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Public Bill Committee

BUILDING SAFETY BILL

Fourth Sitting

Tuesday 14 September 2021

(Afternoon)

CONTENTS

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Saturday 18 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 *(Weaver Vale)* (Lab)
† Bailey, Shaun *(West Bromwich West)* (Con)
† Baillie, Siobhan *(Stroud)* (Con)
† Byrne, Ian *(Liverpool, West Derby)* (Lab)
† Cadbury, Ruth *(Brentford and Isleworth)* (Lab)
Clarke, Theo *(Stafford)* (Con)
† Clarke-Smith, Brendan *(Bassetlaw)* (Con)
† Cooper, Daisy *(St Albans)* (LD)
† Hopkins, Rachel *(Luton South)* (Lab)
† Hughes, Eddie *(Parliamentary Under-Secretary of State for Housing, Communities and Local Government)*
† Logan, Mark *(Bolton North East)* (Con)
† Mann, Scott *(Lord Commissioner of Her Majesty's Treasury)*
† Osborne, Kate *(Jarrow)* (Lab)
† Pincher, Christopher *(Minister for Housing)*
† Rimmer, Ms Marie *(St Helens South and Whiston)* (Lab)
† Saxby, Selaine *(North Devon)* (Con)
† Young, Jacob *(Redcar)* (Con)

Yohanna Sallberg, Adam Mellows-Facer, Abi Samuels, *Committee Clerks*

† attended the Committee

Witnesses

Martin Boyd, Chair, Leasehold Knowledge Partnership

Dr Nigel Glen, CEO, Association of Residential Managing Agents

Dr Sarah Colwell, Director, Fire Suppression Testing and Certification, BRE Global

James Dalton, Director of General Insurance Policy, Association of British Insurers

Steve Wood, CEO, National House Building Council

Mr Matt Wrack, General Secretary, Fire Brigades Union

Eric Leenders, Managing Director, Personal Finance, UK Finance

Alison Hills and Steve Day

Public Bill Committee

Tuesday 14 September 2021

(Afternoon)

[Philip Davies *in the Chair*]

Building Safety Bill

Examination of Witnesses

Martin Boyd and Dr Nigel Glen gave evidence.

2 pm

The Chair: We will now hear from Martin Boyd, chair of the Leasehold Knowledge Partnership, and from Dr Nigel Glen, chief executive of the Association of Residential Managing Agents. I remind colleagues that we have until 2.45 pm for this session. Would the witnesses introduce themselves for the record, starting with Martin?

Martin Boyd: Good afternoon, everyone. My name is Martin Boyd. I am chair of a charity called the Leasehold Knowledge Partnership. We also act as the secretariat for the all-party parliamentary group on leasehold and commonhold reform.

Dr Glen: Thank you very much, Chair, and thank you for the opportunity to present today. My name is Nigel Glen, the chief executive officer of the Association of Residential Managing Agents, a not-for-profit trade body with about 325 members who manage about 1.6 million leaseholds between them.

Q127 Mike Amesbury (Weaver Vale) (Lab): Thank you, Martin, and thank you, Nigel; it is good to see you both. Is extending the scope of the Defective Premises Act 1972 retrospectively to 15 years the game changer it is made out to be?

Martin Boyd: No. You have heard two witnesses already tell you that the National Audit Office has reached the view that it will not actually work very often. The problem is that there are limited circumstances in which you can apply the Defective Premises Act. It seems like a welcome idea, and of course it is—six years is not sufficient—but there are very few leaseholders who are going to be able to take action using that facility.

Dr Glen: I would concur with that. If you think about the practicalities of lay leaseholders taking on a plc on a block-by-block basis, just having the financial capability to do that, let alone the expertise and the time, is beyond them. It is one of those things, I hate to say, that sounds good, but in the real world will be very difficult and does not help.

Q128 Mike Amesbury: At the moment, it is six years or so, isn't it? Is there much evidence of people pursuing their claims successfully under the current regime?

Martin Boyd: No, there is very little. We were aware of one London site that began to go down that route, but the developer agreed to settle before court proceedings were served.

Dr Glen: Likewise, I concur on that.

Q129 Ian Byrne (Liverpool, West Derby) (Lab): Welcome to both of you as well; it is good to see you both. Can I ask quite a broad question: will this Bill protect leaseholders from any future financial impairments?

Dr Glen: I will start off on that one, seeing as Martin started on the last one. No, if you look at it, there are many aspects of it that will not protect. Inside the impact assessment, you will see that the cost is an estimated £200 per leasehold per annum, which does not sound much, but for some people that is the difference between having food on the table and not. Also, outside of that is the cost to remediate any defects that could be found, and I believe the estimation there was £9,000, of which only a third—33%—was the external wall system. Let's say the building safety fund covers that: that potentially still leaves £6,000.

There is also the issue of the additional layers that are being put in: a building safety manager is not going to be a cheap resource. One of the things that we would be very keen on is a consideration of this. We are absolutely for increased safety, but we have to make sure that people can afford it, and that it is proportional as well. There are quite a few aspects of this that are going to be an unpleasant surprise for many leaseholders. I am a leaseholder: it is going to be a surprise for me as well when it finally comes through.

Martin Boyd: The Government have said from the outset that leaseholders should not pay. This Bill ensures that even if there were some possibility that they might not have to pay before, they will now. It is a very regressive system. It may be okay if you own an expensive million-pound flat in London, but if you have a £120,000 flat that you bought somewhere up in the north-east or north-west, and particularly if you are a shared ownership buyer, it is going to destroy your life.

Q130 Ian Byrne: What would be the solution in your eyes, Martin?

Martin Boyd: Unfortunately it begins, "I wouldn't start from here." We have got ourselves into a very difficult position, principally because the Government did not react quickly enough in 2017, so we now have huge problems with the housing market. It is very difficult to sell flats. There is a great deal of uncertainty about what is going to happen. We thought we had just got used to the external wall system and we are now moving towards EWS being replaced by the British Standards Institution publicly available specification 9980. Any market needs confidence, and at the moment we are not doing anything to get that confidence.

What has happened in other countries, which seems to be slightly more successful, is for the Government to make decisions about which buildings they think are of higher risk and which are of medium and lower risks, and prioritise the work. In some instances here, we are remediating low-risk aluminium composite material buildings more quickly than ACM buildings that are still fully clad 51 months after Grenfell.

The Chair: Daisy Cooper.

Q131 Daisy Cooper (St Albans) (LD): Thank you, Chair, and excuse me for being slightly late to arrive. In your second point in your written evidence, Dr Glen, you say that ARMA has publicly supported the polluter

pays principle. As I understand it, the way this principle works is that the Government would fund remediation up front and they would then endeavour to recoup that money from those who are responsible, reducing the impact on the taxpayer. There would be a role for a regulator to determine whether something was or was not compliant at a particular point in time, and, by going through the regulator, litigation would be reduced. This process would sort out remediation quickly, protect the public purse, go after those who are responsible and avoid going to the courts. I would welcome thoughts from both of you on this particular principle, particularly any reason why a Government would not want it.

Dr Glen: It follows on from what Mr Byrne was saying about how do you think we can get around this. At ARMA, we have always said, right from probably a week after Grenfell, that time is the issue and not the money, and that we should get people safe first and worry about who pays later—but here we are four years later and we are still dithering around about exactly who should pay and who should not.

For me, because of the scale, the only way to get people safe is for Government to put the money forward to forward fund it, because other schemes might require a time delay while funds are brought in or while disputes go on. However, I do not think the Government or the taxpayer should pay in full. There is some culpability where, for example, having oversight has failed, but there are instances where the Government and the taxpayer have nothing to do with it and should not foot the bill.

Let us get people safe first by providing that funding, and then find out who should pay, perhaps people who have pushed forward products that are not fit for purpose or people who have constructed badly. There will be instances, I am afraid, where leaseholders might have to pay. If we have a 15-year-old building, we have taken the cladding down and sadly the concrete is 15 years old, it is going to need some repair work. It is nobody's fault apart from Father Time. In that instance, maybe the leaseholders should pay for that. It is a different question if they might not be able to, in which case let us have some grants available.

I am staggered that four years on from Grenfell I am answering the same questions with the same answers. That is why we support the polluter pays Bill, because unlike some other amendments we have seen in the past that show that leaseholders should not pay, which we absolutely agree with, it provides a route to pay. One thing about leasehold service charges is that if there is no money there you cannot do anything. Finding people who should not pay does not help remediate the buildings. It just makes it more difficult, in a way.

Martin Boyd: We put forward a proposal last year for a levy scheme to introduce £12 billion into the system. It was a project that was primarily developed by a former Bank of England economist, and the proposal was that the money would be provided. and then would begin to be repaid after five years. The Government would have five years to decide who should contribute, and that would obviously be a mixture of the developers and the material providers, and possibly even the leaseholders—who knows?

Unfortunately, at the time the Government wanted to develop their own levy scheme, so we have the proposed £2-billion developer levy, but that does not get us enough; we still need to put £12 billion to £15 billion into the system. It cannot come from the magic money tree. We need to have a rational policy. Leaseholders have been screaming for ages that they want a solution. None of them thinks that the taxpayer should pay for this. Perhaps some do, but most of them are realistic in accepting that we need to find a financial solution that gets us out of the mess, because if we do not the housing market will stay in crisis for years.

Q132 Daisy Cooper: Thank you for explaining why you support this principle. A small supplementary. To play devil's advocate—I am perhaps inviting you to do the Government's job for them—do you think there are any reasons the scheme would not work? Can you see any holes in it, or problems with it? Is there any reason why you think anybody might object to this particular proposal?

Martin Boyd: On the specific "polluter pays", we have not seen the detail yet, so we do not know. The difficulty, as has been referenced in a number of witness statements to the Committee, is that a lot of the developers have used special purpose vehicles, so we do not know yet what proportion of the market would be able to recover from this anyway. The building in which I have a flat is 20 years old. I have to accept, in reality, that even if my developer had done something wrong it is rather stretching things to think that I could go back and take action against them.

Dr Glen: It is a very complex situation. If it wasn't, we would have found the solution a long time ago. Is it perfect? No. Is it a good start? Yes, and I am very happy with good starts.

Q133 Siobhan Baillie (Stroud) (Con): This is such a difficult area, and it has been very distressing for people who have been affected by the fire. We heard some really compelling evidence about the safety of high rises, and how to strike a balance of proportionality with the legislation, which is not easy. I think nobody expects the taxpayer to pay up front for everything. You have just said that, Mr Boyd, and that is completely right.

I was interested in your point about grants, Dr Glen, because ultimately we know that quite a lot of businesses have gone bust. Your proposal that we effectively get the taxpayer to foot the bills upfront, knowing that there will be a big gap potentially, is a problem. I am just playing devil's advocate. On your point about grants, you are suggesting that the taxpayer pays. That is a point of concern for people who are not affected by this and are thinking about the overall financial purse.

Dr Glen: I understand that. The specific example that I was using for grants was that we strip a building down, take the cladding off, look at the building and say, "Oh my gosh. Something has happened to the concrete." I completely understand why the Government should not be making every building as new. It is the practicality, because the way that service charges work means there is no profit margin in them. If there is any leftover at the end of the year, you give it back. If there is a deficit, you demand it.

This is the problem: let us say that you, Siobhan, are a leaseholder in a particular building, and I say, "Terrible news: we've found that there's a bit of problem with the concrete, so we need to do some work on that. It's not

applicable for the building safety fund because it's nothing to do with the cladding; it's just Father Time." If you then say, "I'd love to—I can understand where you're coming from—but I just don't have £2,000," what do we do? If you do not pay, the others should not pay for you surely, so suddenly I am £2,000 short. That means that I cannot do anything as a managing agent, because I cannot place that contract. I am talking about short-term mechanisms to mean that we can get that building safe. That is why it is a complex situation with no absolute way forward.

