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Public Bill Committee

BUILDING SAFETY BILL

Tenth Sitting

Thursday 23 September 2021

(Afternoon)

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not later than

Monday 27 September 2021

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 *(Walsall North)* (Con)
† Logan, Mark *(Bolton North East)* (Con)
† Mann, Scott *(Lord Commissioner of Her Majesty's Treasury)*
† Osborne, Kate *(Jarrow)* (Lab)
† Pincher, Christopher *(Tamworth)* (Con)
† 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

Public Bill Committee

Thursday 23 September 2021

(Afternoon)

[Clive Efford *in the Chair*]

Building Safety Bill

2 pm

The Chair: Before we begin, I remind Members that we have quite a lot of the Bill still to get through—we have only reached clause 42 of 147—and that points should be made succinctly where possible. I am sure the Committee will want to give due scrutiny to all of the Bill and the various new clauses that have been tabled. The explanatory notes to the Bill have been published, so I say gently to the Minister that he should not feel the need to recite them.

One Member has caught my eye and asked whether it is okay to remove his jacket. I am quite relaxed about that; if people want to remove their jackets, they can.

Clause 42

Transfer of approved inspectors' functions to registered building control approvers

Question proposed, That the clause stand part of the Bill.

The Chair: With this it will be convenient to discuss that schedule 4 be the Fourth schedule to the Bill.

The Minister of State, Department for Levelling Up, Housing and Communities (Christopher Pincher): I am obliged to you, Mr Efford, for offering me the opportunity to speak to clause 42. I am mindful of the points that you have just made about the importance of succinctness. Given that this is a relatively technical and uncontroversial clause, while reserving my right to speak as I feel appropriate to other clauses, I propose to move it formally. *[Interruption.]*

The Chair: I have made a request that people stand in their place if they want to speak. I call Mike Amesbury.

Mike Amesbury (Weaver Vale) (Lab): I concur with the Minister.

Question put and agreed to.

Clause 42 accordingly ordered to stand part of the Bill.

Schedule 4 agreed to.

Clause 43

Functions exercisable only through, or with advice of, registered building inspectors

Question proposed, That the clause stand part of the Bill.

Christopher Pincher: Once again, this being a relatively straightforward and uncontroversial clause, I propose to move it formally.

Question put and agreed to.

Clause 43 accordingly ordered to stand part of the Bill.

Clause 44

Default powers of appropriate national authority

Question proposed, That the clause stand part of the Bill.

Christopher Pincher: I will speak a little to this clause, because I think it bears some scrutiny. The Government are committed to driving up the standard of building control. Clause 44 strengthens the powers in relation to failing local authorities by giving the Secretary of State a new power in England to make an order to transfer building control functions of a failing local authority to another local authority. Currently, the Secretary of State only has the power to transfer the functions of a failing local authority to himself.

The clause should be read in conjunction with clause 41, and in particular proposed new section 58Z7 of the Building Act 1984, under which the regulator will be able to recommend that the Secretary of State makes an order to transfer the functions of a failing local authority building control department. Where such a department has consistently failed to meet the required standards and that is putting the safety of persons in or about buildings at risk, the Secretary of State could, for example, transfer only the management of the building control function to another local authority. That would mean that senior officers or managers from another authority would manage the failing building control department to return it to full compliance. Once the performance issues of the failing authority have been addressed, the Secretary of State will consult the regulator and revoke the order, returning the building control function to the local authority.

The clause makes a number of consequential and clarificatory amendments to sections 116 to 118 of the 1984 Act, including amending section 118 of the Act to allow for the variation or revocation of an order by the appropriate national authority to return the transferred functions to the original local authority. The Secretary of State must first consult the Building Safety Regulator and make additional provisions to deal with the transfer and discharge of any liabilities through the revoking or new order.

The amendments in clause 44 are important for improving the competence of building control teams, and I commend the clause to the Committee.

Mike Amesbury: I will be brief in my remarks to the Minister. I am just looking for some clarity and reassurance. The Executive and the Secretary of State obviously hold a lot of power here. What checks and balances will be built in, regardless of the political complexion of the Secretary of State?

Christopher Pincher: Just to clarify, the present law allows the Secretary of State to transfer only to himself the power to take on the functions of a failing local authority. In terms of checks and balances, what we are

trying to do is allow the Secretary of State greater discretion to transfer to another appropriate local authority the authority to discharge those functions on behalf of the failing local authority while it is brought back into competence. The effect is to ensure that another local authority—possibly one that is closer to the one that has failed or is similar in terms of the housing stock, and that has a greater degree of historical success in dealing with such issues—can perform the role of the local authority.

As I said in my concluding remarks, we have also ensured that any liabilities—in other words, any costs incurred by the local authority that is taking on the responsibility—can be properly recovered by that local authority, so that it is not out of pocket as a result of taking on those responsibilities. I am pleased that the hon. Gentleman and his colleagues appear to support the clause, and I commend it to the Committee.

Question put and agreed to.

Clause 44 accordingly ordered to stand part of the Bill.

Clauses 45 and 46 ordered to stand part of the Bill.

Clause 47

INSURANCE

Question proposed, That the clause stand part of the Bill.

Christopher Pincher: I know that this clause is of some interest to members of the Committee, so I shall make some remarks and then address any questions or debating points in my concluding remarks.

The clause relates to the legal requirements for insurance for private sector building control professionals. When the private sector competitive element was introduced in 1984, a requirement was included in the Building Act of that year for approved inspectors to have "adequate insurance" from a Government-approved scheme in relation to the work that they supervise. The Bill maintains the double protection of requiring adequate insurance from a Government-approved insurance scheme. We believe that that is a sensible protection for approved inspectors, consumers and the construction sector.

The Bill also maintains the current requirement for approved inspectors to prove that they have insurance before they can obtain permission to start work on a new project—also known as the initial notice process. However, there have been difficulties in the past with a limited number of approved insurance schemes and no set definition of what constitutes the adequate insurance required. The problem worsened when it coincided with much wider insurance market changes, especially in 2019, and a reduction in the level of risk that insurers were prepared to accept. That led to cases of approved inspectors being unable to obtain insurance cover and, therefore, to operate. The number of approved inspectors involved was already small, but the effects on ongoing projects and local authorities that had to pick up the work were noticeable.

The Bill makes two main changes to reform and address that situation while keeping the fundamental requirement for insurance for approved inspectors. The first is a duty to prepare and publish guidance on what is adequate insurance cover. The second is the ability for the Secretary of State to designate bodies to undertake the functions both of joined-up guidance and of approving insurance schemes.

Selaine Saxby (North Devon) (Con): Who might the Government approve to do that work on their behalf? Will it be part of the Building Safety Regulator's role?

Christopher Pincher: Over the next few weeks and months we will assess all potential organisations that might undertake that role. They will need to demonstrate expertise and capability, to determine whether they can meet the high standards set by any prospective building control insurance scheme. We will pursue an answer to that question over the next several weeks and months. I will be happy to update the House as we progress through that process.

Ms Marie Rimmer (St Helens South and Whiston) (Lab): Sadly, the construction industry does not enjoy a lot of confidence, which is no surprise, mainly because of the fires we have had. Professional indemnity is very difficult to get; far more questions are being asked to obtain it. The Association of British Insurers has been very involved with the Government and is broadly very supportive of the Bill—it is the right step and will improve the building industry and commercial and residential premises. However, the ABI has made a number of significant comments about using modern methods of construction

"to ensure these buildings are built and maintained in a way which enables them to access affordable insurance for the lifetime of the property."

It has also called on the Government to develop

"a publicly accessible database of buildings developed using Modern Methods of Construction which provides information on the materials used, methods of construction and relevant standards or certification"

and to mandate

"the installation of high integrity fire alarms in all new developments to address the high number"—

The Chair: Order. This is meant to be an intervention.

