it is from when the defect has occurred. The defect, if not picked up during the building stage, would then be beyond the vision and scope of the fire service as a regulator. The fire service does not dismantle buildings to understand what was not done properly through the building control process and construction processes. We need to get stronger on that issue as well. Those are the elements we can do more on in terms of reaching back.

There is an issue as well with buildings and planning. Some buildings will already have attained planning permission under the broken system, and they will be allowed to be built going forward, adding to the pile of issues we are trying to address now. Where is the hard stop on those buildings? They need to be reapplied for to make sure the standards are fit for purpose today. That is another important element we would like to see change to make sure we do not add to where we are.

Sir Ken Knight: Can I just add to that? I think that is why one of the important inherent, underpinning foundations of the Bill is that it enables legislation. It is such a large Bill and requires secondary legislation. I am sure there will be some who will sit here and suggest that it is not detailed enough. I do not hold that view; I think, by being enabling, it allows flexibility in the future for additions and to change some of those issues. It allows for the Building Safety Regulator to look at

new methods of construction of buildings and make recommendations to the Secretary of State. That is probably where we came from. The Act it replaces is the Building Act 1984—some 37 years ago. That fixing in time of something that needs to be so dynamic according to risk and change enables this Bill to be that opportunity for the next generation.

The Chair: We have got just under 15 minutes, and there are three more questions to go through. Keep that in mind, if you could.

Q10 Ms Rimmer: Under clause 84, an accountable person

“must take all reasonable steps for... preventing a building safety risk materialising as regards the part of the building for they are responsible”.

The definition of the part for which they will be held responsible is to be defined in regulation. Should it not be defined within the Bill itself?

Sir Ken Knight: That is one of those examples where getting this huge piece of legislation through the Parliamentary process, which will itself be 12 months away, will it not, will allow that regulation to come swiftly afterwards. I am pretty relaxed, personally, that regulation and secondary legislation will follow and build up the basis of this very quickly indeed with the experience that needs to be held. I am not the expert in that area, but I am very convinced that going down this enabling route is the way forward.

Q11 Ms Rimmer: You just mentioned it coming forward very quickly after the Bill goes through, but there is nothing to guarantee that.

Sir Ken Knight: No, there is not, but I think the Building Safety Regulator is already on the case. He has issued a document only this week about what safety cases will look like. He and his team will be having the same capacity issues as everyone else, but nevertheless I suspect he is not waiting for the Bill to happen. Nor are the major people out there responsible for buildings in the future, which is pleasing. They are already looking at what they need to do now to make people feel safe in their homes, rather than waiting for the Bill to pass through Parliament.

Dan Daly: I do not have much to add. The detail will come. I would like and welcome the opportunity for NFCC to be part of those discussions, as some other stakeholders are, to keep the promises that are made here. I do agree that there is an awful lot left to trust, and there needs to be some oversight to ensure that that trust is not betrayed and that, if the Bill is put through as an enabling piece, the guidance that follows is suitable to bridge the gaps in the information that is not there at the moment.

Q12 Mike Amesbury: Will the new regime stop resident leaseholders being fleeced by the mediation costs—the EWS1 process, the astronomical insurance costs? The list goes on and on—not to mention waking watch, of course.

Sir Ken Knight: I can deal with some of that shopping list, which you are right to highlight. EWS1 has been one of those areas. The external wall system 1 form is the surveyor form for evaluations. I would argue that it has been misused on premises where it has added cost

to the leaseholder. I have seen real examples where people trying to sell a bungalow have been required to have EWS1 for an external wall, which frankly is nonsense. Again, that is about the proportionality of lenders and insurers recognising that some of those building heights and risks do not need that.

The other reason for me saying that about EWS1 in principle is that I believe it will quickly be overtaken by the external wall assessment of the Fire Safety Act 2021, because everyone will require that. One of the advantages is that you will have one risk assessment for the whole building and not every leaseholder having to have an EWS1 form to satisfy their lender when they want to sell, adding to the cost for each leaseholder in turn. Will the Bill address that? I think the combination of those other things I have just mentioned will certainly assist that, but it does mean needing to get back to an approach that is both risk-based and risk-assessed, and people being competent, and the culture has to change. It is going to have to change very quickly because Dame Judith recognised that both culture and competence were key issues. I think they still are.