On should the taxpayer pay—I am a taxpayer and would like not to pay—it is undeniable that, under successive Governments, there have been changes in regulation where, perhaps, a developer has said, "I would like to put this material up—it's not cheap— can I?" and the local council has said, "Yeah, it's fine". That same local council and, in fact, sometimes the same person, is now saying, "Actually, you shouldn't have done that". Is it right that the developer or whoever in good conscience who did what they thought was right at the time should pay, or is that something where we should say, "Sadly, there are some things that taxpayers should front up for"? It is a very complex situation. I come back to it again: there is no single solution. The only one I can see is to let the Government pay now and then figure out how to get the money back later.

I would like to think a bit further than that. This will not be the last issue we have in housing over the next decades. Let us form this fund, so that when whatever it is that next comes up, whether it is something toxic that we did not know about or something else, money is in the bank so that we can start moving on these things straightaway. Let's think forward as well.

Martin Boyd: I have a letter sitting here from officials in December 2017, after we had written to Ministers saying it is very urgent that Government intervene early on or we will end up with leaseholders going through a rather nasty experience that will drag on for years. I did not think at the time it would be so many years. The assumption was that, well, of course, the law will allow you to take your building owner, as we keep saying, to court and make them pay. It has not happened. The law was never ever going to make that happen.

The statements that we made have been made in Parliament too, and said that building owners should do the right thing. It is not what the law says they should do. They are under a fiduciary duty to represent the interests of their company. If you happen to own ground rent investment and therefore are deemed to be the building owner, which will only represent possibly 1% of the property value, or even less, how on earth are you expected to pay to remediate the cladding? It was never, ever going to happen. Grants have been the only way the system would work from the very beginning. I think it is still the only way that we have left.

Q134 Mike Amesbury: Various Ministers have promised 17 times. The language has slightly changed. Originally, it was

"to protect leaseholders from historical remediation costs",

and then it was "unaffordable costs". Does this Bill do that? What key things are missing from the Bill?

Dr Glen: No, I do not think it does, because the Bill says that historical costs can be levied on the leaseholders at 28 days' notice et cetera. I heard in an earlier session about whether that would really help. It could increase costs, because we will have two separate charges now. We might want to touch on that later. No, it does not. There are some amendments around. As we said, the polluter pays is part of the amendments, because we need to try to figure out where the money is coming from. I go back to my earlier statement: the only way I can see it happening, unless we are going to be here in four years' time still discussing this, is something big like Government—I think the Government are the only size that can do this—to make sure that we front-fund pay. Then, absolutely, Government should figure out how to get the money back to protect the taxpayer. So I do not think it does it, in short.

Martin Boyd: I agree. I have nothing to add to that, it is just not going to do it.

Q135 Ms Marie Rimmer (St Helens South and Whiston) (Lab): On a similar line to my colleague on the right, will the Bill deliver what we are looking for in the future? We are talking about a Bill for the future and not historically. Does it handle the design of buildings? Does it adequately answer the questions about construction, materials and insurance? Will it prevent future incidents such as Grenfell?

Martin Boyd: No. Judith Hackitt said the problem is that we need a fundamental culture change in the industry, but I have to defend the industry. If you are providing into a market that says, "You have liability for a product for two years. After that two years, the liability moves over to a warranty scheme for another eight years, and then after that you walk away scot-free," how does that encourage developers to produce high-quality products? The Bill reinforces that because, again, we have a new homes ombudsman. For two years, we are not proposing to change in any way the idea that somebody builds a building, keeps quiet for two years that they have problems with it, and then says, "I'm sorry, Mr Customer, you are not protected by the normal Consumer Protection Act rules because this is a property, not a toaster."

Q136 Ms Rimmer: Thank you. Do you concur, Dr Glen?

Dr Glen: I do. As we discussed earlier, if you look at the Law Commission reforms on enfranchisement, right to manage and promoting commonhold, you see that a drive of Government is for self-determination of a block. Looking at future blocks, where you have lay boards trying to unpick something that happened 12 years ago with a plc developer, I do not see that as a realistic scenario, so I do not think the Bill works.

The other issue is that there are many things in the Bill and in the Hackitt reforms that are admirable in helping, protecting and improving safety for new builds going forward, but what on earth do we do with the 4.6 million-plus leaseholds that we currently have?

Martin Boyd: May I add one thing? We have a problem in this country. If you buy a leasehold flat that is new, it is never surveyed. You do not have a survey of that building. In other countries that have a commonhold system, part of the conditions of the initial purchase is that a completely independent survey is carried out that validates that the building has been created to a reasonable standard. We are proposing part of that within the Building Safety Regulator, but there does not seem to

be a final sign-off that says, "Here you are, Mr Customer. We have checked the building for you as the customer." That would make things an awful lot easier than creating yet another ombudsman, who in reality will do like most other ombudsmen do, which is reach some small decisions but find it very difficult to reach big decisions.

Q137 Shaun Bailey (West Bromwich West) (Con): Forgive my ignorance in asking some of these questions, but I want to go back to your response to my colleague Siobhan Baillie and look a little more at the responsibilities of the freeholder. My experience and understanding is that developers sometimes sell freehold a block that they develop. I am conscious that there are many different ownership structures and different types of freeholder, and I am acutely aware, for example, of the pressures on social landlords. As part of the broader conversation that the Bill is bringing about, do we need to re-examine how we look at freeholders? I want to try to square this circle a bit. If I am a freeholder with a lucrative portfolio of tower blocks and properties, how do we square that with the pact with taxpayers, particularly in my constituency, which is the 14th most deprived borough in the country, who would look at that and say, "We are paying to remediate this for you?"

Martin Boyd: A similar issue cropped up during the passage of the Water Bill, where it was argued that leasehold properties should be excluded from the protections of Flood Re because it was a commercial policy taken out by the freeholder. Everyone in the leasehold sector tried to explain to the Government at the time that that is not how it works. The bills are all being paid by the leaseholders; it is just that the landlord is deemed to pass this on.

The difficulty we have with freeholders in the leasehold system—you heard from Richard Silver this morning—is that they have no interest whatsoever in the quality of the building. It makes not a cent of difference to their profit line whether that building is falling down or is in pristine condition. The only people who are concerned about it are those who live in it. The freeholders will say, "We have a long-term interest in the estate," which is rather interesting because Long Harbour has been in existence for less time than we have, and we have not been around for a huge amount of time. I have owned my flat for twice as long as Long Harbour has been in existence. So you have the problem that until we move to a commonhold structure, you have a conflict of interest between somebody deemed to be the building owner, who is only interested in how they make a profit from the building. and all the people who live in the building, who want to ensure that it works for them. Some will want to reduce costs, some will want to invest for the future, but they will all have an interest in the building and about the fact that it is in good condition.

Dr Glen: As I mentioned earlier, it is a very complex situation. If we look at the portfolio of ARMA members, where we know who owns the building—is it leaseholder-organised, with residential management companies and right-to-manage companies, or is it third-party landlord?—in 60% of the cases we know about, there is a leaseholder structure. So when you say the landlord should pay, in many cases that is going to be the leaseholders, because they actually own the freehold.

I remember an interesting discussion I had with a colleague of yours, Hilary Benn, about the idea of a compulsory purchase order. We took him through the economics. As Martin alluded to earlier, you see this big building and you think "Gosh, that must be worth a fortune," whereas in fact it is really a financial instrument. The value of that to the freeholder is typically what the ground rent is over a certain period of time. If the ground rent is £200 and there are a hundred units there, that is £20,000 a year. So if you go to somebody and say, "Unless you pay £2 million to remediate this building, I will compulsory purchase order you," and that somebody is thinking, "Well, I only get £20,000 a year," that person will kiss you and say, "Give me market rate, CPO me, and you have now just taken on a £2 million problem."

So although it sounds good, I do not think that is the route. The danger is that by saying "Ooh, yes, we can get the freeholders to do it," unfortunately all that means is that it gives false hope because there is not that bucket of money there. So again, be careful, because many RMCs and RTMs are also the freeholder and we do not want to put them in the firing line either.

Q138 Shaun Bailey: That is really useful. Coming back to a point that Mr Boyd made, which I wrote down, would you say that one of the things that we have to combat with this Bill and subsequent legislation is around "market culture"? That is what I wrote down. Effectively, Mr Boyd, you said in your comments that a freeholder does not really care about the condition of that building. It does not matter because the profit margins are still the same. It ties in with the point you made, Dr Glen, about commonhold, in that it is this engagement piece and the power structure. We lauded commonhold when that first came out as a brand new, fantastic way we were going to do this, but if we are being honest, it has flopped, has it not? It has not really been taken up in the way anyone thought it would be. Do you think there is scope here, or should there be some way we can mandate better engagement between those different structures—developer, freeholder and leaseholder? Do you think that would go some way to deal with that market culture—those behaviours that really do seem to be at the core of some of these issues?

Martin Boyd: I have to declare an interest in this. When we started the meetings in Parliament in 2014 that looked at commonhold again, we were quite agnostic. The view was it had failed in this country, and we were quite surprised when we got to our first meeting and while the officials all told us "No, the market does not want this," the whole sector told us that the Government had messed up the legislation; it did not work. So the initial big developments that were started in Milton Keynes had to be stopped halfway through because the law just could not cope.

I do not think that there is ever a way of joining the interest of the landlord and the tenant; very often, they have fundamentally opposing interests. I am part of the landlord of our site. We bought our site from our previous landlord for £900,000 in 2013, after several years of court battle. The site is worth about a quarter of a billion pounds. We still hold our freehold on the books at £900,000, but it is now actually worth diddly squat, to use an inappropriate phrase, because we commuted the ground rent. We therefore do not have an asset in the freehold. All the asset is held within the flats. We have a structure that copes within the leasehold system, but it would work much more effectively if it was a commonhold system.

Q139 Shaun Bailey: Dr Glen, do you have anything to add?

Dr Glen: I am a bit wary about looking at the ownership structure, simply because if we waved a magic wand and all those buildings were today commonhold, everybody living in them would be in exactly in the same position. It does not solve anything. You can argue, "If it was commonhold, they could maybe sell some air space and generate a few million," but that is sort of selling the family silver. You could do that to put new boilers in.

More generally, there are things that legislation can do. I am a big fan of mandatory, independently set reserve funds because buildings deteriorate after a time. Naturally, people say, "You want me to pay for something that won't happen for 25 years. I'm going to be out of here in five, so I don't want to pay towards that." We see that when dealing with boards, which naturally look at whether they can put a sticking plaster on something rather than committing to major expenditure. Other things can be done to help.

How can you resolve the relationship between landlords and leaseholders? As Martin says, sometimes their interests are diametrically opposed, and they are within the organisation. I am painfully aware of many RMCs—my firm almost used to do nothing but RMCs—where you have a dichotomy between the buy-to-lets, who want the minimum service charge possible, and the people who live there, who want the place to be nice and cleaned every single day. You will still get that conflict. The problem is people who are not related living together in close proximity. Communal living is one of the issues. I do not have an answer for you.

Q140 Daisy Cooper: I think it was Martin who, answering an earlier question, said that under the commonhold system, there is a requirement to provide a full, independent survey, and that that provides a level of accountability to leaseholders. Do either of you have any suggestions about how you would embed the residents' voice and accountability to leaseholders and residents through the new scheme, whether in legislation or the new regulatory system? We have been grappling with that throughout the evidence sessions.

Martin Boyd: Unfortunately, my view is that the residents' voice section of the Bill and the HSE's current work is the weakest element of the whole process. The Government have not dealt with the issue of the residents' voice particularly well for a very long time. There is no system at all in either the social or the private sector for the proper representation of everyone's interests.

As we said, the landlord is obviously sitting in conflict. Under the Bill, I get to sit in conflict with my leaseholders because I have become the accountable person. Under me, I have a responsible person—one of Nigel's managing agents—who will employ the building safety manager. With my landlord's hat on, I am liable if things go wrong, but I have no responsibility for any of the costs. All the residents have full responsibility for the costs, but no control. It is only because I am a landlord and a leaseholder that we get that common interest. In both the social and private sector, we have had landlords who have undermined effective resident engagement for decades.