Ms Rimmer: I do not consider that the Bill will address all the insurance problems. I am concerned that we may end up in a situation where we do not get the buildings done, because of the insurance problem. I do not believe that we can do everything in the timescale to enable the construction of the homes that we need—

The Chair: Order. Can I say gently that we have not had much deliberation in this Committee, so I am loth to shut this down, but rather than making a long intervention, the hon. Lady should make a speech. I am sure the Minister will answer your points equally well whether you make a speech or an intervention. We cannot have interventions of that length. I assume the hon. Lady is finished.

Ms Rimmer: I will endeavour to find out how to make a speech when it is appropriate, and I will then do so.

2.15 pm

Christopher Pincher: I am obliged to the hon. Lady. I understand the point that she makes, which does bear 30 seconds of explanation. We are working with the

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modern methods of construction expert Mark Farmer to find ways of standardising the modern methods of construction sector. The off-site construction standards mechanisms that have been developed over the last few years to respond to that new marketplace give lenders and insurers adequate protections and assurances. Her point speaks to the wider issue that, in an evolving building terrain, where new methods of construction are being constantly developed, it is right that we have a flexible building safety regime to respond to those concerns. That is one of the reasons why, rather than placing lots of regulations and requirements in the Bill, we are using secondary legislation and regulations to respond to that evolving terrain. I think that modern methods of construction will be one of the areas in which the terrain responds.

Ms Rimmer: May I intervene?

Christopher Pincher: I will give way to the hon. Lady.

Ms Rimmer: I should not apologise, because I need to make a point. There is too much dependence on secondary legislation, and we do not have sight of it. When will it be introduced? I like to make informed decisions, but I am not able to when there is this constant reference to future regulations and secondary legislation. When I get to read about the regulations, it says that they are subject to or delegated to statutory instruments, so I am going from the Bill to secondary legislation and then to statutory instruments. Will they be affirmative or negative? I do not feel in a position where I am able to make an informed decision.

Christopher Pincher: I am grateful to the hon. Lady. I would say, somewhat reflecting what Justin Bates said in evidence a couple of weeks ago, that we could put a great deal in the Bill—in primary legislation—but that would make the law exceptionally unwieldy and unresponsive to the developing terrain of building assurance, building safety and methods of construction. As Mr Bates pointed out, it would also mean that we would have to sit here from now until some time in 2022 for line-by-line consideration of the clauses in the primary legislation. Secondary legislation allows us to be flexible and respond to the changing terrain, while also giving Parliament an appropriate degree of scrutiny and control.

Daisy Cooper (St Albans) (LD): It is a pleasure to serve under your chairmanship, Mr Efford. Given that the Government intend to use secondary legislation to such a large extent, does the Minister accept that it is vital that all stakeholders, particularly leaseholders affected by the legislation, have sufficient time to scrutinise it?

Christopher Pincher: The hon. Lady makes a fair point. She will know that we often consult on secondary legislation before laying the regulations, so that there is time for the community, in its widest context, to give feedback on that legislation. Whether the regulations are subject to the affirmative or negative procedure, there is ample opportunity for Parliament and the House of Commons to consider them, have a say and scrutinise that secondary legislation, either in a Committee such as this for the affirmative procedure, or with the entire Chamber praying against regulations subject to the negative procedure.

We have already published secondary legislation and a number of factsheets to support the primary legislation. We will continue to do so throughout the parliamentary process, which, I remind the hon. Lady, is likely to be longer rather than shorter; this Committee stage will be followed by Report. There will be ample opportunity for the Committee and the House to look at the legislation and the regulations and to comment and vote on them.

The insurance market for approved inspectors is intricate and some bodies have specialist insurance expertise in this area. The power in clause 47 will enable the Secretary of State to appoint specialist bodies to undertake this important and complex work, as the hon. Member for St Helens South and Whiston alluded to, where the Government think that appropriate. I commend the clause to the Committee.

Mike Amesbury: I thank the Minister and other Members for their helpful contributions. As has been said, insurance, particularly professional indemnity insurance, has caused considerable debate and angst, not only for the professionals involved, but about the future role of the accountable person and those involved in building control. The ABI and AXA refer to that in their submissions.

Members have spoken about secondary legislation. The market has to respond to this measure, and that is why more detail would have been helpful. The Minister's comments on consulting key stakeholders are constructive and reassuring. I assume that the ABI will be one of those stakeholders, and those discussions may be taking place not quite as we speak but over the next few weeks—I hope that that is the case. Ultimately, this is about ensuring that the clause and the new SIs provide adequate cover and deliver the culture change that we all want.

Shaun Bailey (West Bromwich West) (Con): I will keep my comments brief. I want to touch on whether primary legislation is the appropriate place to set out the specification.

I fully appreciate and do not disagree with the comments that have been made on the need to see the detail. I completely agree with the comments of members across the Committee about the need to consult and to ensure that stakeholders are appropriately engaged. If we put this in primary legislation, I think there might be a slight unintended consequence of pigeonholing it too far.

My interpretation of the ABI's evidence is that there is a need to ensure that appropriate stakeholder feedback is reflected in regulation. In other areas, it is not uncommon for insurance mechanisms such as those in clause 47 to be delegated to secondary legislation, because it allows time for that engagement and the pulling together of stakeholders. It also allows for drilling down into the detail, because that secondary legislation can focus specifically on those really important points. As my right hon. Friend the Minister has said, it is appropriate to delegate to secondary legislation, but I also agree with the points raised by the hon. Member for St Helens South and Whiston. There is concern in the industry, as

we have heard, particularly about incidences of fire and the inability to obtain appropriate insurance. Clause 47 seeks to remediate that and to interlink that more widely, so that we can have the safety we have been talking about and the cultural change that the hon. Member for Weaver Vale mentioned a moment ago.

This is an important but technical debate on whether primary or secondary legislation is the appropriate place for the requirements in clause 47. Broadly speaking, I think my right hon. Friend is right, but I say to him again, and this has been echoed across the Committee, that Members are seeking to ensure the broadest level of engagement with different stakeholders as this progresses. That will be important in ensuring that the subsequent legislation that feeds off clause 47 reflects accurately what we are trying to bring about and, ultimately, that the clause achieves its aims.

Ruth Cadbury (Brentford and Isleworth) (Lab): I share the concerns about what is happening to the insurance industry in the context of building safety. I also share the concerns raised by my hon. Friend the Member for St Helens South and Whiston about the Bill's reliance on secondary legislation for so many elements, including insurance.

I want to highlight a couple of issues that the insurance industry has raised with us. We have had submissions from AXA—one of the biggest insurers in the country—and from the Association of British Insurers, which says that it is

"concerned that significant detail is left to secondary legislation."

The ABI has raised specific concerns about the availability and affordability of cover for fire safety works, an issue that is already hitting a number of professionals in the construction industry. It is concerned about the confusion over the definition of the accountable person and the building safety manager roles, and how that impacts on their ability to obtain professional indemnity insurance. It wants more detail so that there is no "potential for confusion". The ABI is also concerned about the

"legal position where there may be multiple APs responsible for a building",

and it is seeking

"a better understanding of the liabilities that flow"

from the issues of underwriting PI insurance, and particularly how those liabilities are split between the two roles.

The ABI goes on to say that

"the current market conditions make it a sub-optimal time"

—I love the term "sub-optimal"; it basically means "a rubbish time"—

"to be launching any kind of new regulatory framework requiring mandatory PI cover."

Of course, we all want everyone involved to have adequate insurance cover in some form or another.

