



House of Commons  
Housing, Communities and  
Local Government Committee

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**Building regulations  
and fire safety:  
consultation response  
and connected issues**

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**Seventeenth Report of Session  
2017–19**

*Report, together with formal minutes  
relating to the report*

*Ordered by the House of Commons  
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## Housing, Communities and Local Government Committee

The Housing, Communities and Local Government Committee is appointed by the House of Commons to examine the expenditure, administration, and policy of the Ministry of Housing, Communities and Local Government.

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## Summary

Two years on from the fire at Grenfell Tower, this Committee has not forgotten the victims, the dignity of the survivors, nor the clear message that fundamental change is urgently needed in the social housing sector and construction industry. Whilst we still await the report of the Public Inquiry, it is already clear that 72 people died at Grenfell Tower at least in part because of serious failures in this country's building regulations and fire safety regime.

Over the last two years, this Committee has undertaken a substantial amount of work scrutinising the Government's efforts to reform the building regulations and remediate buildings with dangerous cladding. This report is a continuation of that work.

Here, we provide our response to the proposals set out in the Government's June 2019 consultation into reform of the building safety regulatory system. We also outline our views on the Government's wider work around building safety, including the progress of remediation of buildings known to have combustible cladding and the ongoing support for survivors of the Grenfell Tower fire. Our main conclusions are as follows:

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- **The pace of change set by the Government in reforming the building and fire safety regulatory regime has been far too slow.**

It has been over two years since the fire at Grenfell Tower, and more than a year since the publication of the Final Report of the Independent Review of Building Regulations and Fire Safety, and yet the Government has only just published a consultation into its proposals for reform of the building safety regulatory system. The Government must pick up the pace of reform, before it is too late.

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- **The Government should set a realistic, but short, deadline by which time all buildings with any form of dangerous cladding should be fully remediated.**

It is taking far too long to remove and replace potentially dangerous cladding from high-rise and high-risk buildings. Government policies and funding mechanisms should work to meet this deadline, while sanctions should follow for building owners who fail to make their buildings safe within a reasonable timeframe.

- **The Government is highly likely to need to provide additional funding to remediate buildings with dangerous ACM cladding**

It is welcome that the Government has finally provided funding to meet the costs of replacing unsafe ACM cladding from privately owned high-rise residential buildings, as we called for in July 2018. We fear, however, that £200 million will not be sufficient to fully remediate all affected buildings.

- **The Government cannot morally justify funding the replacement of one form of dangerous cladding, but not others.**

- **The Government should immediately extend its fund to cover the removal and replacement of any form of combustible cladding – as defined by the Government’s combustible cladding ban – from any high-rise or high-risk building.**

The Government is right to argue that leaseholders should not be forced to pay for the remediation of their buildings, but is wrong to only provide support to residents with a specific type of cladding. If a cladding system fails a fire safety test, the Government should fully fund its removal and replacement from any high-rise or high-risk building.

There is an unfortunate feeling of *deja vu* around the Government’s approach to non-ACM cladding and a sense that they will inevitably end up paying for it after a short period of prevaricating. In the meantime, tens of thousands of affected residents continue to live in potentially dangerous buildings, or have been sent large bills for remedial works.

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- **The Government should be ambitious with the scope of the new regulatory regime from the outset, setting out timescales to bring different types of buildings within scope.**

We acknowledge that the Government intends, over time, to bring more buildings within the scope of the new regime. However, the scope of the new regulatory system should not be determined by height alone. Instead, the new regime should apply to all buildings where there are vulnerable people, while other determinants of risk should also be taken into consideration.

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- **The Government is absolutely right to prioritise measures to strengthen the voices of residents concerning building and fire safety.**

One of the most important lessons from the Grenfell Tower fire was that residents must be listened to, their concerns need to be taken seriously, and mechanisms should be in place so residents can escalate their concerns if they do not feel these are being adequately addressed. Residents’ voice goes beyond fire safety and must form a central part of the Government’s social housing reforms, but we are concerned there has been a lack of progress in this area, specifically the delay in the Government responding to the consultation into the Social Housing Green Paper.