Early in the Bill's passage, we set out a proposal for a formalised system to create a residents' group on every site, and the view at the time was that that sat outside the Bill's purview, but there is no point in setting up a system for cosy little decisions to be made that filter down to the residents, where you hand them a nice little infographic saying, "Please don't store petrol in your flat." That is what has been done. The social sector best practice group has produced an infographic, and one of the diagrams says, "Don't keep petrol in your flats." Well, if that is our view of the intelligence of people who live in flats, we have a very, very long way to go.

We need to take a very different approach to resident engagement, and what I have said to officials is that, rather than take a top-down approach—assuming that we call the landlord the top of the system—it should start at the bottom with people who actually live in the buildings. Give them the facility to organise themselves and represent their common interests.

Dr Glen: As a managing agent, I would much rather deal with a representative committee of residents than each resident individually, because obviously time is involved in that. It would be nice to think that those residents will represent everybody—that would be nirvana—although it will not always be the case.

This is a really difficult issue. It is always a surprise that people do not realise that managing agents often do not know who the resident is. Somebody will hide the fact that they are sub-letting, for a variety of reasons. They might not want the taxman to know that they are receiving rental income. They might not want to pay a sub-letting fee, or they might not bother to get around to it.

It is difficult to engage with residents when you do not know who they are, but capturing their voice means we have to do that. We also have to filter it. I will give you an unfortunate example that I read about on LinkedIn over the weekend. A firm that specialises in out-of-hours said that they had had a complaint from a gentleman. It was about an issue that did not need instant attention, because that would cost four times as much and he could wait until Monday. The firm received 155 phone calls from that person over two days, most of which were abusive.

Something I put in my paper was that we need somehow to figure out how to filter this. The example I gave was someone saying, "It's a bit dark in this corridor." Is that a complaint? Is it just ruefully saying, "My eyes are getting old," or do I, as a managing agent, have to log that, report it to the regulator, track it and bring in somebody to install new lighting at the cost of £2,000 that weekend? I do not know.

This is a difficult area to get into, but the more we, as managing agents, can get a collective response, the less admin you are doing trying to deal with absolutely everybody.

Q141 Ruth Cadbury (Brentford and Isleworth) (Lab): I want to ask you both about the issues we were exploring in the earlier sitting on the capacity, skills and responsibilities of the accountable person and of the building safety manager. Martin, your situation is relatively unusual—certainly, in my casework, I am not aware of leaseholders also jointly owing the freehold of their block. Some of them are resident management organisations, so they contract the managing agents but do not have an ownership responsibility. Is it clear in all circumstances who the accountable person or persons will be? Has adequate thought been given to the skills and responsibilities of the accountable person and the building safety manager?

Martin Boyd: The answer on whether it is fully clear—I think we would fully agree on this—is that when you get into complex sites with mixed private, social sector and commercial, you are going to have a number of accountable people, a number of responsible people and, potentially, a number of building safety managers. The potential for conflict there is enormous.

The issue I have with the Bill is this: I can accept that you want to make me accountable if I get something wrong, but the Bill, if we use the analogy of cars, is trying to make me responsible for the fact that Mercedes produced a diesel engine that broke the rules. I did not design the building. I did not build the building. I am responsible, and fully accept I should be responsible, if we do something wrong with the management, but we, effectively, are non-exec directors. At any large site, that is how it will be.

Residents do not run their own building unless it is very small; they will contract and employ a professional managing agent. In turn, there is no such thing as a building safety manager at the moment. I do not see why they are needed at all in the occupation phase, because what a professional property manager does is contract a relevant expert when they are needed. If the air conditioning system, the lift system, various plant and machinery or the fire alarms need to be updated, they will go out to a relevant expert.

The idea that we are somehow going to put that expertise in one individual and that they will make the decisions is just going to cause conflict. The property manager will be trying to budget for how they plan to look after the building for the next five years, and the building safety manager will have a different set of priorities. As far as I understand it, the building safety manager wins—so what happens if the building safety manager spends all the money and there is nothing left for the property manager to spend? The answer is that they will just have to put up their bills, so we will have one set of building safety charge bills getting bigger and bigger, and another set of normal service charges getting bigger. It will cause problems.

Dr Glen: A big worry for me about the impact of having an accountable person, particularly where there are lay boards, is, to put it succinctly: who in their right mind would agree to be a director with that level of accountability? What are we going to do in those circumstances?

We have talked about potentially bringing in professional directors—that is one possible route, if the lease allows it, and that would be a cost, again. That is going to be an issue, I believe, for anybody in their right mind taking on that level of responsibility. What this might mean is that there are no leaseholder-led boards—they might appoint a professional who then appoints and instructs the managing agent accordingly, but you might see residents' management companies and right-to-manage companies disappearing.

Martin Boyd: I think there is a risk, because if you want to make me responsible for Mercedes, you need to put me in charge of Mercedes. I am not going to do that, so I am stuck. People who sit on the boards of RMCs usually consider the matter quite carefully. You are taking on a serious responsibility, helping to look after the lives of other people. But you are doing it as a non-exec.

I make it clear to the rest of my board on regular occasions: "You do not interfere in operational matters." We employ professional managing agents to do that. I think that the legislation needs to be structured to allow that non-exec position to continue because if you want to say, "I am suddenly going to make you criminally liable for matters you don't control," Nigel is right: who is going to be stupid enough to take that role? More importantly, a representative of the Association of British Insurers will be speaking to you in a while and I think you are going to struggle to find anyone who will insure that role or those of the building safety manager and the responsible person.

The Chair: If there are no further questions, I thank the witnesses and we will move on to the next panel.

Examination of Witnesses

James Dalton, Steve Wood and Dr Sarah Colwell gave evidence.

2.44 pm

Q142 The Chair: We will now hear from James Dalton, Steve Wood and Dr Sarah Colwell. To remind everybody, we have until 3.30 pm for this session. Could the witnesses please introduce themselves for the record?

James Dalton: Good afternoon. My name is James Dalton. I am the director of general insurance policy at the Association of British Insurers.

Steve Wood: Good afternoon. My name is Steve Wood. I am the chief executive of the National House Building Council.

Dr Colwell: Good afternoon. I am Sarah Colwell, the director of fire suppression testing and certification at BRE Global Ltd.

Q143 Daisy Cooper: Thank you all for coming today. I was particularly struck by a statement in the ABI's written evidence:

"Although the frequency of fires over the last 10 years has decreased, insurers have seen a significant increase in the damage and costs from fire spread".

I do not believe we have heard that from anyone else in our evidence so far. I wondered whether you could tell us a little more about that, particularly in terms of what kind of emergency status fire remediation should have attached to it and what the impact of the increase in damage and costs has had on the insurance industry and on leaseholders.

James Dalton: The insurance industry has been calling for a significant period, including well before Grenfell, for significant reform to the building safety regulatory framework, including in terms of fire safety. Over the last decade, we have seen a reduction—with the exclusion of Grenfell, obviously—in the overall number of lives lost in fire. I think the Government statistics will bear that out. Over the same period, however, the insurance industry has seen a significant increase in the overall cost of fire claims, including but not exclusively from residential buildings.

If I include all commercial fires—in warehouses, commercial premises and residential building blocks, for example—there has been a significant increase in the cost of fire, but we suspect that one of the reasons

for that is that, as we now know, fire spreads much more quickly than had previously been anticipated in the context of such things as modern methods of construction, including all the issues that you have been hearing about in the context of cladding in particular, and wider fire safety defects that we have found in the post-Grenfell world.

Q144 Daisy Cooper: As a supplementary, could you comment on the second part of my question, which was about the impact that this has had on the industry, and on the insurance costs facing leaseholders?

James Dalton: The significantly increased cost of fire is obviously passed on to all premium payers through increased premiums. For leaseholders in the post-Grenfell world, there have been very significant increases in the cost of insurance for some of the buildings that have been identified as most at risk.

I and the insurance industry particularly empathise with all leaseholders who have been affected, and we have worked hard to ensure that where buildings have not been able to access insurance, we have tried to facilitate insurance. The sad reality is that, in the absence of a quicker remediation programme, those leaseholders will continue to face increased insurance premiums.

Q145 Ruth Cadbury: Just a quick supplementary, because I will have to go shortly. You said that the fires that have happened have spread a lot faster in residential buildings in recent years. Is that a UK issue or is that an international issue in similar types of buildings?

James Dalton: I would say that it is not just residential; it is in a number of buildings. If you think about the significant increase in online shopping, for example, which has driven the development of very large non-compartmentalised warehouses: those are very significant fire risks because they lack the structures internally. It is a problem that the insurance industry is cognisant of both here in the UK and internationally.

Q146 Ruth Cadbury: Comparing residential buildings in the UK with those in other countries, have new forms of building internationally seen this growth in high-speed fires, or do we have a particular problem in the UK?

James Dalton: I am not aware of issues in other jurisdictions. It is not fair to talk about the UK as a whole, because Scotland has a different regulatory framework, but I am aware that in the UK there are policy issues that we as an industry have long been calling for—for example, the mandatory installation of sprinklers in all new buildings, but particularly those that house and protect the vulnerable such as schools or care homes. Frankly, it is beyond belief that it is not mandatory to include sprinklers in those buildings when they are newly constructed. I am conscious that I am probably not answering the question, but I do not have any information and I would not want to mislead you. I can follow up in writing with research done by colleagues, if that would be useful.

Q147 Selaine Saxby (North Devon) (Con): In your view, what is missing from the Bill? This is for each of you, starting with James.

James Dalton: I thought you might be sick of hearing from me!

Let us start with what is good about the Bill. I think there is a lot in the Bill to welcome in the context of Dame Judith Hackitt's golden thread of information. The devil will be in the detail, so we await with interest the secondary legislation that will underpin the Act. A lot of the technical detail is going to be there, and our industry along with many others will want to analyse and scrutinise that legislation.

What is missing from the Bill? If I am honest, we do not understand why the framework does not apply to buildings under 18 metres. Fire does not affect just those in buildings over 18 metres—it affects all buildings. Some of the most egregious examples of buildings that have been covered in cladding, with woeful fire protection mechanisms, are under 18 metres. We certainly think that the Committee should carefully consider applying the provisions of the legislation to buildings under 18 metres.

Steve Wood: I would support what James said. There is a lot that is good in the Bill and the NHBC supports the principles of the Bill. In terms of what is missing, it places a single Building Safety Regulator across the whole sector, private and public, and we suggest it is important that the regulator appoints to building control bodies on the basis of competence—not whether they are from the public or private sector. That is an area we are concerned about.

We welcome the single regulator, but please appoint to building control on the basis of competence; otherwise, there could be real issues in terms of capacity and confidence in the sector, which might slow down new home building and potentially lead to less safe buildings. From the previous session, and reinforcing what James said, there is still quite a lot of detail to work through in the secondary legislation. That includes details around accountable persons. Given all the people involved in the design and construction phases of developments, particularly complex developments, we should work harder to get accountabilities clear where we can. There is more to work through on product certification as well, but someone on the panel will be more of an expert on that than I am, I suspect.

We welcome the Bill, but there are a few areas that need to be worked through to get it right. The principle should be to build right first time to avoid these issues. There are big structural challenges in the industry to do that, and that is where the focus should be.

Dr Colwell: I would agree with the previous panellists: it is a welcome Bill with a lot of good frameworks and overarching challenges within it. We would all agree that, as practitioners, the devil will be in the detail as to how that actually comes into place. Going forward, we welcome the introduction of the competency roles, and the understanding of building materials and the role they play within the structure.

Throughout this process, one of the things that has been commented on frequently is the golden thread. The one thing that we are seeing and hearing throughout these sessions is that the thread is more complex, and is potentially a network or a web. As such, the legislation that supports this—the secondary and the line part—needs to be clear that it does not end up conflicting, but rather carries the whole process through and leads us to safe buildings.