Brendan Clarke-Smith (Bassetlaw) (Con): I appreciate a lot of the hon. Member's points and I share concerns about the very difficult situation. Does she agree, however, that if the legislation is too prescriptive, we could end up restricting the industry and as a result make it more difficult for it to adjust to what are actually asking it to do?

Ruth Cadbury: The hon. Member makes a good point. The problem with insurance is that it can dominate discussions about public policy because issues arise that are not covered by the original legislation and regulations. If something does not go ahead—we have seen tabloid headlines like, "Council stops children going on a school trip"—it is often not because it has been proscribed but because of the insurers. It has nothing to do with the council. We must understand the crucial relationship between the private sector and the insurance sector. The Government must be careful that any legislation on safety, such as this Bill, does not have unintended consequences.

In conclusion, the ABI wrote in its submission that

"there is no 'silver bullet' solution to the problem of the cost of insurance for un-remediated high-rise residential buildings…However, market-led intervention by itself will not 'solve' the problem—there is likely to be a need for the Government to intervene to provide support for the relatively small number of buildings that are simply too risky for the market to insure at prices that are affordable to the majority of leaseholders."

Is that something that the Government are considering? The last thing we want is to go from the current situation of having many unsafe new homes, to one where we have no new homes.

2.30 pm

Christopher Pincher: I am obliged to the Committee for its consideration of the clause. Before addressing the points that have been raised, let me reiterate that we believe that the reforms in the Bill, and particularly in this clause, by creating a requirement to publish guidelines in the future and providing the Government with the power to secure the involvement of specialist bodies in assessing what the insurance guidelines and approved schemes should be, provide clarity to assurers and the insurance market. I can assure the Committee that my noble Friend Lord Greenhalgh has held a series of discussions with the insurance sector over the last year. Indeed, today he began a series of much more detailed bilateral discussions with the sector to make sure that the insurance provision is appropriate and available.

Before I address the points made by the hon. Member for Brentford and Isleworth, let me address one of the points made by my hon. Friend the Member for West Bromwich West about secondary legislation in the context of this clause. Although I understand the points that Members across the House, and not just in this Committee, express about secondary legislation, we must remember that if there is to be further Government legislation in the financial affairs space—in risk assurance or lending, for example—that could have a consequential effect on the regulations that apply to the insurance market with respect to building safety if we write those regulations into the Bill. Because of changes and other legislation that may come from other Departments, it is much safer for us to put our consequential arrangements in secondary legislation, which allows the Government the flexibility to respond more quickly and allows the House to scrutinise those changes.

I turn to the compelling contribution by the hon. Member for Brentford and Isleworth. I recognise that she raised some questions about the relative roles and responsibilities of the accountable person versus the responsible person, and the way in which the Regulatory Reform (Fire Safety) Order 2005, the Fire Safety Act 2021

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and this Bill, when it becomes an Act, will operate. We will certainly ensure, though guidance, that those understandings are clear. That is one of the reasons why, for example, we have specified that where there are potentially multiple accountable persons, there will be a principal accountable person. That should, I hope, give the insurance sector and other players in the market some clear direction and guidance as to who is responsible for what, and their relative responsibilities.

The hon. Lady also mentioned the difficulties with risk assessors, for example, getting assurance and insurance. We recognise that. One might say that the insurance sector has been rather sclerotic, but that is one of the reasons why we have worked closely with it, and one of the reasons why my right hon. Friend the Member for Newark (Robert Jenrick) made it clear when he was Secretary of State that we will provide for public indemnity insurance for EWS1 a Government-backed backstop where the market is not able to provide insurance for those inspectors that require it.

We have tried to ensure that we have sufficient flexibility in the clause to respond to the changing terrain of the insurance market and of building safety, and that we have provided, through other means, adequate resources and adequate assurances to the market that the Government are there to help where necessary. Having said that, I commend the clause to the Committee.

Question put and agreed to.

Clause 47 accordingly ordered to stand part of the Bill.

Clause 48

PLANS CERTIFICATES

Question proposed, That the clause stand part of the Bill.

Christopher Pincher: Clause 48 aims to bring the process for checking plans when work is supervised by a registered building control approver more into line with the process when local authorities are the building control body—another example of our trying to level the terrain. Currently, section 50 of the Building Act 1984 enables an approved inspector, or registered building control approver as they will be called in the future, at the request of a person intending to carry out building work, to issue a plans certificate to the local authority. That can be issued if they have inspected plans of work covered by an initial notice, and are satisfied that if the work is carried out in accordance with the plans the work will comply with building regulations' requirements.

At the moment, plans certificates are voluntary, and we know that only a small proportion of initial notices are accompanied by plans certificates. In contrast, where a local authority is the building control body, plans of building work have to be deposited for building work to be carried out on a building subject to the Regulatory Reform (Fire Safety) Order 2005. These plans have to be approved or rejected by the local authority.

Although approved inspectors or registered building control approvers will undoubtedly do a diligent job in checking plans, it is right that we seek to bring the processes more into line with each other. That will ensure greater transparency, bolster assurance that plans have been properly checked, and avoid any suggestion that those carrying out building work may get an easier ride depending on whether they use an approved inspector or registered building control approver, or a local authority. This will also provide a better basis for consultation between registered building control approvers and fire and rescue authorities on the fire safety aspects of plans.

We consulted last year on the principle of making plans certificates mandatory in specified circumstances. There was strong support for that, and clause 48 provides the framework for doing so. The clause inserts proposed new subsections (1A), (1B), (1C) and (1D) into section 50 of the Building Act 1984. They set out that if certain conditions are met, and the person carrying out the work so requests, a registered building control approver must issue a plans certificate and that these must be provided in the prescribed form.

Clause 48(2)(c) inserts proposed new section 50(7A) into the Building Act 1984. It enables building regulations to prescribe circumstances in which a plans certificate must be issued, and the consequences if a plans certificate is not issued.

Siobhan Baillie (Stroud) (Con): Will my right hon. Friend give way?

Christopher Pincher: I will just finish this part and then I will give way to my hon. Friend, who I know is champing at the bit.

We can prescribe, for example, that plans certificates must be issued for buildings covered by the Regulatory Reform (Fire Safety) Order 2005.

Siobhan Baillie: The Minister may be coming to this, but it would help my learning and understanding if he could clarify why we are not mandating plans certificates for all building works. It would be helpful to have a few more examples of where there will be mandated plans.

The Chair: Order. Before the Minister responds, I gently point out again that I was reading his speech from the explanatory notes as he made those points. Will he point out to his officials that we do not need them to provide him with notes from the explanatory notes, which are already in the public domain, to read out here in Committee?

Christopher Pincher: I am grateful to you, Mr Efford. There are certain legal reasons why I say to the Committee what is in the explanatory notes. It helps the Committee to understand and ensures that those listening to my words also understand the way we intend to upgrade the law.

My hon. Friend the Member for Stroud asked why we do not mandate certificates for all building work. We think that it is a disproportionate response to expect plans for small-scale building work to be deposited with an approved local authority, and the same principle essentially applies for plans certificates. We need to make sure that proportion is maintained at all times.

I will reiterate the key function of the clause in order to help the Committee and to help you, Mr Efford, in guiding our deliberations. I am grateful to the Clerks for their ever-mindful guidance. The clause provides the

framework for us to make important changes to the way in which plans certificates are issued. I hope the Committee will agree that it should stand part of the Bill.

Question put and agreed to.

Clause 48 accordingly ordered to stand part of the Bill.

Clauses 49 and 50 ordered to stand part of the Bill.

Clause 51

INFORMATION GATHERING

Question proposed, That the clause stand part of the Bill.

The Chair: With this it will be convenient to debate clause 52 stand part.