The Chair: Have you anything to add, Mr Daly?

Dan Daly: Just briefly, I think we have maintained the position for some time that leaseholders should not bear the costs of historic building defects. We welcome the extension of the period to look back at where issues have been found in buildings, but I think there is definitely more that could be done to give them that protection. Overarchingly, what is needed to give reassurance across a much wider sector—this is about lenders, insurers and constructors right the way through—is getting a regime in place as quickly as we can that supports and holds them to account in the right way.

I welcome the idea of industry leading the way to improve its own culture, but I actually want to see a regulator with some real teeth that can hold them to account as well, because that is what is going to be required. The Health and Safety Executive brought some real change in the construction industry, but that was because its attempts to change the industry were also supported by strong and robust enforcement that it was able to bring to that. Holding people to account and getting the regime in place that underpins the whole sector is something that will help with where we are.

Q13 Siobhan Baillie: I should have asked this question before, so I apologise. This is a pretty basic question, but we have gone straight into quite a lot of technical points. Since Grenfell there is understandably a lot of fear about high-rise buildings. How safe would you say a high-rise building is and what is the risk to life of a high-rise fire? I am interested in your expert opinions.

Dan Daly: It is very difficult in the context of Grenfell because that is obviously where people’s minds are focused, but in my professional experience you are generally at no greater risk in a high-rise building than you are elsewhere, and the figures bear that out. We see a number of deaths. My experience is in London and if you think about London, we see the commonality of people dying in fires is not where they live, but the circumstances of them, the vulnerabilities and the care they may be subject to, or the lack of care in some instances. That is what drives those deaths.

None the less, it is recognised that people will feel nervous in those homes. There is more that we can do and this regime helps with that. The work of fire and rescue services goes beyond response; we do much more than that. It is also about prevention and protection. The protection element is about looking at the buildings, and the prevention is about the advice we can bring to people in their own homes, and it all contributes to reducing that fire risk.

There is something here that people will recognise, which is that there is limited capability for fighting fires at height. We know that and have experienced that. That in itself will not help with public confidence, but the stats of the matter—this is an emotional argument, so stats are not always the best place to find ourselves—do not support the view that you are at any higher risk. However, we must address the fact that people have and should have the right to feel safe in their own homes. We are spending time on that, and I said I think it is the right place to focus the regime for now to build that confidence, but we must have the ability to extend the scope and make people safe wherever they live.

Sir Ken Knight: In the context of high-rise buildings, the differences are that it can be more dependent on the other measures in place to ensure that compartmentation is intact, such as fire doors, having self-closers fitted, ensuring that smoke ventilations are working—all of which, as we have heard in another place of inquiry, was woefully lacking. I think it is more dependent on that.

What is key is something Judith Hackitt picked up in this Bill: the residents' voice as well as the residents' responsibility. That is absolutely key to this as well. They need to be assured that they have the key information, but they also have to understand that they have a key responsibility to ensure that they and the others in the same building are safe as well. I think that combination makes high-rise different from a two-bedroom cottage somewhere, because it is more dependent on others and the compartmentation is more key. That is why I support starting at 18 metres in the Bill—starting at 18 metres for buildings in scope. That is the place to start, from our experience over the last few years.

Q14 Ruth Cadbury: On that very point, I absolutely agree with Sir Ken. The six tower blocks beside the elevated section of the M4 in my constituency, Brentford Towers, were built roughly 50 years ago. In the 35 or so years I have been in and around Brentford as a councillor and an MP, I am aware of at least one fatal fire in a flat, which destroyed that flat, but the evidence that I saw afterwards showed that the fire did not spread, beyond some smoke damage in the hallway of the four flats on that floor—it did not spread elsewhere, because of the compartmentation and the way they were designed to deal with fire, in a way that was messed up with Grenfell.