Q148 Ian Byrne: James, I want to tease out something that you just talked about now, which was the issue of sprinklers. We are talking about the Building Safety Bill, so would mandating the installation of sprinklers in all buildings make them more safe?

James Dalton: The answer to that is probably best delivered by technical experts. From an insurance industry perspective, there is no doubt in my mind that a building in which there is a fire and in which that fire is put out much more quickly than would otherwise be the case in the absence of sprinklers would probably, first, save lives, and secondly, result in significantly less damage to the building from fire. In that context, I suspect those buildings would be cheaper to insure.

Q149 Ian Byrne: So that is a glaring omission, in your opinion.

James Dalton: As I said in an answer to a previous question, the insurance industry has long argued that it should be mandatory for new build buildings—in particular those that house vulnerable members of our community such as care homes and schools—to have sprinklers.

Q150 Ian Byrne: Does anybody else want to come in on that?

Steve Wood: I support what James said. I think it should be more risk-based in terms of the approach and it should be part of the planning and sign-off on any new development. I do not think we should draw up arbitrary lines on sprinklers by height or floors. It should be risk-based.

Q151 Ian Byrne: Back to James: are there risks that duty holders will struggle to access professional indemnity insurance? If so, what would be the consequences?

James Dalton: As we made clear in our written submission to the Committee, the professional indemnity insurance market internationally and particularly in the UK—especially in construction and building—has very significantly hardened at the moment. That is due to a range of factors.

One of the things we want to understand in more detail from the secondary legislation in the Bill is the specific regulatory requirements on those professionals involved in managing a building because that has an impact on whether, the extent to which and the price for professional indemnity insurance that could be available.

As I said in answer to a question on this in the pre-legislative scrutiny of the Bill, now is not the best time, frankly, to be introducing new requirements on new professionals in building and construction from a professional indemnity insurance perspective. The industry wants the detail and I am committed to working with my insurance company members to understand what the availability and cost of professional indemnity insurance might be once we have the detail.

Q152 Ian Byrne: Would anyone else like to comment?

Dr Colwell: From BRE's perspective as training providers in this field, we welcome the clear definition of roles within that, but the thing that goes hand in hand is to understand the scope and the levels that we are expecting within that competency to enable the insurers and end users to be able to benchmark the suitability of that training.

One of the things we look forward to in further legislation and also with the support of the regulator itself is looking at where each of those roles begins and ends. We heard it being said in the previous session how those sometimes do not necessarily join up and people make assumptions about where something begins and something ends. Also, within that, how are we going to take that training forward? How are we going to measure that training? Are we going to make them professional qualifications or managed qualifications? Is there an overarching syllabus that we would expect each of the roles to answer to or will it be left to training providers to interpret the guidance given in the legislation to deliver appropriate training around those points? That is an area that we would seek to build on.

Q153 Ian Byrne: Has there been any dialogue with the Ministry of Housing, Communities and Local Government regarding training and what you have just outlined?

Dr Colwell: As part of the development work, we were part of the working group 8 looking at competency development. We are actively working with the regulator coming in on that and also within the Department as to where we would like that to go forward to.

Q154 Mike Amesbury: Will the measures in the Building Safety Bill increase or decrease insurance premiums on at-risk buildings? I noted that in your evidence, James, you referred particularly to extending the scope of the Defective Premises Act 1972 from six to 15 years. Could you expand on that?

James Dalton: Sure. There are two different types of insurance in play in your question. On the cost of buildings insurance, it is important to note—I think I heard this in the previous sitting—that the Bill is prospective. It is not retrospective except for the provisions that I will come to in a second. Will safer buildings be built as a result of the Bill and all the accreditation and certification, in terms of the golden thread? Buildings should be safer as a result. As I said to your colleague, safer buildings should be cheaper to insure, and that insurance should be more available.

On your question about the Defective Premises Act 1972, that issue is about liability insurance, not buildings insurance. The challenge in that space is that, without there having been consultation, the Bill retrospectively extends the period of liability from six to 15 years; some insurance policies will have excluded liability over and above six years. I do not know who is going to pay for the period between six and 15 years, when there is found to have been negligence. There may not be an insurer that is on risk to cover that liability. That is the big concern from an insurance industry perspective. Other insurance policies potentially would come on risk. Then we have a question about whether it is fair and reasonable to amend the Act retrospectively without consultation.

Q155 Kate Osborne (Jarrow) (Lab): My question is really aimed at Sarah, given her expertise. The Bill gives the Secretary of State the power to regulate construction products. Does it contain enough information about the new regime, and is there enough certainty about what products or type of products will be regulated?

Dr Colwell: An initial reading of the Bill in its current form suggests that the answer is no. Work will be required to ensure that we are clear on the standards

being applied and how those are being used in the framework. We also need provision for going from testing to third-party certification, to ensure that we have the provenance following through on the products being used and the context in which they are being used.

The Bill lacks a little clarity. As mentioned earlier, the detail will probably have to sit in a secondary framework if we are to ensure that we get to the level of implementation that gives us a clear playing field.

Q156 Daisy Cooper: To take you back to the previous question, James, you were asked whether building insurance would go up or down. In short, the answer was that it would likely go down for the new builds, but there is a question mark over historical buildings because of liability insurance. You said that you do not know how we resolve this problem between the six and the 15 years. From your experience in the industry, if there was to be litigation to try to determine an answer to that, how long would you expect that to take, and how expensive do you think it might be?

James Dalton: May I comment briefly on the buildings insurance point? I should have been clearer in my answer and said, "All other things being equal." I do not know what the insurance premium tax will be on the commission of buildings insurance, or what the wider regulatory environment will be like, tomorrow, next year or in five years' time. All other things being equal, the Bill should, overall, decrease the cost of buildings insurance. It is a very difficult question to answer.

As I said in my previous answer, some insurance policies will be clear. There will be some insurance policies where the businesses in question that were insured no longer exist, for whatever reason. The question then becomes how those affected leaseholders and/or building owners will exercise their rights under the extension. To answer your question, in my experience insurance litigation can be complex, expensive and lengthy.

Q157 Daisy Cooper: May I push for a little more detail on what constitutes "complex and lengthy" to your average person? Do you mean three months or three years?

James Dalton: On the question of the extension in the Bill, in some respects the answer is: "Let's see what happens as a result of this process and the wider parliamentary process." At the moment, we have significant concerns about the extension of the limitation period from six to 15 years. Once Parliament decides and legislates, and once the Act becomes operational, we will need to see what the ultimate regulatory framework looks like, and what the implications are from an insurance industry perspective. This is an issue that we are actively working on. It was, shall we say, a surprise for us to see this in the legislation. As I said in my previous answer, it had not been consulted on, so we are working through the potential implications, both from a regulatory and legal perspective, and that process is ongoing. I would like to answer your question, but I think it is too early to say.

Steve Wood: One complication is that there is too much scope for different interpretations by professional people of the existing regulations. That is why there needs to be much greater clarity in the Bill—to remove or minimise that risk. For example, competent people looking at the same external wall system could draw different conclusions about compliance with the building regulations. We have to avoid that, because it creates uncertainty. It does not help confidence in the industry, and certainly not professional indemnity insurers, when you have that sort of situation, because you are not sure what risk you are exposed to as an insurance company. That is why we have to remove the ambiguity in the legislation and make it crystal clear. The challenge that the whole industry and everybody has—regulators as well—is dealing with this legacy issue while trying to build a better future.

The Chair: If there are no further questions from Members, I thank the witnesses on behalf of the Committee.

Examination of Witness

Mr Matt Wrack gave evidence.

3.8 pm

The Chair: We will now hear from Matt Wrack, general secretary of the Fire Brigades Union. We have until 4 pm for this session. Could the witness please introduce himself for the record?

Mr Wrack: Hi, I am Matt Wrack. I am the general secretary of the Fire Brigades Union.

Q158 Rachel Hopkins (Luton South) (Lab): I draw attention to my entry in the Register of Members' Financial Interests as a vice-president of the Local Government Association. Thanks, Matt, for coming before us today. I have a couple of questions. The first is a wide one; then I will ask more about the regulator. Will the Building Safety Bill significantly improve the building safety regime in this country?

Mr Wrack: I think it will improve the building safety regime, and we welcome elements of it. Our assessment is that it does not go far enough. It is a welcome turn after decades of deregulation in public safety and building safety. Our union, which represents frontline firefighters, and our members who work in fire safety specialist teams have often felt like a voice crying in the wilderness on many of these issues for decades. We have objected to the growth of commercial interests in setting standards in the testing regime, and the approach to enforcement—often, regrettably, led by Ministers of different parties. We welcome the turning point in the Bill; it will help to clarify roles and responsibilities. We certainly welcome those elements.

Q159 Rachel Hopkins: A key aspect of the Bill is the establishment of the new regulator in the Health and Safety Executive. Are the functions and objectives of this new regulator appropriate? Does it have the right expertise and resources?

Mr Wrack: We have questions about the resources for the HSE. Whether it has the appropriate skills and expertise is a matter for it to discuss with the Government, and if it does not, it needs to be supported in delivering that. We have concerns about the scale of reductions in, for example, HSE inspectors; they have been reduced by something like a quarter over the past decade. The whole issue of resources runs through this debate on building safety. While we welcome the move towards

regulation, that regulation has to be resourced adequately, including in the HSE. That is a key issue the Government will have to address.

Q160 Rachel Hopkins: The new regulator will have to co-operate with fire and rescue authorities and local authorities or the private sector. Do you have any comments on those relationships?

Mr Wrack: I think this will become clearer as the Bill is implemented. There is an obvious point for fire and rescue services around what is meant by the obligation to co-operate with the regulator. Again, fire and rescue services have been subject to unprecedented reductions in staffing numbers over the past decade. That will raise questions about resources when it comes to their ability to co-operate with the requests of the regulator. In the impact assessment, there are suggestions of additional funding for fire and rescue services for that function; we would question how those figures have been drawn up and whether they are adequate.

Under the proposals, if, because of resource implications, a fire and rescue service could not provide assistance, the regulator has the ability to go to another fire and rescue service—or, failing that, to the private sector. We object to the role of private sector providers in that. If we have a problem with resources in the appropriate public service, then those resources should be provided.

Q161 Ian Byrne: It is good to see you, Matt. Is height the best measure of risk and, if so, is the threshold in the Bill appropriate?

Mr Wrack: Picking up on a point made in the previous session, we find the idea of a differential regime based on height somewhat illogical. In fact, the more I think about it, the more I think it would make sense to have a single system that is understandable to everyone, a single set of accountable people, and a single mechanism for making complaints and addressing problems.

There clearly is an issue around height in relation to building safety. As we put in our written submission, we do not agree with the 18-metre cut-off. We and others have said that if there is to be a height measure, a more logical one would be 11 metres. There are clearly differences between the fire risks in a traditional two-storey house and those in a purpose-built block of flats, where there are specific challenges. Some challenges are general across all forms of purpose-built blocks of flats; some of them apply at particular heights.

Clearly, there are additional challenges once you get to very tall buildings. They range from the ability of firefighters to fight a fire and rescue people to the importance of the internal building safety measures, such as the provision of dry rising mains, fire lifts and so on. All those things will be affected by issues such as the height of the building. As I think the National Fire Chiefs Council has said, it is a complicated issue because there are other factors, such as what has been done to the building and whether the building has been altered from its original design and construction. Lots of things need to be considered. Height in itself can be a bit arbitrary, and in our view the wrong height measure has been chosen.

Q162 Ian Byrne: We have heard a lot in the evidence sessions about culture and the prioritising of profit over safety and quality. Are you concerned that the poor state of buildings and the current culture put your officers at greater risk and in greater danger when there is a fire?