Christopher Pincher: I will try to be brief. Clause 51 relates to local authorities gathering information about particular projects supervised by registered building control approvers where that project has become the responsibility of the local authority. Under the current system, approved inspectors are under no explicit duty to provide information about their casework to a local authority; only the owner of the building can be asked to provide information. There can be problems where an approved inspector ceases to operate or leaves a project unfinished, or indeed both.

In such cases, either the local authority or a new approved inspector will pick up the building control function, but it can struggle to obtain the information on the work completed thus far. In practice, that can result in delays to projects and a risk that building work continues without adequate oversight. It also means a stop-start approach to building control enforcement and more work for the local authorities trying to access that information, which are sometimes unsuccessful.

The changes introduced by the clause require registered building control approvers—or former ones, if they have ceased operating—to provide local authorities with information relating to their building work. Failure of the registered building control approver to comply with a request made by a local authority will be a criminal offence, which is newly provided for in the Bill. Registered building control approvers will also be under a duty to provide copies of that information to their clients.

Together, the measures will ensure a smooth transfer of information from registered building control approvers to local authorities where there is a change of building control provider.

Selaine Saxby: I come from somewhere with multi-tier authorities and a very small district council which is responsible for planning. Should we be concerned about the measures being burdensome for local authorities?

Christopher Pincher: I am obliged to my hon. Friend. We always apply the new burdens doctrine when applying new responsibilities to local authorities, and I am sure that will be the case here.

Ian Byrne (Liverpool, West Derby) (Lab) *rose—*

Christopher Pincher: As he is on his feet and complying with your adjudication that one should stand to intervene, Mr Efford, I shall give way to the hon. Member for Liverpool, West Derby.

Ian Byrne: Thank you, Mr Efford; it is pleasure to know that there is a fellow taxi driver in the room. I didn't realise you were an ex-cabbie—that makes two of us.

On the issue of local authorities, and the point that the hon. Member for North Devon has just raised, will the Minister ensure that local authorities actually have the funding to ensure that what he is outlining can work within this system?

2.45 pm

Christopher Pincher: The hon. Gentleman makes a fair point. As I say, when we apply new responsibilities to local authorities, it is usual practice to apply the new burdens doctrine and thereby determine what further support local authorities might require. Incidentally, last year local authorities received their best funding settlement in 10 years. The Government are committed, through the spending review process, to ensure that this Building Safety Bill, the regulations that flow from it and the organisations and officers created by it are also adequately funded. Having made that point to the hon. Gentleman and the Committee, I commend the clause to the Committee.

Mike Amesbury: Briefly, I am sure these clauses are welcome; information sharing will be vital to the new landscape of building safety. The introduction of an electronic portal—I might refer to the Minister's previous profession and experience in IT—will result in greater systems efficiency, but will require some investment in hardware, systems, development and training. Could the Minister touch on that?

Shaun Bailey: I will keep my comments brief, to keep in line with the culture across the Committee so far. To complement what the hon. Member for Weaver Vale just said, I had hoped to intervene on my right hon. Friend the Minister's point about consistency of process. The portal in clause 52 is welcome, but the back-office processes required to ensure that that is usable and feasible will clearly be important. We have been discussing this duty to share information throughout the Bill, but it is particularly highlighted by clauses 51 and 52. Clearly, for that to succeed, we must be able to ensure that it can be done in the way that we would require.

The point that I really want to press on my right hon. Friend the Minister is that we should ensure that we have that consistency of approach. Perhaps he could reassure us that his Department will work with local authorities to ensure that, in respect of these clauses, we can get that consistency? As hon. Members have said, operational delivery is the one thing that this might fall down on. I am also heartened to hear what he said on the funding point, but, as this progresses, it may need a somewhat flexible approach.

Christopher Pincher: I certainly do not want to prescribe how a portal might be built. That is not for a Government Minister to do—certainly not for one who is a former

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IT consultant. To respond to my hon. Friend and to the hon. Member for Weaver Vale, we will work closely with the Building Safety Regulator to determine how a national portal will be established and maintained. We will bring forward further information in due course; we are working closely with the shadow regulator, and will inform the House when we have more information about how the portal will operate.

Question put and agreed to.

Clause 51 accordingly ordered to stand part of the Bill.

Clause 52 ordered to stand part of the Bill.

Clause 53

FUNCTIONS UNDER PART 3 OF BUILDING ACT 1984

Question proposed, That the clause stand part of the Bill.

Christopher Pincher: Again, this is a little technical, but it bears some description. The clause provides powers for the Secretary of State, by regulations, to allocate responsibilities for functions provided to local authorities in part III of the Building Act 1984 between the Building Safety Regulator and local authorities. Part III of the Act places a number of functions on local authorities in relation to buildings, including the ability to issue a notice to the building owner to require work to be undertaken on the building on matters such as drainage, sanitary conveniences, provision of food storage and means of escape—a variety of requirements.

Part III of the Act also provides functions for local authorities in relation to demolitions of buildings, but there is a potential overlap for the Bill in respect of in-scope buildings. This is between some of the functions placed on local authorities under part III and the regulator's role for in-scope buildings, both in occupation and as a building control authority, under part I of the Act. To avoid any confusion and any potential duplication of the regulations, we will be able to allocate formally to the regulator functions under part III for in-scope buildings, using regulations under the clause.

Alternatively, those functions may continue to rest with the local authority or be available to both the regulator and the local authority. It will be important that where the local authority retains responsibility for certain matters under part III, it informs the regulator if it intends to exercise the relevant functions, so that there is effective co-ordination between the two. The clause provides for regulations to require a local authority to notify the Building Safety Regulator if it intends to exercise one of the part III functions, and vice versa.

Rachel Hopkins (Luton South) (Lab) *rose—*

Christopher Pincher: I see the hon. Lady is on her feet, so I shall give way.

Rachel Hopkins: It is a pleasure to serve under your chairship, Mr Efford. I am interested in part III of the Building Act 1984, which talks about means of escape. How will personal emergency evacuation plans be co-ordinated under this measure? I would be grateful if the Minister could explain further on that point.

Christopher Pincher: I am obliged to the hon. Lady, and that is something that we will work through with the Health and Safety Executive and BSR as they work together to build up their specific competencies and responsibilities. That will become increasingly clear as the BSR beds in and builds out.

We will consult local authorities in developing any regulations. As they are subject to the affirmative procedure, Parliament will of course have to approve them.

Ruth Cadbury: I was not sure when it was best to ask this question, so I will ask it now. It is a genuine question that I do not know the answer to. The hon. Member for North Devon rightly raised the concern of small districts. "Saddled" is the wrong word, but they will have increased responsibilities, require increased technical knowledge, and have a wider range of responsibilities. There is also the crossover with their other responsibilities mentioned in the clause. Many authorities, particularly small ones, share functions, departments and teams across more than one authority. Does the Bill take account of that—for instance, where an authority does not have its own building control team or one of the other safety teams, but shares it with another authority? Has the Bill taken this issue into account?

Christopher Pincher: I am obliged to the hon. Lady. Yes, I believe it has. As we know, local authorities share services and a variety of functions, some of which are statutory. They are able to share those functions across geographies and still execute their statutory responsibilities, and I do not foresee any issue here. She is quite right to say that smaller authorities often have challenges with resources that do a multiplicity of things. One of the reasons why we want in the Bill to see the development of multidisciplinary teams—the Building Safety Regulator and its functions, fire and rescue services, local authorities—is to ensure that even smaller authorities that have in-scope buildings are able to use those multidisciplinary teams to do the work that the Building Safety Regulator will require of them.

I hope that Members will agree that these regulations serve an important purpose and will support the clause. I commend the clause to the Committee.