In terms of new build, building professionals have told me that in this country we have moved from designing and building for fire safety, as Brentford Towers were built, towards concerns about thermal insulation and energy saving, so have started to lose the focus on fire, whereas in other countries the two have gone together. Do the witnesses agree with that? If so, do they feel that the Bill addresses that challenge?

Sir Ken Knight: I have also heard it said—I have no evidence that it is correct—that the two sometimes seem to be movable objects in ensuring sufficient insulation,

and indeed in making the homes and lives of residents much better and much less expensive because of heat loss and energy, and in meeting the very important net zero agendas as well. I think the Bill does address that. It makes it very clear that there are hard stops at each of those gateways that are put in place in the Bill, which the developer cannot pass until they have satisfied the Building Safety Regulator that they have met the fire safety requirements and the fire safety case. That has not ever been the case before. You could have a design and build that would move on and move on in process, and move beyond that gateway before being checked by the appropriate enforcing authority. I think the Bill has gone a long way towards addressing that very point—that fire and structural safety are not left as a second cousin.

Dan Daly: Absolutely. There is the ongoing role of the approved documents that sit behind the building regulations. That is an important part of what will support the endeavour of the Bill. We need to keep working on those. They have fallen woefully out of date with modern methods of construction. That is something that needs to be reviewed with the Building Safety Regulator going forward, and challenged to make sure that the appropriate documents are kept up to the date.

There is something about the competency of individuals as well, in reading those approved documents in tandem. There are documents that talk about how a building is structurally sound and how it is fire-safety sound, before it starts to talk about the thermal performance of the building, but the two should be read in conjunction. What we have seen is people not necessarily with the right competence adopting convenient interpretations of those documents rather than following what the documents are trying to say. That again points back to the competency issue and the oversight by the regulator, and hopefully the oversight of the gateway processes, to prevent those things happening again.

Q15 Ruth Cadbury: The Bill covers modern materials but says less about modern methods of construction. Some building faults over the years have been the interaction between different elements of the building, such as corroding metal parts or condensation and so on. Do you think the Bill goes far enough to address modern forms of construction, as well as modern materials?

The Chair: Just before you answer, I will point out that we have two minutes and then I will have to bring this to a close.

Dan Daly: That points back to the competency issue. We have the products stuff that will hopefully be regulated and perform better—people will know that what they are getting will do the job it says on the tin—and then the individuals who are employed to make the determination about what products are used on a building in certain circumstances having the right competency to interpret the building regulations and the approved documents to make sure they are using the right things in the right places.

Sir Ken Knight: The Bill, of course, includes the provision for a new construction products regulator, dealing with the products, which is really important in modern methods of construction. You are absolutely correct that modern methods of construction are important. Of course, modern methods of construction bring with

them a precision in construction by pre-forming and pre-making, so modern methods have some advantage. We need to ensure that they have in-built fire safety elements when they are constructed and finished as buildings.

The Chair: I think that brings us to the end of questions for the first panel. I thank our witnesses for taking the time to be with us today, and for an incredibly useful set of answers. If I could ask you to exit through the doors, we will bring in our second panel of witnesses. Thank you very much.

Examination of Witnesses

Graham Watts OBE and Adrian Dobson gave evidence.

12.20 pm

The Chair: Thank you for being with us today. Just before we start our questioning—Ruth Cadbury will kick it off—may I ask you both to introduce yourselves?

Adrian Dobson: Thank you very much. My name is Adrian Dobson. I am executive director of professional services at the Royal Institute of British Architects. That includes supporting our educational and practice standards, and our work in association with the Architects Registration Board.

Graham Watts: Hello. I am Graham Watts. I am chief executive of the Construction Industry Council. I am also chair of something called the competence steering group, which was set up after the Grenfell tragedy to improve competences across the industry. For full disclosure, I also co-chair the building safety workstream of the Construction Leadership Council and I am a director of Building a Safer Future Ltd, which is responsible for the building safety charter.

The Chair: Thank you very much. I call Ruth Cadbury to start our questioning.

Q16 Ruth Cadbury: Thank you. This question is for both witnesses. Do you feel that the Building Safety Bill will significantly improve the building safety regime in this country, and make residents of existing and future residential and other buildings feel safe?