Mr Wrack: I was previously a firefighter in the London Fire Brigade—I have been in this position since 2005—and I think there is a problem with culture. I have lived through a decade in which the endless mantra from senior civil servants and Government Ministers of both parties has been that fire is a declining risk, and we can therefore afford to reduce our emphasis on fire safety. That was very clearly a theme that we heard for more than a decade. I think it fed through into the fire service itself, and senior managers and chief officers accepted that mantra. As I say, we were often a lone voice opposing that approach. That has allowed corners to be cut, and for deregulatory approaches to be taken. It has allowed standards to be cut. Over two decades, we lost something like 40% of fire safety inspecting teams. Then, of course, along comes Grenfell Tower, and people wake up to the fact that we have not been properly addressing risk.

To pick up a point made earlier by a representative from the insurance industry, one of the big problems in relation to fire safety and building safety in the UK is a complete lack of horizon-scanning. A question was asked about fires in the UK and elsewhere. The truth is that there have been warning signs from fires elsewhere. Clearly, you cannot necessarily draw an immediate analogy between a building in Europe or the middle east and one in Britain because the regulations may be completely different, but there were warning signs about external cladding systems, including in the UK. Regrettably, we have not had structures in place that allowed various professional voices, whether of construction specialists, building control specialists or fire safety officers, to discuss emerging risks and identify how we address them. I think a deep complacency about fire safety has emerged, particularly over the past two decades. Grenfell, hopefully, is a major turning point on that.

Q163 Mike Amesbury: Thank you, Matt, for everything that you and your members do. What is missing from the Bill? What would genuinely make buildings safer, and things a damn sight easier for your members?

Mr Wrack: A single system of regulation would be better than what is proposed. I understand that there may be a need for a phased approach, but I am not sure that is what is in front of us. I think that the 18-metre cut-off point is incorrect, too. There should be a move towards an elimination of private-sector interests in building control. The idea that people can choose their own building control system is wrong, and appears wrong to many people. Finally—this relates more to the background to the Bill—resourcing is a huge issue for us in the fire service, for local authority building control, and for the HSE.

Q164 Ms Rimmer: That covered part of my question, which was: were the Government right to retain the duty holder's power to choose a building control body? Will the reforms in the Bill fix the problems identified by Dame Judith Hackitt?

Mr Wrack: We welcome the commitment in the Bill to driving up standards. Regrettably, we in the union attend inquests, sometimes on the deaths of members of

the public and sometimes on deaths of our members. There have been incidents in which our members have died and it has emerged that the fire risk assessor in the building had no qualifications. That is quite shocking. It is a sign of a deregulated sector.

We welcome the drive to improve and professionalise standards operating in a whole number of areas; if you listen to the shocking evidence to the Grenfell Tower inquiry, you find it relates to fire safety awareness among architects, to fire risk assessors, and to building control. We have from day one opposed the privatisation of local authority building control. If you listen to the evidence from Grenfell, there have been unprecedented cuts in local authority building control teams. That was reflected in the harrowing evidence given to the inquiry by an individual who reported that his team had been slashed completely. He kept a notebook by his bed because he could not keep up with the scale of work.

If we are to take building safety seriously, we need to provide adequate resources to those organisations tasked with delivering it, and that needs to improve standards. In the fire and rescue services, cost-cutting has reduced fire safety specialist teams and the provision of training. In the fire and rescue service, over the past 15 or 16 years, there have been reductions in training across the board—from the initial training that firefighters receive on joining the service to the training they receive when they enter specialist teams, such as fire safety departments—and, in our view, reductions in standards. If we are talking about driving up standards, we need to invest in the provision of adequate training and support for people to adopt those standards.

Q165 Ms Rimmer: In the Health and Safety at Work Act 1974, there is a duty to provide adequate training to anyone carrying out a role in their employment. It seems to me that the resources have not been there to enable that training to be given. Where does the duty lie to resource people to do the training that, in law, must be given to everybody carrying out their role? You must be adequately trained to carry out your duties.

Mr Wrack: One of my roles, unfortunately, is to attend, participate in and support inquests and other inquiries. In virtually every inquest on the death of a firefighter we have ever dealt with, certain common themes emerge: command and control, resources and training. There are clear requirements under the Health and Safety at Work Act, which relates primarily to the internal workforce, and a raft of other legislation for public bodies such as the fire and rescue service to provide adequate standards in their outward-facing responsibilities to the community.

Q166 Ms Rimmer: Do you think placing the Building Safety Regulator within the Health and Safety Executive might improve the situation or do anything to address it?

Mr Wrack: It certainly will improve, because the current state of affairs is pretty abysmal. For us, one gap in fire safety and building safety policy is the lack of the broader structures that used to exist in the British fire service, from 1947 to 2004, whereby various stakeholders came together to look at legislation, changes in the built environment, training requirements and so on, and could develop best practice in the sector. We used to have the Central Fire Brigades Advisory Council. That no longer exists and, as a result, there is a big gap in fire safety policy development in the UK.

It may be that the building advisory committee can play some of that role—precisely how that will unfold is a bit unclear, but it might play that role to some extent. But yes, the Health and Safety Executive potentially will improve things. As I mentioned, the key issue is resources.

Q167 Ms Rimmer: Is there still the facility to conduct desktop emergency incidents like the one at Grenfell Tower?

Mr Wrack: We would oppose the approach taken that enabled desktop sign-offs to be conducted. I am not clear whether that would be enabled under the Bill once it has been implemented, but it certainly should not be.

One of the problems highlighted by Grenfell is the weakness of the testing regime. The ability of manufacturers and developers, in effect, to design their own tests goes against the normal, everyday, common-sense approach to testing that people expect. You do not design your own MOT for your car; you go to a registered MOT provider and they test it for you. You do not choose your own driving test examiner; they are appointed for you. I would argue that in areas where a lot of money is involved as well as huge issues of public safety, you should have stricter systems of regulation, not more lax ones.

Q168 Brendan Clarke-Smith (Bassetlaw) (Con): There was mention earlier about pressures on funding and capacity, and so on, and you were asked whether there was anything that you would add to the Bill or that is missing in terms of relieving pressure. Do you not feel that the Fire Safety Act 2021 adequately dealt with many things?

Mr Wrack: I think we welcome both as steps forward. As I say, hopefully this is a turning point in the debate on public safety and building safety in Britain; however, I do not think there has been the relief on the financial pressure on fire and rescue services that I mentioned, and that runs as a theme throughout this.

I do not see how you can cut in the London Fire Brigade, for example, 25% of your fire safety inspectors and not think that that will have implications for public safety. Something like 20% to 25% of fire safety inspecting officers have gone over the past 11 years, and something like 40% over the past 20 years. That is a very significant reduction, and it clearly will have, and has had, an impact on the ability of fire and rescue services to conduct the level of inspections or audits that people would want them to undertake. We welcome that legislation and this Bill, but—you would not expect us to say any different—we think it should go further.

Q169 Shaun Bailey: I wanted to touch on accountable persons, because the Bill creates that role. One of the things that you have talked about throughout your evidence is the relationships that the fire service has to build with different stakeholders. What pressures do you think your members will have in terms of this new category of person? Notwithstanding what you said about resource, if tomorrow you had to build those relationships, operationally what would your members have to do? What pieces would they have to move around to ensure that they could adequately build those relationships with the accountable persons, who have this quite significant responsibility on their shoulders?

Mr Wrack: First, I welcome the accountable person role. I think that is a step forward, as one of the problems that we have had in terms of building safety is identifying who the relevant party is. It will create big challenges for various bodies in local government, and certainly for the fire and rescue service because there clearly are large numbers of such buildings—although they are concentrated, particularly with the 18-metre limit, in particular parts of the country.

It will create a significant challenge for the London Fire Brigade, for example, to monitor and keep adequate records of who the relevant accountable person is, and the relevant building safety manager who sits underneath them once the building is occupied. There are lots of operational challenges. Those points have been made by the National Fire Chiefs Council and others. I will keep banging on that it does raise significant resource implications, inevitably, for us.

Q170 Kate Osborne: Hi, Matt. Nice to see you. I was interested in the comments that you, and previous panellists, made on the mantra around fire risk. I was at one of the fire stations in my constituency within the last week, and one of the firefighters there was talking to me about how much more flammable both building materials and the furniture within are. Do you agree?

Mr Wrack: There are loads of things that come out of that. Building construction is always changing. A long time ago, as recruit firefighters, we were taught about building construction, but that was the building construction of the time—of the 1970s and '80s. Things have changed and as I say I do not think that enough horizon-scanning goes on about the emerging risks in how we build and alter buildings, and what we put in them.

On the question of furniture, again, my union has a very proud record. We led campaigns, including here, about foam-filled furniture and requirements to provide measures to address the impact that it was having in domestic fires. However, what is emerging today is a growing concern, across the world, around the contaminants that might be involved in fire-suppressing materials within foam-filled furniture—you solve one problem, but you may create another. There is a lot of work to be done.

On research, again, I think one problem that we have in the UK is a low level of public research into fire safety matters. Over the decades, we have worked with people at the BRE and so on, but much more needs to be done on that front. The fire risks are changing; the materials that we put into and on to buildings have changed, so they affect how buildings react in a fire.

Q171 Kate Osborne: We talked about the height of buildings, but, once built, a higher-risk building only remains within the scope of the regime if it has at least two residential units. What are your thoughts on that? Should it be restricted only to buildings that people live in?

Mr Wrack: There are other regulations covering office buildings. One big thing that has been highlighted by Grenfell is the difference in standards between high-rise residential blocks and an office block of an equivalent size.

In an office block, you would have far different fire safety measures, including two stairwells, regular fire safety drills and so on. Those do not exist in purpose-built blocks of flats, because those blocks were designed to deliver compartmentalisation—they were built to contain the fire within the flat of origin. What has happened in recent years is that that has broken down. I think that residential blocks are different from non-residential blocks. Whether two is the right number, I do not know.

Q172 Daisy Cooper: I could hear the frustration in your voice when you said that the Fire Brigades Union has, effectively, been a bit of a lonely voice in trying to raise awareness and concerns over the fact that, while there have perhaps been fewer fires, those fires have been spreading faster. Do you think that some kind of standing committee, or a mechanism where best practice and horizon scanning can take place on a regular basis, would be the answer or is there something else that could happen?

Mr Wrack: That sort of structure is precisely what is needed. The post-war legislation effectively created the modern fire service. It introduced such a body, called the Central Fire Brigades Advisory Council. It included the Home Office, the inspectorate, chief fire officers and the trade unions. We had a very close relationship with researchers at what became the BRE, the fire service college. It was a joined-up way of thinking about the risks of fire, but was eventually criticised for supposedly being slow. Looking back, I think that criticism was very badly placed. I look at how they responded to a fire in 1958 where firefighters were killed; within weeks, guidance was issued.

I must say that it takes much longer today to get a change, and firefighters on the ground are hugely frustrated at the slow pace of change post-Grenfell. In the 1970s, we did have bodies that were looking at the emergence of high-rise blocks of flats, and their implications on fire safety and firefighting. We do not have those anymore.

Then Grenfell came along. We had warning signs. We had cladding fires in Melbourne and Europe. My own union came to the House after a fire in 1999 to warn about cladding systems, so as long ago as 1999 we were making warnings about the new systems that were being put on blocks of flats, which created the risk of the fire spreading up the outside of the building, yet in the intervening years very little has been done to address that risk; to improve the knowledge on the part of firefighters on the ground; or in any way to prepare for what that might mean for the people living in those blocks of flats.

There has been a complete lack of joined-up thinking for more than two decades on fire safety, and I appeal to people to think about how that could be put right.

The Chair: If there are no further questions, may I, on behalf of the Committee, thank the witness for his evidence? I am going to suspend the sitting for 10 minutes until we can fire up our next witness on Zoom. Thank you very much.

3.40 pm

Sitting suspended.

Examination of Witness

Eric Leenders gave evidence.

3.57 pm

Q173 The Chair: We will now hear from Eric Leenders, managing director of personal finance at UK Finance. I just remind everybody that we have until 4.30 pm for this session. Eric, would you introduce yourself for the record?