Mike Amesbury: I have just one brief question—and a plea. Again, they refer to personal emergency evacuation plans, or PEEPs, and a submission from the Leaseholder Disability Action Group, or Clad Dag, which I know the Minister is familiar with. In earlier clauses that we have considered, we spoke about the importance of residents' panels in shaping the current landscape, and of ensuring that disabled people are a key voice on those panels. So I would be interested to hear the Minister's observations on that point, briefly.

Christopher Pincher: I am obliged to the hon. Gentleman. I think that we heard in evidence from the Health and Safety Executive that the shadow regulator is already doing work to—using that awful phrase—reach out to various communities and groups, to make sure that the residents' panel, when it is fully constituted, is also fully representative.

With respect to people with disabilities, I do not believe that anything in the Bill cuts across or undermines disability rights or legislation.

With that, I commend the clause to the Committee.

Question put and agreed to.

Clause 53 accordingly ordered to stand part of the Bill.

Clause 54

MINOR AND CONSEQUENTIAL AMENDMENTS

Question proposed, That the clause stand part of the Bill.

The Chair: With this, it will be convenient to discuss the following: Government amendments 22, 35 and 38.

That schedule 5 be the Fifth schedule to the Bill.

Government amendments 20 and 21.

Christopher Pincher: As these are Government amendments, I should probably speak to them, at least briefly.

These amendments provide Welsh Ministers with the power to commence certain provisions of the Bill in relation to Wales, as well as transferring to Welsh Ministers the power to commence certain uncommenced provisions of the Building Act 1984.

In broad terms, amendment 20 amends the commencement power in clause 146 of the Bill to ensure that only Welsh Ministers have the power to commence provisions that apply only in Wales; only the Secretary of State has the power to commence provisions that apply only in England; that Welsh Ministers have the power to commence in relation to Wales provisions that apply in England and Wales, with some minor exceptions; that the Secretary of State has the power to commence in relation to England provisions that apply in England and Wales; and that the Secretary of State retains the power to commence provisions that apply in England and Wales but which we consider are not within the legislative competence of the Senedd.

Amendment 22 ensures that in relation to buildings in Wales where enforcement action has been taken under section 36 of the 1984 Act, there is clarification that the power to seek an injunction for rectification or removal of work in breach of the building relations is not prejudiced, and it applies to the Counsel General. It is a technical amendment; it does not transfer or confer any new powers on the Counsel General. It is merely a clarification.

I turn very briefly to schedule 5. As well as the substantive changes to the 1984 Act set out in clauses in part 3 of the Bill, a number of minor and consequential amendments to the Act are set out in schedule 5. These changes include those needed to reflect the new terminology used in part 3, such as building control authorities or applications for building control approval. They also include changes to reflect the fact that certain functions previously exercised by the Secretary of State will now be exercised by the Building Safety Regulator.

These are all necessary changes to ensure that the Building Act 1984, and other pieces of legislation, fully reflect the changes made in the Bill, enabling the legislation to work effectively. I commend these amendments to the Committee.

3 pm

Question put and agreed to.

Clause 54 accordingly ordered to stand part of the Bill.

Schedule 5

MINOR CONSEQUENTIAL AMENDMENTS IN CONNECTION WITH PART 3

Amendments made: 22, in schedule 5, page 167, line 4, at end insert—

"(ba) after 'Attorney General' insert ', the Counsel General to the Welsh Government'".

This amendment provides that certain provisions of the Building Act 1984 do not affect the right of the Counsel General to the Welsh Government to apply for an injunction on the ground that any work contravenes provision made by or under that Act.

Amendment 23, in schedule 5, page 170, line 2, leave out from "cooperation" to end of line 3 and insert—

"and the sharing of information: Wales".

This amendment in consequential on the changes made to this section by other amendments.

Amendment 24, in schedule 5, page 170, leave out line 4 and insert—

"Relevant persons (as defined by subsection (3))".

This amendment and Amendment 31 provide that the duty under subsection (1) to cooperate applies to Welsh fire and rescue authorities (as defined by amendment) and fire inspectors (as defined by Amendment 30), rather than fire and rescue authorities as defined by the Building Act 1984.

Amendment 25, in schedule 5, page 170, line 6, leave out—

", so far as relating to a higher-risk building".

This amendment removes the restriction on the duty to cooperate, which currently provides that the duty applies only to functions so far as relating to higher-risk buildings.

Amendment 26, in schedule 5, page 170, line 7, leave out "the" and insert "a".

This is consequential on Amendment 24.

Amendment 27, in schedule 5, page 170, line 8, leave out "the" and insert "a Welsh".

This is consequential on Amendment 24.

Amendment 28, in schedule 5, page 170, line 11, at end insert—

"(c) any function of a fire inspector under that Order."

This is consequential on Amendment 24.

Amendment 29, in schedule 5, page 170, line 14, at end insert—

"(2A) The Welsh Ministers and a relevant person must cooperate with each other in the exercise of any of the following functions—

(a) a function of the Welsh Ministers under Part 2A;

(b) a function mentioned in the relevant paragraph of subsection (1).

(2B) The Welsh Ministers may disclose information held in connection with a function under Part 2A to a relevant person for the purposes of—

(a) a function of the Welsh Ministers under Part 2A, or

(b) a function mentioned in the relevant paragraph of subsection (1).

(2C) A relevant person may disclose information held in connection with a function mentioned in the relevant paragraph of subsection (1) to the Welsh Ministers for the purposes of—

(a) a function mentioned in the relevant paragraph of subsection (1), or

(b) a function of the Welsh Ministers under Part 2A.

(2D) In subsections (2A) to (2C) "the relevant paragraph" of subsection (1), in relation to a kind of relevant person, means the paragraph of subsection (1) relating to a relevant person of that kind."

This amendment imposes a duty on the Welsh Ministers and relevant persons to cooperate with each other in the exercise of certain functions, and a power to disclose certain information relating to those functions.

Amendment 30, in schedule 5, page 170, line 15, leave out "paragraph—" and insert "section—

"fire inspector" means an inspector or assistant inspector appointed under section 28(1) of the Fire and Rescue Services Act 2004;".

This amendment defines "fire inspector" for the purposes of the section.

Amendment 31, in schedule 5, page 170, line 16, leave out—

"or a fire and rescue authority in Wales"

and insert—

", Welsh fire and rescue authority or fire inspector".

This amendment changes the definition of "relevant person" for the purposes of the section.

Amendment 32, in schedule 5, page 170, line 30, leave out paragraph (b) and insert—

"(b) in relation to a Welsh fire and rescue authority, any function of such an authority under—

(i) the Fire and Rescue Services Act 2004, or

(ii) the Regulatory Reform (Fire Safety) Order 2005,

or any prescribed function of such an authority;

(c) in relation to a fire inspector, any function of a fire inspector under the Regulatory Reform (Fire Safety) Order 2005;".

This amendment, which changes the definition of "relevant function" for the purposes of this section, is consequential on Amendment 31.

Amendment 33, in schedule 5, page 170, line 36, at end insert—

"'Welsh fire and rescue authority" means a fire and rescue authority, within the meaning of Part 1 of the Fire and Rescue Services Act 2004, for an area in Wales."

This amendment defines "Welsh fire and rescue authority" for the purposes of the section.

Amendment 34, in schedule 5, page 170, line 36, at end insert—

"(4) Except as provided by subsection (5), the disclosure of information under this section does not breach—

(a) any obligation of confidence owed by the person making the disclosure, or

(b) any other restriction on the disclosure of information (however imposed).

(5) This section does not authorise a disclosure of information if the disclosure would contravene the data protection legislation (but in determining whether a disclosure would do so, take into account the powers conferred by this section).

"The data protection legislation" has the same meaning as in the Data Protection Act 2018 (see section 3 of that Act)."

This amendment provides that the disclosure of information under this section does not breach any obligation of confidence or other restriction, and that the section does not authorise a disclosure of information that would contravene the data protection legislation.