Graham Watts: The Bill is very welcome. It is a step forward from the draft Bill that we saw last year. The clarification on scope has been very welcome, for example, but it is important to say that the Bill, or the Act in due course, will not be a panacea to ensure building safety. That is a really important point. The Bill is needed to support the paradigm shift that is needed in the culture change of the construction industry, and only that shift in the construction industry will ensure that we have safer buildings.

Adrian Dobson: I basically agree. It is important to say that it is just a piece in the jigsaw puzzle. It is very welcome that there will be a new regime for building regulations, and that the HSE will be placed with oversight of it. Basing it on the Construction (Design and Management) Regulations 2015, which have worked quite well in terms of looking after the safety of the people who construct buildings, is quite sensible. Without wishing to repeat what you have heard from previous witnesses, there are other pieces in the jigsaw. Inevitably,

the industry relies on guidance. I think you have heard previously that the approved documents still need major review. Obviously there has been discussion about the buildings that are within the scope. You can imagine that other types of buildings may, in due course, need to come within scope, but it is sensible to start with what we know is at particularly high risk of catastrophic failure.

The Chair: Before I bring Rachel in, I think the Minister has a supplementary question.

Q17 Eddie Hughes: On Graham's point about the paradigm shift that the industry and sector have to go through, what is the CIC doing to help them? The legislation is obviously going through Parliament. People need to prepare for its arrival, so how are you ensuring that people are suitably well informed, and taking the right decisions and action now?

Graham Watts: As you know, Eddie, it is a massive industry—3 million people and several hundred thousand companies. Co-ordination, communication, leadership and challenge are the key factors that we in the CIC, and the bodies that support us, such as the RIBA and the Chartered Institute of Building, need to concentrate on. We really need to get away from a culture that is based on a race to the bottom, as a result of which companies that win work at very low profit margins do everything possible to prioritise the commercial side of things, avoid penalties and cut corners on quality in order to increase profit. That is the basic culture that we have to change. We have seen the evidence of that in the Grenfell inquiry. We do not need to see where the evidence is; it is there before our eyes.

Adrian Dobson: One thing to add is that, obviously, we are keen for things to move on at pace. What a number of the professional bodies, including the RIBA, are doing at the moment is working on our accreditation regimes for the new duty holders, because obviously we need to be in a position to accredit professionals to undertake the principal designer and principal contractor roles once the new regime comes into play. That is an important task for the professional bodies to be getting on with now.

The Chair: If there are no more supplementaries, we will move to Rachel.

Q18 Rachel Hopkins: Thank you, Mrs Miller. That takes us to my question, which is about whether there is enough detail in the Bill. Have the Government left too much in secondary legislation, for example the golden thread and the gateway process? Those are two key elements of the new building safety regime—and you talked about professional bodies wanting information as well—that are not actually on the face of the Bill.

Adrian Dobson: There is a chicken-and-egg situation. I have been involved in a number of meetings on the competence standard, and obviously you can go off only what has been published so far. The publication of the draft regulations on the competencies and due diligence is quite helpful, although I hope that there may be a chance to talk about some concerns about those definitions. The more information that can come out, the better.

The Bill does explain the basic principles quite well, and I think everybody is supportive of that. There is complexity. One of the points that I would like to make, if I get the chance today, is that our view is that, if the principal designer is a key duty holder, they should be involved in gateway 1, which is when some quite key design decisions are made. It has been complicated to achieve that, because it has been achieved through a change to the town and country planning legislation. I can see that some of this is going to have to be sorted out once the system is in place; that is just inevitable, really.

Graham Watts: I tend to agree with the point that Ken Knight made in the previous session: the detail needs to be in secondary legislation, in the statutory instruments. Of course, that does mean that there needs to be adequate consultation and scrutiny of those statutory instruments. I have some experience of this from the industry perspective, as a designated body implementing aspects of the Building Act 1984. Too much of the detail was in the Act. It meant that there were unintended consequences down the line: things that needed to be changed could not easily be changed. That made my mind up on that issue.