Eric Leenders: Certainly. My name is Eric Leenders. I am the managing director responsible for personal finance at UK Finance. I am also a non-executive director, senior independent director and chair of the risk committee at the Buckinghamshire Building Society and a non-executive director of Registry Trust Ltd. I think it would be helpful for the record to also record that one of my staff, a senior adviser in my team, is a non-executive director on the New Homes Quality Board, which of course has some relevance to and may bear on the conversation we will have in just a minute.

The Chair: Thank you. The sound is still a bit faint, so if you could make a point of speaking up, we would all be grateful. We are going to start with Shaun Bailey.

Q174 Shaun Bailey: Thank you for being here today. I want to go back to a point that was touched on in our earlier session about market culture. The narrative that we have seen painted so far is that the present structure is pitting freeholders and developers against tenants and creating structural inequality. From your perspective, how far does the Bill go to balance that out when it comes to safety? Particularly thinking of your members and the stakeholders that you deal with, how far do you think the Bill goes and how much further should it go to try to address that and balance the playing field?

Eric Leenders: I think our primary interest, like the rationale for drafting the Bill, is to ensure adequate safety and protection for homeowners, so we all buy into that. To the extent that the Building Safety Bill gives voice to homeowners and perhaps particularly to leaseholders, we think it is very important. There are some details of the Bill we are likely to come on to discuss where other experts can support homeowners and leaseholders, particularly regarding safety standards. Our primary interest as lenders, of course, is to ensure that homeowners, particularly those who require mortgage finance, are able to afford the borrowing they take on, and that includes potential remediation costs if they are necessary for particular properties. Work in the Bill and work undertaken by the Ministry of Housing, Communities and Local Government outside the auspices of the Bill are helpful in that regard.

Q175 Mike Amesbury: What is missing from the Bill?

Eric Leenders: Experts are probably better placed to consider the dimensions of the Bill, but I did mention the work that the MHCLG has done, which looks to support those who have been classified as cladding prisoners. I understand that in working through the detail of the support for those in properties of 11 to 18 metres, it was found that there could be some complexities in the security arrangements for any lending and the allocating of responsibility for any lending to a property or an individual or leaseholder and so on. The Bill could provide a platform for some of those technicalities to be worked through so that there is a sound legislative footing.

Q176 Rachel Hopkins: I have questions about whether the Bill provides adequate means of redress for residents who want to challenge elements of the building safety charge. Is the provision requiring payment of that charge within 28 days reasonable?

Eric Leenders: Yes, and I think there are also some protections for leaseholders where the amount of remediation exceeds £250. That is welcome. The 28 days is potentially challenging—I am thinking of the staff in our organisation paid on a monthly 31-day cycle—so there could be a little more time for individuals to pay. Salaried individuals in particular are predominantly likely to look in the Bill for support. Increasing that timeline might be helpful.

Q177 Ian Byrne: Eric, given the scale of potential mortgage defaults because of the debts being unfairly loaded on to leaseholders, what would that outcome mean to the health of the housing market?

Eric Leenders: That is quite a difficult question to answer. The first point to make is that the housing stock is of the order of 28 million to 30 million properties, and only about 9 million have mortgages; you could perhaps add another couple of million for buy-to-let properties, so about a third of the overall housing stock would be affected. The composition of the housing stock is about much more than the most at-risk properties. What the Bill looks to address, based on the input from the fire experts, is a risk-based approach that would potentially look to address higher risk properties above 18 metres—there are probably about 1,400 or 1,500 of those properties in the UK. The impact on the overall market might be relatively modest, but the chief point is that for individual homeowners and those that have mortgages—those constituents—the impact is significant and is more than financial. It also has an emotional consequence as well.

Q178 Ms Rimmer: Are the Government right to introduce a new building safety charge on residents by which building owners can recover the costs of building safety measures?

Eric Leenders: We see two sides to this. One element is the extent to which there is a discrete building safety charge; the other is the extent to which that is combined perhaps with a service charge. There are pros and cons to both approaches. The overarching issue for lenders is the extent to which the pre-existing commitments—not just the loan commitment but individual household budgets—would remain affordable if there are additional remediation costs. As I mentioned, I know that the MHCLG team has been very thoughtful about that consideration in relation to introducing loan support for properties between 11 and 18 metres. There might be some read-across in the context of the detail of the Bill.

Q179 Ms Rimmer: Does the Bill protect leaseholders from unaffordable costs?

Eric Leenders: I think it goes some way to doing that. It is quite difficult for me to give you a direct answer on that specific question, because clearly one issue is cladding

external wall systems and, equally, we are aware that there could be remediation requirements around, say, fire systems and internal remediation works as well. I am unfortunately unable to give you a categoric answer on that point.

Q180 Ms Rimmer: The Government say that the purpose of the service charge is to cover the ongoing costs of the new regime, not historical costs. Do you think that is explicit in the Bill as drafted, and could the Bill permit building owners to recover historical costs through the service charge?

Eric Leenders: That is a very astute observation. We have found that aspect of the Bill quite complex and technical. To the extent that the intent is to avoid those retrospective costs, one dimension that we have been considering and have not necessarily been able to clarify is where a property was built prior to the enactment of the Bill but the issue was identified after its enactment. Some further scrutiny is probably required on that aspect. Our overarching view would be that it should be very clear for homeowners and leaseholders to understand where they might have a potential liability, and therefore this retrospection point is really quite important in that context.

Ms Rimmer: It is not clear, then. Thank you very much for that.

The Chair: If there are no further questions, I thank you, Eric, on behalf of the Committee for your time and for your evidence.

Examination of Witnesses

Alison Hills and Steve Day gave evidence.

4.8 pm

The Chair: We will now hear from Alison Hills, an affected leaseholder, and Steve Day, a campaigner on the polluter pays principle. We have until 5 pm for this session. Would the witnesses please introduce themselves for the record?

Alison Hills: My name is Alison Hills. I am a solicitor who is personally affected by the building safety crisis. I have also been very active in the campaign on behalf of a number of leaseholders, and I have spoken to a number of leaseholders across the country.

Steve Day: Hello, everyone. I am Steve Day. I am also caught up in the cladding crisis—a £30 million bill for 118 flats. We basically felt we had to fight it, and that has led to where we are today. Thanks for hearing us.

Q181 Daisy Cooper: Thank you, Alison and Steve, for joining us today. Just to let the Committee know, Alison is one of my constituents and we have discussed these matters before. For the benefit of the Committee and for the parliamentary record, could you start by telling us in your own words what impact the fire and safety building crisis has had on you personally, and how this Bill could affect you if it goes through unamended?

Alison Hills: Sure. The first point I would make is that the Building Safety Bill offers completely inadequate protection for leaseholders. Throughout the ping-pong process of the Bill, leaseholders across the country were repeatedly informed that protection would be forthcoming in the Bill, but it is clear that that is not the case.

Personally, I could be facing a bill of between £150,000 to £200,000 if funding is not forthcoming from either developers or the building safety fund. That could result in bankruptcy and the loss of my career as a solicitor, because my professional qualifications will be automatically revoked if I become bankrupt. I know there are a number of solicitors, accountants, and other professionals who are in the same situation.

Q182 Daisy Cooper: Thank you. Steve, do you want to talk about your own situation?

Steve Day: Yes. I live in south-east London, in a development called Royal Artillery Quays. We had a £30 million cladding bill, have £1.7 million of internal firestopping issues, and a builder that says that we are timed out with the Defective Premises Act 1972 and the Latent Damage Act 1986 because we are 17 years old, and our 15-year hard stop in latent defects times us out. We are very angry.

My brother is here today. We are doing a start-up and do not have enough money for one salary. It is devastating to have to fight a developer that claims it has no legal liability, even though we found multiple breaches of the BBA certificate on the external wall system. I went around with a fire engineer with an endoscopic camera to see all the holes in the firestopping above every single flat. I am sickened.

I have had to help people in the development with depression. One of my neighbours had to talk someone out of suicide. I am sure my brother will not mind me saying that it has been challenging—running a small business start-up, and trying to fight a developer and come up with a statutory scheme to stop everyone else from doing this.

I urge you to recognise that full redress is not just something that we want—a "nice to have". You will hear more evidence on it, but think about it this way: if you, as Parliament, do not intervene now, this will happen in decades to come. There is a race to the bottom in construction. I was on holiday, and after *The Times* article that came out last weekend backing the polluter pays Bill, I did not really want to be next to a senior member of the construction industry for my holidays. However, he was very understanding and said to me, "Well, yes, there is a race to the bottom. Yes, the cheapest contract always wins. Yes, the building control that looks the least at the defects is the one that gets the contracts." We have to stop this. Levies and taxes is letting them get away with it. We have to step in. That is what I am asking you to do today.

Q183 Mike Amesbury: Hello, Alison and Steve. I am sorry to hear of your experiences. I know that they are shared by hundreds of thousands, if not more, of people across the country. Steve, I have spoken to you before about the polluter pays principle, which collectively we have spoken about—Labour Back Benchers and others have been advocating that, rather than leaseholders. In terms of your proposals going forward, a lot of developers obviously set up special purpose vehicles. How would you ensure that your proposals—your idea—would be able to capture those characters and ensure that the money goes where it deservedly needs to go?

Steve Day: I am glad that you have asked about SPVs, as that is obviously a point of contention for our scheme. First, we are creating a statutory scheme—we are writing the law and Parliament is intervening. We

would go after the parent companies when there is a relationship there. In the case of an SPV, we would try to establish that relationship. Remember that there are two parts to polluter pays—I do not know if you have seen the diagram. One part is to get the responsible parties to pay in full if we can. If we cannot find anyone—this is your first answer—we go to the levies that we have on the construction industry and the ancillary bodies such as cladding manufacturers and so on, who have all been part of the problem, as we heard in the Grenfell inquiry.

We can do a better answer than that, though: parent company liability. You might say, "Is that possible?" The UK Competition and Markets Authority can hold parent companies liable for the anticompetitive conduct of their subsidiaries, and can hold both the parent and subsidiary company jointly and severally liable for the payment of fines resulting from the anticompetitive conduct of the subsidiary. It has been done. If you want to look further afield, in German law, Konzernrecht holds parent companies liable for obligations of controlled subsidiaries; that has been done in Germany. Some say that British companies will not be attractive for investors if we do this parent liability, but it seems to be working in Germany. Hopefully, that gives you a little more colour on why we want to do this.

Ultimately though, take a step back from the legality. I am very grateful for Daniel Greenberg's help and his 20 years of experience as parliamentary counsel; he is operating in a private capacity pro bono, because that is how much he believes in the Bill. He is not at all worried about this liability; he thinks it can and should be done. We have a simple, cost-effective and fast mechanism; a statutory scheme that will make those responsible pay, and their parents. Is that okay, Mike?

Q184 Mike Amesbury: It is, but we had two esteemed lawyers—one a QC, who you will be familiar with—who spoke about extending the scope retrospectively of the Defective Premises Act. They spoke about case law and the potential of taking that forward successfully; it was minimal to say the least. In fact, a number of witnesses have said that. I am interested in why your very well-intentioned proposals would work more effectively than that, which is not very effective at all?

Steve Day: Do you mean just extending the limitations in the Defective Premises Act?

Mike Amesbury: Yes.

Steve Day: First, you cannot take a parent company to court if they do not exist or you do not have the relationship. That is where we need the Government to step in with a statutory scheme, because we need to establish the ability to make that connection. Ultimately, we need the Government to step in with a statutory scheme, which they did for asbestos, so that when people do not come to the table, we fall to a statutory scheme. This is a unique situation. We need the Govt to step in because the law is failing us. Extending limitations is a problem, because people may not have the standing to take their developer to court. They might not be in the contract; they may not have the money or the time; they may have mental illness as a result of suffering we have had already.