Amendment 35, in schedule 5, page 173, line 29, at end insert—

"(b) after 'Secretary of State' insert 'or Welsh Ministers';

(c) for 'him' substitute 'the Secretary of State or Welsh Ministers.'".

This amendment makes provision in connection with the transfer of the power to make orders under section 134 of the Building Act 1984 (commencement), in relation to Wales, to the Welsh Ministers.

Amendment 36, in schedule 5, page 174, line 22, leave out "120I" and insert "120I(2)".

This amendment, which is consequential on Amendment 17, makes regulations under new section 120I(4) of the Building Act 1984 subject to the negative procedure.

Amendment 37, in Schedule 5, page 175, line 17, after "120D" insert "or 120I".

This amendment is consequential on Amendment 17.

Amendment 38, in Schedule 5, page 176, line 25, at end insert—

"81A In section 134 after subsection (1) insert—

(1A) Except so far as relating to the provisions listed in subsection (1B), the reference in subsection (1) to the Secretary of State is to be read, in relation to Wales, as a reference to the Welsh Ministers.

(1B) The provisions mentioned in subsection (1A) are sections 38, 44, 45 and 133(2) and Schedule 7." —*(Christopher Pincher.)*

This amendment provides that, in relation to Wales and subject to an exception for the provisions listed in subsection (1B), the power to make commencement orders under the Building Act 1984 is a power of the Welsh Ministers.

Schedule 5, as amended, agreed to.

Clause 55

APPEALS

Question proposed, That the clause stand part of the Bill.

The Chair: With this it will be convenient to consider that schedule 6 be the Sixth schedule to the Bill.

Christopher Pincher: Briefly, clause 55 relates to changes to appeals under the Building Act 1984. We propose to move certain appeals, which are currently heard by the Secretary of State, to the regulator. These appeals relate to the use of certain materials, the refusal to relax building regulations, and a registered building control approver's refusal to give a plans certificate. The regulator will oversee the performance of building control bodies in England, so it follows that appeals of local authorities and registered building control approver decisions will now sit with the Building Safety Regulator.

Clause 55 also moves appeals of various building matters from the magistrates court to the property first-tier tribunal. We believe this will create a high level of expertise within the first-tier tribunal, and we intend to establish a specialist unit within it. Cases on important matters, such as the use of products and fire and safety risk assessments, will be heard by that first-tier tribunal specialist unit. Over time, a body of case law and precedent will emerge, leading to increasingly informed and rapid rulings. The full details of this clause are found in schedule 6.

Schedule 6 contains amendments to the Building Act 1984 that relate to appeals and other determinations. I have previously mentioned that appeals and determinations under the Act in England will now be undertaken by the Building Safety Regulator or first-tier tribunal. We want to align the appeals procedure for all building control decisions in England to sit ultimately with that tribunal, and to accommodate the Building Safety Regulator's position as a new building control authority with oversight of building control bodies.

Paragraphs 2 to 8 move appeals on the use of certain materials, refusal of relaxation of building regulations and refusal by a registered building control approver to give a plan certificate from the Secretary of State to the regulator. Paragraphs 9 to 28 transfer functions from the magistrates court to the tribunal in England, along with minor and consequential related amendments. Finally, paragraph 30 creates new provisions for appeals where it is disputed whether proposed work is higher-risk building work. That is to say that a person who intends to carry out the work can appeal a local authority's view that their building is in the scope of the higher-risk regime. These are, again, technical but important items, and I commend them to the Committee.

Shaun Bailey: I will keep my comments brief. I appreciate that this is a technical clause, as my right hon. Friend has articulated well, but I will make a few brief points. Broadly speaking, I support the clause. It is right that we have people with the expertise to determine appeals. We must ensure that that is done in a way that provides public confidence, so people know that appeals have had due process.

As someone who has interacted with these systems in the past, may I make a plea to my right hon. Friend? It is all well and good setting up systems such as this, but can we please ensure the process works? It may be hindered if we put things into new bodies and new units in the judicial system, and then people have the frustration of going through the rigmarole of processes that do not work or dealing with Her Majesty's Courts and Tribunals Service systems that may not function to the best of their ability. We want to ensure public and industry confidence that when an appeal is made, it will be dealt with in an appropriate, timely and cost-effective manner, and the rules and regulations will be followed.

I concur with my right hon. Friend when he says that he hopes a body of precedent and case law will build up in this area. Clearly, there is existing precedent, which I hope judges who are learned in this area will pick up on. He has had a shopping list of requests from me today, but I ask him to ensure that there is appropriate guidance and real engagement between the Department, the Ministry of Justice and the judges who will sit within this tribunal. It is important that there is consistency in the process, and that it ultimately instils confidence.

Whenever we set up an appeals process such as this one, it is vital that we ensure that it can work. The clause has my full support. It is right to ensure that these technical appeals are dealt with by people who have the right skillset and knowledge, but let us ensure that the process works so that the really good intentions behind clause 55 are realised as we would expect.

Christopher Pincher: My hon. Friend has provided me and my officials with not so much a shopping basket as a shopping trolley of requests. Perhaps an Ocado delivery will arrive at the Department for Levelling Up, Housing and Communities very soon.

I will clarify my remarks to help my hon. Friend, because he is quite right. When I said that over time a body of case law and precedent would emerge, I should have said that over time a further body of case law and further precedent, built upon what already exists, will emerge, and that will lead to increasingly informed rulings. Having listened to you and your rulings, Mr Efford, I now commend this clause to the Committee.

Question put and agreed to.

Clause 55 accordingly ordered to stand part of the Bill.

Schedule 6 agreed to.

Clause 56

FEES AND CHARGES

Question proposed, That the clause stand part of the Bill.

Christopher Pincher: I will try to ensure that I keep my teeth in as I whistle through the s's in clause 56.

We are committed to ensuring that the Building Safety Regulator receives the funding required to enable it to deliver. Members of the Committee have made that point in discussion of the previous clauses. Dame Judith's review recommended that the regulator for buildings in scope of the new and more stringent regulatory regime should fully recover its costs from those it regulates. The recommendation reflected that duty holders who require the most intervention by the safety regulator should pay more. The Bill needs to enable the Building Safety Regulator to charge fees, both to implement the recommendation of the independent review and to put the Building Safety Regulator on a firm financial footing. The power could also be used to charge for other Building Safety Regulator functions under the Building Act, such as registering building inspectors and building control approvals.

In a previous debate on clause 27 on the power to charge regulator fees, the Committee was rightly interested in any effects on leaseholders. We expect that the power under clause 56 would be used to charge fees for building control during the design and construction of new high-rise residential buildings, just as building control is charged for currently. Leaseholders will not directly bear the cost of such fees. However, the purchase price for a new home may reflect the costs of construction, including any regulatory costs, as is the case now. We do not intend that the leaseholder bear directly the costs of these particular fees.

For building control during refurbishments, the position remains as it is now. Building control fees can be passed on only if the terms of the lease allow—of course, different leases have different terms. This is a complicated area, and I remind the Committee that although the position on building control fees is broadly unchanged from current practice, we are introducing a new regulatory regime in occupation under part 4, for which the regulator may charge fees under clause 27.

For costs under part 4, there are specific provisions that deal with the effects on leaseholders under the building safety charter. The charge includes the costs of delivering a defined set of safety measures, to ensure that leaseholders and residents feel safe in their homes. The charge includes regulator fees specifically associated with the activities covered by the building safety charge, such as checks on the safety case to ensure the building is being managed safely. The building safety charge provisions also contain strong safeguards for leaseholders that prevent fees resulting from enforcement action by

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the Building Safety Regulator or from any negligent or unlawful act by the accountable person being passed on to leaseholders.