Where there is a need for more detail on the face of the Bill is in those areas relating to the paradigm change in the industry that I spoke about earlier. That needs to be supported by the Bill, particularly in the area of competence, which actually underpins virtually everything that we are talking about. In the report that we produced at the end of last year, “Setting the Bar”, which sets out a new competence regime for occupations involved in high-rise buildings, we were hoping and expecting that there would be greater definition in the Bill.

For example, we thought that the requirement for independent third-party certification might be on the face of the Bill. It is absolutely essential, but it is not there. We think that there should be mandatory registration for those who have duty holder roles, and I am not just including principal designer, principal contractor and building safety manager. Also, for example, there is a need for independent construction assessment, and I am sure Adrian and I will talk about that a bit more later. It also seems to me an anachronism that we are defining the roles for principal designer and principal contractor but not for the building control profession.

Without having mandatory registration with the regulator—to say that Joe Bloggs or Freda Smith are qualified to be a principal designer—there is going to be a lot of confusion out there about who is qualified to hold those roles. I worry that the less scrupulous people within the industry will find ways around the requirements in order to prove, by some sort of desktop study, that they are actually qualified. There are also things like making sure that there is regular reassessment and mandatory continuing professional development. Although I appreciate that there are reasons why those details might not be in the Bill, we need them to be defined.

The Chair: Daisy Cooper has a supplementary question.

Q19 Daisy Cooper: You mentioned that there is a bit of chicken-and-egg about what goes into primary legislation and what goes into secondary legislation—I think we are all alert to that—and that one way of squaring that

circle would be to have additional scrutiny of secondary legislation. Could you expand on what you think good scrutiny of that secondary legislation would look like?

Adrian Dobson: Gosh. I am not so familiar with the workings of Parliament, but certainly I would make the point that those regulations will be very important. We have been poring over the competence regulations and the duty holder regulations; I know they are only in draft, to enable you to understand the Bill, but that level of secondary legislation and regulation will need proper parliamentary scrutiny.

There is also an important role for the industry, working with the HSE and the new authority, to ensure that the review of the guidance is done properly. With the best will in the world, I do not think this place or other similar bodies can do that detailed, rigorous interrogation of the guidance, and it is very important. It is the lack of guidance that has been causing some of the problems, particularly below the 18-metre threshold. We now have quite an ambiguous situation with those buildings, which is complicating the situation for leaseholders and so on.

Graham Watts: May I first of all say that I have been working in the industry for 42 years, liaising with Government on policy matters, and I do not think there has previously been a more exemplary case of consulting with industry, particularly on the draft Bill and more generally in the course of the Bill’s passage through Parliament? I would like to see the same process with the statutory instruments. We think there will be nine statutory instruments—we have seen two of them in draft already—but we need to continue that kind of early-warning consultation, avoiding unintended consequences, overlap and duplication and so on, with the draft secondary legislation, just as we have with the Bill itself.

Q20 Mike Amesbury: Does the Bill protect leaseholders from unaffordable costs, and focus the mind or regulate to ensure that the industry steps up and pays its responsibilities and its fair share, given previous incompetence and very shabby practices?

Graham Watts: I think the answer to that is no, but the Bill does a bit more than the draft Bill did, particularly in the extension of the Defective Premises Act 1972. I am from the industry, and I have no doubt whatsoever that no leaseholder should have to pay for having been mis-sold a home that is not fit for purpose or safe. That should be axiomatic, and we should be exploring every opportunity. I know the housebuilders and developers have put up something like £500 million already, but in many cases they are not there any more—they have gone bankrupt, or it was a special purpose vehicle developer that does not exist any longer. I have no doubt that the Government must do more, but the industry must also do more, and I welcome the polluter pays principle of the developer tax.