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- **The Government and the Royal Borough of Kensington and Chelsea have continued to be too slow to provide the support and services needed by people affected by the fire.**

Two years on, many survivors are experiencing significant problems with the quality of their permanent accommodation. Further, it is apparent that the community are not receiving the standard of health checks that they thought they had been promised.

## Introduction

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1. Two years on from the fire at Grenfell Tower, this Committee has not forgotten the victims, the dignity of the survivors, nor the clear message that fundamental change is urgently needed in the social housing sector and construction industry. Whilst we still await the report of the first phase of the Public Inquiry, it is already clear that 72 people died at Grenfell Tower at least in part because of serious failures in this country's building regulations and fire safety regime. It is for this reason that, over the last two years, this Committee has undertaken a substantial amount of work relating to scrutiny of the Government's efforts to reform the building regulations and remediate buildings with dangerous cladding. This report is a continuation of that work.

2. On 6 June 2019, the Government published a consultation into its proposals for reform of the building safety regulatory system.<sup>1</sup> This followed the publication of *Building a Safer Future: An Implementation Plan*, in which the Government accepted the 53 recommendations set out in the Final Report of the Independent Review of Building Regulations and Fire Safety, and set out a programme of work for how the new regulatory framework proposed by Dame Judith Hackitt would be implemented.<sup>2</sup> The consultation sought views on the Government's proposals for a new building and fire safety regulatory system, including: the scope of the new regulatory regime, the role of dutyholders in the system, proposals to give residents a stronger voice, regulatory structures to strengthen oversight, and a new regime of enforcement and sanctions. The deadline for responses to the Government's consultation is 30 July 2019.

3. We have decided to make a formal response to this consultation. Whilst we have engaged extensively with Ministers in correspondence over the last 12 months (as set out in an Annex to this report), the Committee has not published a report into the building regulations since July 2018.<sup>3</sup> We felt, therefore, that this would also be an opportunity to express our views on the Government's wider work around building safety, including the progress of remediation of buildings known to have combustible cladding and the ongoing support for survivors of the Grenfell Tower fire.

4. Due to the need to submit our response in advance of the consultation deadline, we have prepared a more concise report than usual, focusing primarily on our conclusions and recommendations. This report has two chapters. The first chapter addresses the overall pace of change set by the Government, including progress towards the remediation of buildings with combustible cladding, and the evidence we heard from Grenfell United about the ongoing difficulties they face to get their voice heard and access the support and services they need. The second chapter provides a response to the Government's consultation, considering the five policy areas in turn.

5. To inform our conclusions and recommendations, the Committee held a public evidence session on 8 July 2019. We are particularly grateful to Edward Daffarn, Bellal El Guenuni and Adel Chaoui from Grenfell United for speaking to us on behalf of the survivors and victims' families of the Grenfell Tower fire. We were also grateful to hear

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1 [Building a safer future: proposals for reform of the building safety regulatory system](#), Ministry of Housing, Communities and Local Government, 6 June 2019

2 [Building a Safer Future: An Implementation Plan](#), Ministry of Housing, Communities and Local Government, 18 December 2019, and the [Independent Review of Building Regulations and Fire Safety: final report](#), 17 May 2018

3 [Independent review of building regulations and fire safety: next steps](#), Housing, Communities and Local Government Committee, 18 July 2018

from representatives of building owners in the social and private sectors, as well as fire and building safety experts. This public evidence was complemented by written submissions and correspondence from a range of organisations over the past 12 months, much of which has been published on our website.