Alison Hills: May I come in here? I am a litigation lawyer; housing is not my area of speciality but I have some insight into the litigation process. The Government seem to think that they have solved this crisis by extending the limitation periods under the Defective Premises Act. I respectfully suggest that is far from true. First, as leaseholders, we do not own the property and we have no leg to stand on to pursue any legal action. Secondly, as we heard from two very prominent lawyers last week, there are a number of problems under clause 124, which could result in extensive litigation before we even get to remediation.

Thirdly, the Bill as drafted does not help when buildings are over 15 years old, it does not help in situations where developers have become insolvent, and it does not help in my own situation, where the developers and the freeholders are part and parcel of the same legal entity, so in essence they would have to sue themselves, which is not going to happen. That is why the polluter pays Bill is the most cost-effective way forward. It is simple and clear and provides an effective solution that avoids years of litigation that leaseholders simply cannot afford.

There was a case recently of Aviva Investors and Shepherd Construction, where Aviva Investors tried to pursue action for £4.5 million relating to a block of student flats. The litigation was unsuccessful, and the judge stated in that case that

> "There is no pleaded case that a duty of care was owed by Shepherd to future owners of the property".

If huge rich companies like Aviva cannot have a successful litigation against these developers, what chance to the little leaseholders have, who have no leg to stand on and no funds to do so?

Steve Day: One final point, if that is okay?

The Chair: Fire away.

Steve Day: There is another complication of the limitations extension, and that is basically the risk of a two-tier system. We have been discussing this with the polluter pays Bill team. There are bilateral investment treaties that have settlement provisions. We are concerned that if a foreign national were to use one of those provisions for international arbitration, especially in the case of a developer not existing in the UK—and these foreign investors are investors, leaseholders in UK property—they may be able to use that international arbitration and get compensation from the UK Government, where UK nationals will not be afforded such a privilege. That would be a shame if the developers do not exist and foreign nationals can use these international arbitration treaties when UK nationals cannot.

Q185 Daisy Cooper: At the very beginning, you both outlined the potential size of the bill you are facing for remediation work, but over the course of the past year or so, particularly in relation to the Fire Safety Act 2021, which came before this Bill, we have heard from leaseholders who talked about all sorts of costs. Could you talk us through the different kinds of costs that you have incurred and the cumulative impact they have had? Do you feel that the Government are addressing the issue with the necessary level of urgency?

Alison Hills: First of all, once we had our intrusive survey undertaken, we had a waking watch implemented on is, which was at a cost of £400 per leaseholder. I have to say that a whole new crisis has been created as a result of the advice note and the EWS1 process. It is ineffective, it is placing leaseholders under an unacceptable level of financial risk. Personally, I felt more unsafe

while they were in the building. They were undertaking activities such as smoking underneath flammable cladding. They were falling asleep. This sounds awful but they were peeing in our car park. We have also heard stories of other leaseholders across the country where single females have been harassed by them, which is completely unacceptable. That is just the first point, which is on waking watch alone.

In addition, we have had to pay increased service charges, which amounts to an extra £200 a month each. Our insurance has absolutely skyrocketed. I have heard of a leaseholder based in a block in Runcorn where it has increased by 1,400%. People are going bankrupt as a result of these interim measures alone, and that is before we even get to the remediation costs. As we have seen already, Hayley Tillotson was a leaseholder who has gone bankrupt as a result of these extortionate costs.

Leaseholders' finances are being completely wiped out. It is completely unacceptable to put us under this level of financial risk and burden—in the middle of a pandemic as well, one might add, which only adds to the financial and mental health distress. There have already been reported suicides as a result of this crisis. I have to say that my mental health has seriously deteriorated, to the point that I have had to move out of my flat, because I could not sleep, eat or concentrate. It was an horrific situation to be in. Those are the sorts of things that are happening, and that is before we even get to any remediation costs.

Steve Day: Our service charge has doubled because of the waking watch and insurance. It is due to lack of trust in building regulations. The insurers do not trust, the lenders do not trust. That is devastating when you are doing a start-up as well. I do not have the salary that I used to have, and I do not have the savings I used to have because they have all gone on service charge. That is a huge risk.

Let me tell you something else. It is not just about the money for waking watch. I think we forget what it is about. Can you imagine people staring at your home 24/7 because they are so concerned that there is going to be a fire? Can you imagine what that does to you? You go to sleep wondering what on earth these people are doing staring at your building, going up and down the stairs. They are doing their job but their job is very concerning. They are so scared that they might miss it that they are checking things and all the rest of it. Then, there are some who do not do their job. You are in a total stress, non-stop.

It is all to do with the root cause. This is where I come back to the simple scheme that we have come up with. Let us restore trust in building regulations. EWS1s, PAS 9980s—it is a new way of showing building regulatory compliance, because the trust has gone from the lenders and insurers. Let us restore that trust. Full redress is the only way to do it. This is a unique situation, the costs are high and we need you, Parliament, to step up and put in this scheme.

There is so much support for the scheme—you will see that because we will put it out there to you guys as much as we can over the next few weeks. It is growing: we have bishops behind it, the Earl of Lytton and the Intermediary Mortgage Lenders Association. You have heard that the Association of Residential Managing Agents backs it and we have quite a few people that I cannot remember, but I am happy to write to you.

The support is only going to grow, because as we go through the Grenfell inquiry and we see some of the things that come out, maybe in module 6, full redress will come up again and again. If you want to give out loans to people and you let the industry off with a levy, they will never forgive you, because you did not go for full redress when you could have, and that is what I urge you to do.

Yes, it is unusual to have a leaseholder here coming out with a statutory scheme, but it is not just me—there is a load of experts helping me, all for free, because they believe passionately that we cannot let a levy system and a loan system go in when we have not tried full redress. It is possible, it is simple and it is fast, and we are working hard to limit the judicial review risk to the Government. We will be sending Mr Pincher and his team a new draft from Daniel Greenberg as soon as we can and hopefully getting something in to them, and then we can update you.

Alison Hills: I alluded to this earlier, but this is a very complex issue. There is liability against a number of parties—not just the Government for poor regulation, but developers, manufacturers, people such as Kingspan who mis-sold their products, insurers, Buildmark warranty providers. There are so many people involved here, but it is glaringly obvious that this Bill contains no repercussions at all for those people. The only people who have been legally held to account are the innocent leaseholders. As I see it, the fundamental role of Government is to protect victims and hold perpetrators to account, but this Bill does the exact opposite of that, and it is unacceptable.

Q186 Ms Rimmer: This is a building safety Bill; it is not about redressing the cladding or the issues with that. If anything, on the Select Committee on Housing, Communities and Local Government it was said that the introduction of the building service charge brought about the highest level of anger and scepticism they had ever experienced. That is all that the people affected can see in this Bill, so it goes nowhere near addressing anything like that. If anything, it has caused a concern: would they—could they—use the building service charge to recover historical costs from the leaseholders? We have heard from witnesses that they think it is not clear that that is not the case.

It seems to me that polluter pays is the only suggestion that can go forward. We are not saying that the present Government are responsible for all this, but do you know of any other way than the polluter pays mechanism? Is it New Zealand that has the public safety emergency, where the Government have addressed that? It does not seem able to be addressed. Has anyone put forward to you any other schemes or other ways of addressing this? There are hundreds of thousands of family units in these properties—I do express my sympathy; I sincerely empathise and sympathise—but this simply must be addressed.

Alison Hills: Yes, thank you. It does have to be addressed. Obviously, there are the McPartland-Smith amendments, which protect leaseholders to some degree. There are some very helpful amendments—for example, the imposition of implied terms in residential building contracts to ensure that all buildings are adequately designed, comply with building safety regulations and use materials of satisfactory quality. New clause 5 also

creates accountability for future builders by importing consumer rights protection into housing law. I fully support the amendments and new clauses, and I think they should be implemented in the Bill, but in terms of how to get the most amount of money from those responsible, the polluter pays Bill is the way forward, because it ensures that the right people are held to account and building safety regulations are adhered to in future. Obviously, Steve has worked very hard on this over the last nine months, so I will pass over to him at this point.

Steve Day: I think the building safety charge is another sign of not trusting building regulation compliance. The heart of polluter pays is not just to solve the crisis now; it is to restore trust in building regulation compliance. We have a set of functional regulations. B4 requires that

"the external walls of the building shall adequately resist the spread of fire".

It should be very possible, then, with the approved documents, to show and to prove whether someone is liable for those defects.

We are getting very confused in this crisis. We need to bring it back to the two boxes of developments. We have one where the builders just did not keep to the regulations. We do not need to worry about the quality of the regulations—they just did not keep to them, not using the right fixings. Metal should be on firebreaks but they used plastic. Some are missing firebreaks. It is very simple stuff, which is very unappealable and very easy—low-hanging fruit. That is the box of not conforming to the regulations at the time—guilty. Not guilty, for the developers and the manufacturers, is the other box where the regulations were complied with at the time, but post Grenfell those regulations have changed. It is almost a retrospective liability, changing the goalposts. That is a failure of regulation, so that is where the public money would come in.

All we want is £5.1 billion of public money. We do not want to go to the Treasury unless we have to. We want to get that pot as big as possible for all those defective buildings—it is simple stuff, remember, such as fixings, adhesive pattern, firebreaks and so on—to make that £5.1 billion go further. That is what we are doing. I hope that our proposal shows that we have thought about how this might work with existing precedents. There is some discussion on whether the Environmental Protection Act 1990 and the apportionment process could be open to judicial review, because you might say, "If you've got a set of percentages and you're just giving x per cent, y per cent, and so on, that could be open to challenge." We have listened to that and we are working with Daniel Greenberg on a different, and much simpler, approach, which we will make you aware of, that will not be open so easily for judicial review.

We also heard Mr Pincher's comments in the Chamber on how many determinations we have to do. Remember that we are proposing that it is a public body, potentially under Homes England, and we have a de minimis limit. We do not have the reports that MHCLG has but we have a mechanism. It can set what the de minimis limit is before we have those determinations, and then basically there is a control mechanism for how this works. We have created the scheme so that in the primary legislation the scheme requirements are set out. It has to be in place six months after Royal Assent, but we do not prescribe exactly all the parts of the legislation; that will be done in subordinate legislation. We are prepared to do that work as well, because that is how much we believe in this.

I cannot answer all your questions on this today, but Daniel Greenberg has said that when the conference season is over, we will book a meeting room in Parliament and invite MPs and peers to come and hear our proposal, with the depth required so that you can scrutinise it properly. Perhaps the Earl of Lytton might come and help as well.

Q187 Siobhan Baillie: Thank you both for coming. You are very compelling witnesses, and you have a great skill in being able to talk about something that is incredibly emotional to you, for understandable reasons, and give us a really clear account of what you are seeking to achieve and why.

I want to move you slightly off the redress issue. We have heard witness evidence today that, over two decades, multiple Governments of all colours have failed to address building safety issues. That is high rises and all sorts of things.

This Government are genuinely trying to do their best with the Bill, and we have had evidence that says that it is moving quite a few mountains and is proportionate. You are so expert in this area—although I am sure neither of you want to be such—what do you know about the accountable person part of the Bill? It is suggesting that for a block there would be somebody who would be in charge of things such as fire safety certificates and the gas certificate. They would be the point person. We have heard evidence today from the Fire Brigades Union that was really positive about such a role in terms of the person that they can contact, and similarly the management agent said it was really good to have a single person as a point of contact. We have also heard evidence that no one will take on that role—because it has so many duties and responsibilities that no one will be interested. What is your view? I fear that you two may be that role because you are so expert. Knowing your kind of neighbours, do you think somebody would take that role on if the Bill is enacted?

Alison Hills: First and foremost, there is a lot of information in the Bill about an accountable person, a responsible person, but there does not seem to be a clearly defined role for each of those roles and responsibilities. I think that needs to be done. Secondly, our management agents already have a certain amount of responsibility in terms of building safety. As leaseholders, we do not want to be in a position where we are potentially paying twice for the same service. The Bill needs to contain clear definitions of the responsible person, the accountable person, the management agent and the role of the leaseholder. In my view, each of those roles needs a clear definition.