Adrian Dobson: This Bill is a piece of the jigsaw; one problem is that this is predominantly a forward-looking piece of legislation, so it will address new projects and alterations to existing buildings, but it will not deal with the historical defects. That is a situation that will ultimately require the Government to engage with the insurance sector. We now have a situation where—to use the example of the EWS1 form, which I know you talked about earlier—because the insurance sector has pretty

much excluded fire safety cover from many professionals, it is difficult to get professionals who can sign these forms, and they will now inevitably take a very precautionary approach, because they know that this insurance is difficult to get. There are some risks in thinking that the Bill itself will solve that; that historical liability is more complicated.

The Bill also raises the question of the insurability of the duty holder roles in the new regime; this illustrates why the interrogation of the regulations will be so important. The regulations as they are drafted at the moment mix words such as “take reasonable steps” with “ensure”, and they are very different. One is an absolute obligation and one is more like the CDM regulations. Will the insurers provide the insurance to underpin these roles? The insurance issue is where the problem lies, in my view.

Q21 Ian Byrne: I have really enjoyed the evidence so far; it has been really good, but will the Bill improve levels of competence and, just as importantly, listen to the Grenfell inquiry and the shameful evidence that we have heard? Will there be accountability in the construction industry?

Graham Watts: I think the answer to that is yes, because competence is in the Bill and it underpins and supports all of the work that the industry has done over the last four years—some of the things that Adrian talked about earlier in the different sectors. As I said before, I would personally like the Bill to go further in defining the levels of competence and in making sure that the people who are registered actually have the competencies. I think that is absolutely necessary.

Adrian Dobson: I would tack slightly along the same line. I think the Bill is very good at trying to address the competence issue, although, for example, there are weaknesses in other areas of the industry. Procurement is complex in construction. I know that has been discussed in the Select Committee and various places. There is a duty on the principal designer to monitor design work for compliance, and a similar duty on the contractor. “Monitor” is quite a weak term. In design and build procurement there is no requirement for independent inspection, or no duty on the designers to return to the building and say, “Has this building been designed and constructed in accordance with that design intent?” So I think it is stronger on competence than it is on addressing some of the realities of the construction industry. Will the hard stop at gateway 2 really be a hard stop, because the commercial realities of the construction industry will tend to want to keep the project moving forward, and that is a risk? So it is good on competence and perhaps a bit weaker in other areas.

Q22 Ms Rimmer: The Bill gives the Secretary of State the power to regulate construction products. Does it contain enough information about the new regime? Is there enough certainty about what types of products would be regulated by the Secretary of State?

Graham Watts: We are obviously at an early stage in the development of the new powers for the product regulator. As we have discovered from the Grenfell evidence, it is an absolutely imperative aspect of the Bill, so I certainly welcome that side of it. The work that has been done in the industry to ensure integrity in the

marketing information for construction products has been scandalously shocking in the past. As somebody from the industry, I am ashamed of the fact that we did not wake up to that, but I welcome a rigorous attention to the regulation of construction products and also the Government’s recent decision to postpone the implementation of the conformity assessed mark for a year, because that was causing huge problems in the construction sector. Personally, I think a year is not enough, but at least it is a step forward.

Adrian Dobson: My answer is probably similar to before. There is an inevitability that there will have to be secondary regulation. Maybe an area that it does not address is that once we get to the stage of developing revised guidance, we have some questions about how much different sectors of the industry have been able to influence the testing process. If you are going to rely on testing to give you confidence about the performance of products, that genuinely needs to be independent testing. I will be interested to see what the regulations say about that and how they keep that independence of the testing.

Q23 Shaun Bailey (West Bromwich West) (Con): Obviously, the success of any legislation depends on how it is enforced once it is implemented. I am keen to understand from your perspective, how far in any enforcement regime is it about industry buy-in and co-operation? How far should the Government go in terms of really strict, hard enforcement regulation to ensure that it is not simply a case of the industry having to do it, but that there is actually buy-in from the industry to do it and to respect the regulations?