This clause also provides powers for regulations to extend the scope of current local authority building control charging schemes. Currently, local authorities can charge for specified building control activities, as set out in the Building (Local Authority Charges) Regulations 2010, namely checking plans, inspecting work, dealing with building notices, dealing with reversions from approved inspectors and dealing with requests for regularisations. Local authorities can also charge for advice given in relation to any of those activities. However, local authorities carry out a number of other functions under the Building Act that are not in the scope of the current charges regulations.

We want to give local authorities the opportunity to recover more of their costs. Therefore, clause 56 provides wider powers for regulations to set fees and charges in relation to any local authority function under the Building Act. It enables the regulations to prescribe what fees should be set and that local authorities can set out their charges in schemes established in accordance with principles set out in the regulations. This is in line with the approach in the current regulations, which enable local authorities to set out charging schemes and principles that those schemes must follow. The clause also enables Welsh Ministers to charge for their functions under part 2A of the Building Act in Wales.

Mike Amesbury: After how many days will the building safety charge be payable, and how much will it be? That is vital, obviously, to resident leaseholders. On the finer detail of the scope, will the charge be levied on buildings from 11 to 18 metres, and on those that are18 metres-plus?

3.15 pm

Christopher Pincher: With respect to the last point, the charge will be levied on buildings in the scope of this Bill—this regime. We have said that the charges will not be more than a certain amount, but clearly, charges can change over time, so it would not be appropriate for me to say what a specific building safety charge ought to be. On how long it will take to pay, that is certainly something that we will want to work through with the Building Safety Regulator and we will specify in secondary legislation.

Question put and agreed to.

Clause 56 accordingly ordered to stand part of the Bill.

Clause 57

Levy on applications for building control approval in respect of higher-risk buildings

Rachel Hopkins: I beg to move amendment 9, in clause 57, page 78, line 12, at end insert—

"(4A) The regulations must exempt applications or specified descriptions of relevant applications made by or on behalf of registered social landlords for the provision of social housing as defined by the Housing and Regeneration Act 2008."

This amendment would seek to remove the levy as introduced by Clause 57 from social housing.

The Chair: With this it will be convenient to discuss clause stand part.

Rachel Hopkins: It is appropriate that I mention my entry in the Register of Members' Financial Interests; I am a vice-president of the Local Government Association.

I welcome the opportunity to move this amendment. The Minister will recognise my deep interest in housing and in ensuring that everyone can live in a good-quality, secure, safe home that they can afford to live in. The amendment would place in the Bill, rather than in regulations, an exemption for social housing from the levy introduced by the clause.

The levy is designed to meet building safety expenditure. That expenditure is not the ongoing cost of the new building safety regime, which is met through the building safety charge; it is designed to cover the cost of Government support for the remediation of unsafe cladding. That support is provided to leaseholders in buildings with unsafe cladding systems, either through the Building Safety Fund or through a system of low-cost loans for buildings under 18 metres, the details of which are yet to be announced.

For the most part, that support is not available to social landlords, other than to alleviate costs that they may otherwise have to pass on to leaseholders. With the exception of buildings with aluminium composite material cladding, social landlords have been denied access to those funds. For councils, remediation costs therefore fall on the housing revenue account and must be recouped either through rent increases or by diverting funds away from improvements to council housing or the provision of new council housing.

In contrast to many private developers and freeholders, social and council housing providers were the quickest to react post Grenfell. Analysis has shown that housing associations have paid six times more than developers to remediate dangerous cladding. According to G15, the group of London's largest housing associations, overall, associations have set aside nearly £3 billion for historical remediation costs, far more than the half a billion pounds that the private sector has provided.

Ruth Cadbury: My hon. Friend is making really powerful points. I have a number of blocks in my constituency managed by housing associations, but they were generally built by volume house builders, and the housing associations are having to deal with the costs that she mentions. Ultimately, as she says, those costs are falling on leaseholders, many of whom are shared owners and people on fixed incomes, and on the future social tenants of the housing association, because the costs impact the association's capital programme. Does she agree that that means a slowdown in what is already a very slow social housing new build programme, and concerns about other repairs and capital works to existing social rent homes in the portfolios of the housing associations?

Rachel Hopkins: I thank my hon. Friend for making those key points so well. I will reiterate them: the Local Government Association and housing associations have warned that building safety costs will put at risk their ability to build much more affordable housing, as she pointed out. The required subsidy per affordable home currently sits at approximately £50,000; £3 million spent on remediation costs would mean 58,000 fewer homes over the next 10 years. Shelter also estimates that we

need 90,000 new social homes a year to fix our housing crisis, and that does not go into what is needed to get social homes to a decent standard or reach our net zero targets, which the Minister will know we discussed in the Housing, Communities and Local Government Committee earlier this week.

The Local Government Association—or should I say the Conservative-led Local Government Association—stated in its written evidence:

"Imposing the developer levy on councils would leave council tenants paying for the failings of private developers. If the Levy is imposed on social providers, their ability to deliver the improvements and additions to the housing stock that the Government requires will be put at risk."

Daisy Cooper: Has the hon. Lady received any estimates of the cost of the levy for social providers? If not, does she agree that it might be helpful if the Minister could tell us what estimates the Government have made?

Rachel Hopkins: I thank the hon. Lady for her important contributions. There are different levels, because this is such a complex area, but research that the LGA commissioned, which just looked at the total cost to deliver compliance with the high safety standards, the installation of sprinklers and compartmentation across the entire housing revenue account council housing stock, would be more than £8 billion over a 10-year period, with the majority of the investment taking place in the first five years.

There is so much at stake here that will have an impact on social housing and the likelihood of being able to build good social housing. The conclusion is that the levy, if imposed on councils and social landlords, will increase the cost of building or refurbishing social housing, or increase the rents, yet the benefits to funds will not be available to the tenants who would otherwise have benefited from lower rents or better housing.

Finally, imposing the levy on councils means council tenants will be subsidising the failings of private developers and paying the costs of both remediating council housing and private housing. I am pleased to move this amendment; I hope the Minister will accept it, and I look forward to hearing his comments.

Christopher Pincher: I am grateful to the hon. Lady for her amendment. In parenthesis, let me say that the Government are committed to increasing affordable housing and socially rented homes as a component of that. She will know, as an articulate and committed member of the HCLG Committee, that we have made available in the present 2021 to 2026 cycle more than £12 billion, £11.5 billion of which is new money, to build some 180,000 new homes, economic conditions permitting, of which 32,000, or double the number in the present cycle, will be for social rent. We have also made it easier for councils and local authorities to build social homes if they wish, but I will not go into the detail of that, because it is a separate matter and does not apply to this clause.

I had a conversation only last night with the Financial Secretary to the Treasury on our approach to the levy and exemptions, and I am pleased to inform the hon. Member for Luton South that we have already proposed —not as a direct result of that conversation, but more broadly—an exemption from the levy for affordable housing as a whole. That includes social housing, as well as housing for rent or sale at least 20% below market value, shared ownership and rent to buy. We recognise that applying a levy to affordable housing, which includes social housing, would increase the cost of developing affordable housing and is likely to be a disincentive to supply.

We presently have a public consultation in flight, seeking views and evidence on how the exemption would work in practice. The consultation will conclude on 15 October. We would not want to pre-empt the outcome of that consultation, although I think the hon. Member for Luton South can see the way our thoughts are progressing, but neither do we want to write such a matter on to the face of the Bill, because we think that it is more appropriate in secondary legislation. We are consulting on it and we do want to ensure that the exemption applies, so I hope that she will agree that her amendment is unnecessary and therefore withdraw it.

Ian Byrne: It is really good to hear the Minister talk about social housing, because when the Housing, Communities and Local Government Committee has taken evidence on this we have heard only about affordable housing; we could not get the social housing element drawn out. Just to clarify, will social housing associations be exempt from the charge?