Siobhan Baillie: That is really helpful.

Steve Day: I know that I am coming back to what I have said before, but for me it is about trust. If we are having a building safety charge, that is because we do not trust that our buildings are safe. It was fine before Grenfell, and maybe that is not a great thing to say, because the regulations and enforcement were not there. If the enforcement is there, I am really hoping that we can go back to paying a very reasonable service charge and getting a very reasonable service.

I think we really need to look at this Building Safety Bill from the point that if we put in for redress, if we had that big stick to whack all those responsible for not installing things right, can we restore trust in our building? This Building Safety Bill could then be made a little simpler and a little cheaper for those who are living in blocks, and maybe we can just reform everything. That is my view.

Q188 Siobhan Baillie: If the fire brigade felt it was useful to have a single point person, do you think in your block and other blocks that could be achieved, subject to the definition of roles and responsibilities that Alison talked about?

Steve Day: I think there is a role for having someone responsible. A lot of these blocks have a concierge. I would say first, "Is there an onsite concierge?" If there is, maybe something could be done there. If not, a lot of blocks have a small committee of four or five people who might take on that role collectively. It seems a lot to put on one person—that's my initial thought. If we want leasehold to survive—I am not sure where I stand on leasehold and commonhold yet, but I do not think commonhold solves the bills, and I think they will still come. If I am going to try to get someone to cover, I don't know, say fire door replacements and so on, I have got to go and negotiate that if I am in commonhold. Let us make sure that we make leasehold as economically viable and fair as possible, and I think you can only do that by coupling that with building regulation.

Q189 Siobhan Baillie: I asked a really basic question of our witnesses in the first panel on Thursday last week about living in a household in a high-rise building. There is so much fear now, understandably, because of Grenfell and because of what you have all been through. It is hard to be quite rational. You are getting into the detail. As part of getting to trust the buildings that you live in, do you think more needs to be done to put out communications about safety of buildings and resident responsibility? We heard some quite compelling evidence that high rises and normal houses are equally problematic if certain things happen. Do you think there should be communication to build faith and trust, and a sense of safety as well?

Alison Hills: Yes, I have to say that I think that would be helpful. When we found out about all the defects in our building, it was in the middle of lockdown, so we were stuck for 24 hours a day in a flat that was potentially unsafe. All these videos started coming out on Twitter about Grenfell, the fires and Kingspan. It was absolutely horrific, from a leaseholder's perspective: people were genuinely frightened to send their children to sleep at night.

I cannot reiterate enough just how difficult that period was. That was one of the reasons that I made the decision to move out; I am lucky that I had that choice, but many others do not have it. Many are still putting their children to sleep at night in a building where they do not feel safe. Leaseholders absolutely need more support with that. They also need more mental health support, because we are just relying on each other at the moment. There is a very good cladding community, and the leaseholders have been a brilliant support—my MP Daisy, who is on the Committee, has been a brilliant support as well—but I think that the Government need to take more responsibility to support their constituents with the mental health impact. I cannot reiterate enough how difficult it has been.

Steve Day: I think that leaseholders supporting each other is one thing, but you have to remember that the building safety fund has asked us to create all these reports showing all the defects. Unless someone comes and fixes those defects, the horse has bolted. The building safety fund reports show all these missing fire barriers, cavity barriers and internal fire stopping. If you check approved document B, getting the fixings wrong has a material impact on the fire rating of the external wall system.

Unfortunately, you have turned millions of people into fire experts. We now know what ADB says, and we now know that a small difference in the render thickness of our external wall systems can have a material impact on the fire rating. We know, when we look at the safety certificate from the British Board of Agrément for 100 products across the UK, that not meeting the exact specifications contravenes the certificate; the head of the BBA confirmed that, and I am grateful to him.

We know all that and we have all that information, yet not only have we been left to pay for it all, potentially, but we have all the worry of it. You cannot put that back in the box unless this is remediated. Unfortunately, in the leasehold community, we have been exposed to an awful lot of fire safety evidence that would lead us to believe that we are not in safe homes. Until the remediation is done, I just do not think that we can put it back in the box.

Alison Hills: I have not specifically been asked a question about this, but another problem is that the building safety fund process has been very difficult. The fund only covers some defects in some buildings. We have been told that we are eligible, but we still cannot get any of the fund because there are a number of onerous contract terms. MHCLG and our managing agent have been at loggerheads over the contract terms for almost the past year, and we are in limbo with a huge potential bill of £200,000 hanging over our heads. That is just not an acceptable position to be in—we simply should not be in that position.

Q190 Ruth Cadbury: I think that you have started to answer my question, and thank you for your presentation on the polluter pays principle, but I want to go back to what is in the Bill for existing buildings. The new building safety regime applies to buildings of at least 11 metres in height or at least seven storeys. Do you think that it is right that in effect there is a height limitation defining the risk, or do you have an alternative suggestion? What else is not in the Bill's scope that you think should be?

Alison Hills: First of all, I do not think that there should be any height restrictions to the building safety fund. We have seen videos in which the 18-metre figure came up because the people making the decision did not have time to come up with a better figure. There does not seem to be any reason behind the 18-metre rule. The materials are still flammable in buildings under 18 metres; they can still catch fire, as we have seen.

In my view, the building safety fund needs to cover all heights of building and all defects, not just cladding. I have spoken to a shared owner in the London Olympic park who does not have any cladding on his building, but who is facing an £80,000 bill just for missing fire

breaks and insulation. That is just an unacceptable position to be in. There are a number of fire safety defects that do not relate to cladding, and they should absolutely be covered.

Steve Day: I would say, "Have a look at the materials." We all accept that ACM cladding, linked to Grenfell of course, is dangerous, but you may not have realised that the Victorian Building Authority conducted a test last year and concluded that expanded polystyrene, because of very rapid vertical fire spread, ultimately creating fire pools that go down as well as up—not the pools, but the fire—was as dangerous as ACM. Why do we have this categorisation that ACM is the only dangerous cladding when EPS has been proved by the VBA to be as dangerous? That has implications on the 8414 tests because everyone knows that the grate is at the bottom of the rig. How do you test downward fire spread if the grate is there? It will just test upward, so there are issues there.

This is why I am always talking about trust. We need to get back to trusting our materials. We need to get back to having a large stick if the cladding manufacturers mis-sell products. In the aftermath of the Grenfell fire,181 samples failed combustibility tests. We need a big stick. The building industry and the construction industry are showing that they cannot be trusted, unfortunately. That is why we need full redress.

Q191 Ruth Cadbury: We have heard from both the housing associations, which of course manage both shared ownership and leasehold blocks, as well as social rent blocks, and from one of the private sector management organisations that there is a concern about access to flats. Of course, some leaseholders live in their flats and some have tenants in them. Do you think that the Bill does enough to ensure the safety of electrical and gas appliances in flats in non-communal parts of the building, or does this raise issues around privacy and rights for tenants and leaseholders?

Alison Hills: Again, I think there needs to be clear definition in the Bill of how often access will be granted and for what reasons, how much notice will be given, and who will come into the property. There are so many unanswered questions in leaseholders' minds at the moment, and it needs clear definition in the Bill, in my view. Otherwise, it potentially brings up privacy issues.

Steve Day: Get rid of the gas boilers as quickly as we can. They are not great on high rises.

Q192 Ian Byrne: Your evidence, and the level of expertise that you have, has been astounding. I am glad that you mentioned the mental health aspect of it as well, because during covid we cannot imagine how it must have been. We took evidence on the Housing, Communities and Local Government Committee, and what we have heard about what people have been through has been heart-rending, obviously with the pandemic on top of what has been going on.

I want to touch on residents' engagement. It is hugely important. We saw that with Grenfell, and what was missing. Earlier witnesses said that the residents' engagement section of the Bill is potentially one of the weakest parts. How do we strengthen residents' voices, and the imbalance of power that exists? How would you reflect what residents need within the Bill to ensure that their voices are heard?

Steve Day: We need to have very good transparency from our managing agents. Often we cannot see the reports that are about the safety of where we live. We cannot see the accounts to see that they are spending the money correctly. We are given a very high-level aggregate view that often does not check out to what we are paying, so that side of things needs to be transparent. There needs to be a lot of thought towards how residents are engaged as well. Not all residents have the inclination to get together and form a committee. How do you handle that? Do the managing agents pick on one person and say, "You're responsible for it"? I think that could all be strengthened.

Alison Hills: Luckily, in our block, our managing agent has been very forthcoming. We have regular meetings with them every two weeks. That position is quite lucky, but it took a lot of work to get to that point. A lot of leaseholders across the country have managing agents who do not share information, fire risk assessments and even evacuation plans. We have seen, particularly for disabled leaseholders, that some blocks do not have any evacuation plans at all. I think that is completely unacceptable.

Information sharing is the key point. Residents do have a right to see this information. It affects their lives; it affects their health and safety; and it affects their mental health. They need to know what to do in the event of a fire; they need to know what the defects are; and they need to know what the next steps are. As I said, my managing agents have been good with that, but many others have not.

Q193 Daisy Cooper: My question has been slightly anticipated by the last one. I was going to ask about the residents' voice and some of the challenges that you face, and you have already touched on the fact that you have found it hard to get accounts, reports and evacuation plans. One proposal that was put to us earlier, by another witness, was a suggestion that residents should have the right to have their voice heard, in some shape or other, on every single site. Would you support that proposal, and if so, how would you envisage that happening?

Alison Hills: Yes, I think that would be very useful for residents. There are residents from all walks of life in all heights of building, and it is important that all their voices get heard. We are lucky: in our particular block, we have a very active residents committee; we are a very engaged set of leaseholders. But others might not understand about their building's defects; they might not realise the whole situation that is affecting leaseholders. There are some, even in different blocks in my development, who do not realise the repercussions of the Building Safety Bill. I think this is just about information sharing and making sure that every block has a voice and every leaseholder has a chance to have their say. That is absolutely crucial.

Steve Day: One thing that would have helped me with my investigations was the BBA certificates. It is charging hundreds of pounds to get that, and it is often very difficult. I think we have a right as residents, if we have this massively large building, to know what the safety certificate says about our external wall system, so I say: let's put it all online. The BBA, I am sure, can get its money in other ways. Also, if we are trusting the construction industry to keep to regulations, and if a development does get judicially reviewed with our redress

scheme, I would say: let's have Parliament put the information online, perhaps in a brief form—the judgment and the fact that that developer thinks that plastic fixings are fine on firebreaks. Let's put it online, on a parliamentary website or some form of official site, so that a development has the ability to shame the developer, the construction or the cladding manufacturer if they choose to basically say that something unsafe is safe. I think we do need something like that.

Alison Hills: One of the positive aspects of the Bill is that there is a clause about mandatory keeping of records. That is absolutely crucial. It needs to be done—absolutely. Our developer cannot find the plans, for example, for our building. And that has happened across the board. There are so many leaseholders I have spoken to where they cannot contact the developers and they have just lost all the paperwork. How do you lose the building work paperwork? It just does not make any sense. But if there is a centralised system, it cannot get lost; it is all there, in black and white. And any leaseholder who wants to see it should have that right, because it does affect them. It is their home at the end of the day, and they need to know what the building safety issues are with their flats.

The Chair: If there are no further questions, may I, on behalf of the Committee, thank the witnesses for their evidence today? That brings us to the end of today's sittings. The Committee will meet again on Thursday, for line-by-line scrutiny of the Bill. May I ask Committee members to leave the room promptly by the exit door and while observing social distancing? Thank you very much.

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

4.54 pm

Adjourned till Thursday 16 September at half-past Eleven o'clock.

Written evidence reported to the House

BSB21 Zurich Insurance

BSB22 Association of British Insurers (ABI)

BSB23 London Fire Brigade

BSB24 Long Harbour Ltd and HomeGround Management Ltd

BSB25 Steve Day (campaigner on the Polluter Pays principle)

BSB26 The Institute of Residential Property Management Limited