Graham Watts: Both of those things are equally vital. I think the industry welcomed the decision to place the Building Safety Regulator within the HSE, because it is a well-respected agency and people take notice of its interventions. We understand that the regulator is likely to have somewhere in the region of 750 staff. It is not going to be an insubstantial body, and I am sure it will take effective enforcement action, but it needs buy-in from the industry. That comes back to my earlier point about a culture change within the industry, and not just in terms of the scope of the legislation—it must go beyond that. As people have said, the twin-track approach to regulations could be confusing and complex. We understand why there needs to be a limitation on the scope to begin with; otherwise, the system will not cope and will collapse. But there will be confusing areas at the margins, and it is essential that the industry adopts the same approach to its work on buildings that are not in scope and on buildings that are in scope. We cannot have a twin-track approach as far as safety is concerned.

Adrian Dobson: In fairness to the Government, it is difficult for the Government to regulate the competence and behaviours of the industry. Without the industry acting as a willing partner, it is virtually impossible, and the Bill tries very hard in that area. A more contentious issue is to what degree you have an element of prescription in what is done. We have had an element of prescription, and it was probably agreed that that was necessary because we had a stock of buildings that there were serious doubts about. I know that the Mayor of London has introduced an element that has been quite controversial, but I suspect that working out where the balance is will be quite difficult. When it comes to fundamental elements of fire and structural safety, I wonder whether you will

inevitably end up with some firmer guidance. It might become prescriptive regulation or just clearer guidance on the basics of means of escape, compartmentation, alarms and sprinklers. Those are the fairly basic safety systems that buildings rely on.

Q24 Ruth Cadbury: Graham Watts, you just said that you think the HSE is the right place to place the building safety inspector. Do you feel that the HSE has the right expertise and sufficient resources to do that, taking into account the additional resources that I believe the Government have committed for it?

Graham Watts: I guess it is an unfair question for now, because the regulator does not exist yet. But I have been impressed by the way in which the HSE has set up interim arrangements. For example, the interim industry competence committee—there is a committee on industry competence on the face of the Bill—has already been set up, and I am already liaising with the chair of that committee to make sure that there is an appropriate transition from the work that we have been doing within the industry for the last four years, to the work that will be eventually housed within the regulator.

Clearly, the staff at the HSE are experts on health and safety, so Peter Baker has to build up his team. He is a long way from being able to do that at the moment, but I am hopeful that the same principles and protocols that have driven the HSE—certainly its ability to consult the industry through bodies such as the Construction Industry Advisory Committee, which has been significant—will be carried over into the new regulator when the legislation is enacted.

Adrian Dobson: At a very basic level, the fact that it will be within the HSE sends a useful signal, because it says that at the heart of the building regulatory process is the safety and welfare of people. It is a simplistic thing, but it is quite an important signal. It has probably been given to the HSE because of the relative success of the CDM regulations. I do not think anybody in the industry thinks the CDM regulations have been perfect, and it has taken quite a lot of iterations to get them to where they are today. There are some weaknesses, particularly in the handover of information at the end of the project. That will also be so important for the safety of buildings under the new Fire Safety Act. But I think HSE has a good track record, which is possibly what is giving people confidence about it.

Q25 The Chair: If there are no further questions from Members, is there anything that we have not covered in our questioning and that you would like to add at this point?

Graham Watts: There are a couple of concerns that I wanted to get across, and I think Adrian certainly shares one of them. The first one is a worry about the unintended consequences of the Act, if they are not carefully thought through. I do have a real worry about the insurability of some of these roles. Adrian has already referred to the narrowing and hardening of the insurance market for anything to do with fire safety and cladding. That is significant. A lot of companies are pulling out of that work altogether, because either they cannot get the insurance or the insurance is too cost-prohibitive. There is an onerous set of requirements on the building safety manager, for example, that I think will make it potentially uninsurable.

There are things that can be done to help that. Clause 91 on residents' engagement strategy qualifies the requirements by saying so far as "reasonably practicable". I think we need that kind of codicil to the requirements on some of the roles within the Act; otherwise, they are going to be uninsurable. I was responsible for setting up the designated body for registering approved inspectors after the Building Act 1984, and that legislation was not implemented until 1997. It took 13 years for us to get over the problems—the unintended consequences of the Act—that meant it could not be implemented. One of those problems was the inability to get insurance for approved inspectors. I think that is a warning signal that needs to be taken care of.