Christopher Pincher: Our proposal is that social housing be exempted from the levy. We are consulting on how to do it, but that is our proposal, so the Committee can see the flight trajectory that the Government are on. I therefore hope that the hon. Member for Luton South, when she has an opportunity to make her views plain, will withdraw her amendment.

Shaun Bailey: I very much concur with the sentiment behind the amendment, as someone who is very passionate about social housing, as my right hon. Friend knows. Will he ensure that the consultation is as broad as possible, because social housing providers, as I am sure we all know, come in many different forms—it is a complex landscape? Can he reassure me that we will see the broadest possible consultation, to ensure that this works as effectively as possible?

Christopher Pincher: I am happy to give my hon. Friend that assurance. We consult a wide variety of statutory stakeholders, but we do not include only the usual suspects in Government consultations, so it is possible for anybody to respond. We usually expect a wide variety of inputs, in order that we may reach a sensible conclusion. I therefore hope that the hon. Member for Luton South will agree to withdraw her amendment.

Mr Efford, is it your wish that I should speak to clause 57 itself before we decide on the amendment?

The Chair: Yes.

Christopher Pincher: Then I shall do so.

Clause 57 introduces powers to create a levy on developers who seek regulatory permission to build certain high-rise residential buildings at the gateway 2 stage of the new building safety regime. This building

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safety levy will be used for the purposes of meeting the Government's building safety expenditure, such as providing assistance for the purpose of removing unsafe cladding. Residential developers who construct new high-rise buildings will gain from the restoration of confidence in the housing market, so it is right that they should help fund the significant costs associated with fixing buildings when they are unsafe.

The Government have already set up a £1 billion safety fund, with grants to help leaseholders pay for the removal and replacement of unsafe non-ACM cladding on their high-rise buildings. That is in addition to the £600 million for replacement of ACM cladding, bringing the total remediation funding to £1.6 billion. An additional £3.5 billion was announced in February 2021, so we are now providing over £5 billion, plus a waking watch fund, to support in-scope high-rise buildings to be remediated.

3.30 pm

Our funding will protect leaseholders from the costs of the highest risks. However, the levy funding does not absolve building owners of their responsibility to ensure that their buildings are safe. They should consider all routes to meet costs, protecting leaseholders wherever they can—for example, through warranties and recovering costs from contractors for incorrect or poor work. Some developers are already taking steps to remediate historical building safety defects. Of course, some are not, and we say that they should do so.

Taylor Wimpey has set aside £165 million for remediation purposes, Barratts has set aside £82 million, and Persimmon £75 million. Bellway is reported to have provided over £130 million for remediation of historical building defects. We continue to encourage developers to step up and ensure that the costs of remediation do not fall on leaseholders, because they did not cause the problems. As I mentioned to the hon. Member for Luton South earlier, we have launched a consultation on the design of the levy, which will help shape secondary legislation on the rate and how the levy is calculated.

I will not speak to the developer tax, because that is not part of the Bill. It is a Treasury matter and is presently being consulted on, but we reckon that it will raise £2 billion over 10 years. With that, I commend the clause to the Committee.

Mike Amesbury: I thank the Minister and my hon. Friend the Member for Luton South, and I welcome the direction of travel, which demonstrates how this place can work most effectively for the good of the affordable housing sector as a whole.

On clause 57, the principle of the levy is most welcome. Campaigners up and down the country have been pushing for a levy—sometimes under the polluter pays principle. There is a history of failure and deregulation in the construction industry, and resident leaseholders are certainly not responsible for the mess. Then we get to some of the details. The principle of polluter pays is a good thing. Looking at the evidence from the Select Committee—we have colleagues present who are key members of that—the cost of remediation is estimated to be some £15 billion. The Minister referred to conversations with his good friends in the Treasury, who are referring to a levy of £2 billion—a fraction of that.

On the scope of the levy, I understand some of the practicalities of gateway 2, but to whom will that money be directed to provide support? Will it be by way of grants? I notice another reference in clause 57 to the provision of loans, but loans to who? The principle is good and we welcome a levy, but it is nowhere near sufficient to deal with the building safety scandal, which is exactly what it is. We urge the Minister to look again at the size and scope of that with his good friends in the Treasury. Of course, voices outside this place will continue over and over and get louder and louder until justice is done.

On other potential exclusions, looking at the Department—I am not on top of its new name, by the way, so excuse me—

The Parliamentary Under-Secretary of State for Levelling Up, Housing and Communities (Eddie Hughes): The Department for Levelling Up, Housing and Communities.

Mike Amesbury: It just rolls off the tongue, doesn't it? According to the Government's own figures, 274 hospitals of 18 metres and above are in scope at the moment, as well as 10 care homes. For the hospitals, that will affect capital spending in other Departments. I am sure that we all have ambitions to get renewed hospital facilities in our constituencies via capital spending. Drawing on the previous amendment, I am sure that that is something that Ministers are strongly considering. Of course, the Opposition—or Members across the piece, actually—would urge them to look at those exclusions.

Shaun Bailey: I am really pleased to speak both to the clause and to the amendment tabled by the hon. Member for Luton South. As someone who probably would not be here were it not for social housing, I completely agree with the sentiment behind her amendment and with most, if not all, of what she said about the need to build more social housing, and in particular, her point about improving the quality of existing stock. I am sure that the biggest issue we both deal with is the quality of the existing stock in which people currently live. I do not disagree with the sentiment behind the amendment, which seeks to enable social housing providers to retain their limited resources—I am sure she would agree that they need more—to improve their stock.

I am heartened to hear from my right hon. Friend the Minister about the positivity that appears to be coming from Her Majesty's Treasury on this matter. It is fantastic to hear that those deliberations and conversations have been positive. I will probably not articulate it very well—apologies, this is a bit personal for me—but I am really pleased to hear that. It is important, and I was probably struggling with the issue a bit given my background and experiences. I am glad to hear that the Treasury have heard that point, and I thank the hon. Lady for tabling the amendment.

The clause is the right move in respect of developers and the levy. As Dame Judith Hackitt pointed out, we will ultimately ensure that our system works and is financially robust. As the hon. Member for Weaver Vale pointed out in his contribution, the regulations will be

the meat of the legislation. I note the exemptions listed. I listened with real interest to the point the hon. Gentleman made about hospitals and care homes. Many of us, across the piece, can have discussions about that and perhaps work on it. We have talked about unintended consequences all day, and what we do not want to see is any sort of inhibition of the Government's agenda of building more hospitals, improving social care, and doing what we know needs to be done in our communities. The hon. Gentleman made an important point. I do not necessarily expect an answer from my right hon. Friend the Minister today; I appreciate that the conversations are ongoing, and I am sure he agrees that they are important.

We have heard some well-articulated speeches, and it is always a bit of a nightmare speaking after them because we tend to say what everyone else has said. To keep my comments as brief and to the point as possible, the sentiment behind the hon. Lady's amendment is absolutely spot on, and I am really heartened to hear the response from my right hon. Friend the Minister. The levy is right, but we will need to scrutinise the accompanying regulations, particularly on exemptions, which I will consider with interest. The principle underpinning clause 57 is right and has my wholehearted support.

Rachel Hopkins: I am grateful to the Minister for his comments. On the basis of his assurances about the outcome of the consultation, the direction of travel that he indicated, and the fact that we will keep a close eye on the progress of that consultation, I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Clause 57 ordered to stand part of the Bill.

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

3.41 pm

Adjourned till Tuesday 19 October at twenty-five minutes past Nine o'clock.

Written evidence reported to the House

BSB33 AXA UK

BSB34 Dr Mark Azavedo