Secondly, there is a need for independent scrutiny of construction work. Adrian and I both believe very strongly in that. It came over as a recommendation from the Chartered Institute of Building and others in the working groups within the Competence Steering Group. We have lost that. If we go back in time, it was traditional to have clerks of works independently scrutinising the work on site. It was traditional for architects and engineers to go on site and supervise to ensure that their design work was being correctly implemented. We have lost most of that—they are rarities now—and I think that the requirement to have that independent assessment of construction work is essential. Whether it could be on the face of the Bill is, I understand, a moot point, but it is something that we need to develop, and we do need Government support—particularly as a client, actually—to help ensure that that happens, because it is one way to make sure that the design intentions are properly constructed, and that we get the quality that was always intended.

The Chair: Mr Dobson, would you like to add any other thoughts?

Adrian Dobson: I would prefer to reinforce those three points. Whether it is a client's duty to have some independent inspection or whether it encourages clients to have independent inspection through, perhaps, standards that can be developed for use by the duty holders, will be a key point. As Graham said, if we cannot get insurance for these duty holder roles, we risk to some degree repeating the EWS1 problem, where we create a system that then cannot do what it is meant to do.

Even with something like extending the Defective Premises Act, you can understand why it has been done, but it is yet another thing that will cool the appetite of the insurance market. That is why I think market engagement is so important. Graham has not said this, but I did mention earlier that we feel that once the HSE looks at this, it may wish to consider whether you should really have the principal designer involved in that planning application; because you are making decisions about how many means of escape there will be from a building, where you are going to site it on the site, and how you will get access for the fire brigade. You are making quite fundamental strategic decisions that go beyond just a fire statement, which is what the current regulations demand.

The Chair: You have provoked a supplementary question from Mike.

Q26 Mike Amesbury: I want to pick up on that point of independent building scrutiny. Is that something that you would add to the scope of the proposed building

regulator, or would you look at Victoria in Australia, going through building by building in terms of remediation and building safety at the moment? Indeed we, as an Opposition, are talking about establishing a building works authority. Which route would you choose, or where would that sit?

Graham Watts: We—by “we” I mean the Competence Steering Group rather than the Construction Industry Council—recommended that there should be an independent construction assessor on all projects in scope of the legislation. That obviously has not been taken forward, and I think I understand some of the reasons why, but I stress that whatever way that happens, it is essential to securing the culture change that I spoke about earlier.

Adrian Dobson: The Committee may wish to think about whether there should be duties on some of the designers as well. You can appreciate that when you are scrutinising construction work the architect may be able to look at some aspects. Some aspects very much need the structural engineer and the services engineer to be involved. So you might want some general inspectorate, as would be prepared by a clerk of works, that is on a more regular basis, but you will need some scrutiny from individual designers as well. There may need to be some duties around that, possibly.

Q27 Daisy Cooper: I am interested that you picked up on the point about whom they would be accountable to. I was very struck by some evidence that we received from the UK Cladding Action Group, which said that there is almost no way at the moment to make construction

professionals accountable to residents—the people who are living there. I guess the question is: to whom do you think the different bodies should be accountable?

Adrian Dobson: The most obvious person, given the way that the Bill is framed, is the client; but as you say, the client is rarely, in the construction process, the end user of the project. One of the areas—probably the most difficult to tackle—that has not been talked about a lot is how you raise the competence of clients. The Government themselves are a major procurer, as are local authorities. It is important that they set the example. At one time, local authorities would have employed clerks of works to go and look at projects, so it is quite interesting that they can act as a leading edge—but yes, it is a difficult one.

Graham Watts: For new build, obviously the sign-off at gateway 2 is from the principal contractor to the client. I think we are also talking here about a lot of refurbishment and renovation projects where the residents are in situ. There the responsibility needs to be to the building safety manager, and the building safety manager’s responsibility needs to be to the residents.

The Chair: If there are no further questions, I thank both our witnesses for a really excellent evidence session, and for taking the time to come before us today.

Ordered, That further consideration be now adjourned.—(Scott Mann.)

12.52 pm

Adjourned till this day at Two o’clock.