# 1 The pace of change since the Grenfell Tower fire

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6. It has now been over two years since the fire at Grenfell Tower. This chapter reflects the views of many individuals and organisations that the pace of change set by the Government in reforming the system has been too slow. In particular, serious concerns have been expressed around the limited progress that has been made towards the removal and replacement of potentially dangerous cladding on residential buildings.

## Pace of change since the Grenfell Tower fire

7. When Grenfell United gave evidence to us in June last year, Edward Daffarn warned very clearly and powerfully that:

Grenfell 2 is in the post unless you act, and quickly.<sup>4</sup>

The Government initially appeared to accept the need for urgent reform. When it launched the Independent Review of Building Regulations and Fire Safety in July 2017, it commissioned Dame Judith Hackitt to “urgently assess” the effectiveness of the building and fire safety regulations.<sup>5</sup>

8. However, this sense of urgency appears to have been lost. During the Committee’s evidence session with Dame Judith Hackitt in January 2019, she revealed her disappointment that the Government had lost momentum by waiting seven months to formally accept the recommendations of the Independent Review in full:

It is a matter of some regret to me that it took seven months before that was made public, because we did lose some momentum, because it was December before that was formally stated. As I made clear at the time when the report was first published, one of the real challenges throughout my review was people saying, “But will Government implement this?” It was waiting for that strong signal from Government that caused us to lose some momentum between May and December. We now need to get that back.<sup>6</sup>

It took a further seven months—that is, 14 months since the publication of the Final Report of the Independent Review and 24 months since the fire at Grenfell Tower—for the Government to eventually publish the consultation into its proposals for reform of the building safety regulatory system.<sup>7</sup>

9. It is clear that disappointment regarding the pace of change extends more widely. Roy Wilsher, Chair of the National Fire Chief’s Council, told us he was not satisfied with the progress the Government had made.<sup>8</sup> Adrian Dobson, representing the Royal Institute of British Architects (RIBA), expressed his view that nothing significant—other than the combustible cladding ban—had changed in the building regulations since June 2017:

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4 [Q25](#) (Edward Daffarn, Grenfell United)

5 [Independent Review of Building Regulations and Fire Safety: terms of reference](#), Ministry of Housing, Communities and Local Government, 30 August 2017

6 [Q419](#) (Dame Judith Hackitt, Independent Review of Building Regulations and Fire Safety)

7 [Building a safer future: proposals for reform of the building safety regulatory system](#), Ministry of Housing, Communities and Local Government, 6 June 2019

8 [Q601](#) (Roy Wilsher, National Fire Chiefs Council)

We have had one helpful change, which is the restriction on combustible materials, but other than that the regulatory regime and the regulations remain absolutely the same. We presumably have not only unsafe buildings out there, but we are potentially still constructing unsafe buildings.<sup>9</sup>

**10. The pace of change set by the Government in reforming the building and fire safety regulatory regime has been far too slow. It has been over two years since the fire at Grenfell Tower, and more than a year since the publication of the Final Report of the Independent Review of Building Regulations and Fire Safety, and yet the Government has only just published a consultation into its proposals for reform of the building safety regulatory system. The Government must pick up the pace of reform, before it is too late and we have another tragedy on the scale of Grenfell Tower.**

### **Prescription in the new regulatory regime**

11. This Committee has repeatedly expressed its concerns around the outcomes-(or risk-) based approach advocated by Dame Judith Hackitt in the reports of the Independent Review. In the foreword to her Final Report, Dame Judith described calls for the prescription of specific materials as “siloe thinking that is part of the problem we must address.”<sup>10</sup> However, in our response last year, we expressed our view that a prescriptive approach was the most effective way to guarantee the safety of residents:

We want to see a system in which a reformed industry can be trusted to put fire safety first, with a robust system of oversight and meaningful sanctions, but underpinned by a strong, prescriptive approach to ensure minimum standards and guarantee the safety of residents.<sup>11</sup>

12. The risks associated with an outcomes-based approach were articulated by Dr Jonathan Evans, who referred to Dame Judith’s proposals in the context of the fire in Barking, east London, which destroyed 20 flats in June 2019:

If it had happened in the middle of the night, it would have probably killed five or 10 people, perhaps. Relying on this outcomes-based approach is a very dangerous thing to do. [ ... ] Her suggestion that the Government could then backtrack to just presenting outcomes-based regulations and let industry sort it out is ridiculous. You will have regulations that basically capitulate down to saying, “Do not let it collapse. Do not burn people. Do not electrocute people. Do not let people freeze. You sort it all out, and we will punish you if you get it wrong”. That model is just not going to work.<sup>12</sup>

**13. We reiterate the view we expressed last year, that Dame Judith Hackitt was right to call for greater accountability, robust oversight and strengthened sanctions in the new regulatory regime, but that this must be underpinned by strong, prescriptive standards, which are essential if residents are to be kept safe.**

9 [Q601](#) (Adrian Dobson, Royal Institute of British Architects)

10 [Independent Review of Building Regulations and Fire Safety: final report](#), 17 May 2018, page 6

11 [Independent review of building regulations and fire safety: next steps](#), Housing, Communities and Local Government Committee, 18 July 2018, para 22

12 [Q612](#) (Dr Jonathan Evans) and [Barking fire: Blaze destroys 20 flats in east London](#), BBC News, 9 June 2019

## Sprinklers

14. One of several examples of this relates to calls for the retro-fitting of sprinklers to existing high-rise residential buildings. Last July, this Committee called on the Government to require that, where structurally feasible, sprinklers should be installed in existing buildings, in order to provide an additional layer of safety for residents.<sup>13</sup> It was concerning, therefore, to hear reports that 95 per cent of social housing buildings—where more than 400,000 people live—still did not have a sprinkler system installed in their properties.<sup>14</sup> Both RIBA and the National Fire Chiefs Council told us that sprinklers should become a mandatory requirement, with Adrian Dobson explaining:

You can think of fire prevention as being about various layers of safety. Usually, when you have a big loss of life, it is because multiple layers have failed. There is quite a lot of evidence around that sprinklers can be quite a key element of fire suppression early in that process [ ... ] With existing buildings, some things, such as changing the means of escape, would be very difficult, but fitting sprinklers is a relatively straightforward way of improving fire safety.<sup>15</sup>

15. ***The Government has already shown its acceptance of the need for some prescription, having implemented a ban on combustibile cladding and insulation. It should now go further and require the installation of sprinkler systems in new and existing high-rise and high-risk buildings, including residential buildings, student accommodation and hospitals, where structurally feasible.***

## Remediation of buildings with combustibile cladding

16. The removal of dangerous materials from the cladding and insulation of high-rise residential buildings, potentially affecting tens of thousands of people, should be the highest priority for the Government. As Edward Daffarn told us, “The idea for any of us that you could go to bed and sleep in a building with the cladding on that did that to us at Grenfell is absolutely horrific.”<sup>16</sup>

17. However, we heard that progress in removing potentially dangerous cladding had been far too slow. The most recent monthly data release from the Government’s Building Safety Programme (June 2019) reinforces this view.<sup>17</sup> It showed that there were 328 high-rise residential and publicly owned buildings with Aluminium Composite Material (ACM) cladding systems—the material used on Grenfell Tower—unlikely to meet Building Regulations which are yet to be remediated in England, including 102 social sector residential buildings and 163 private sector residential buildings.

18. ***It is taking far too long to remove and replace potentially dangerous cladding from high-rise and high-risk buildings. The Government should set a realistic, but short, deadline by which time all buildings with any form of dangerous cladding should***

13 [Independent review of building regulations and fire safety: next steps](#), Housing, Communities and Local Government Committee, 18 July 2018, paras 68–9

14 [Thousands STILL at risk after Grenfell because of failure to fit sprinklers](#), Mirror, 2 July 2019

15 [Q604](#) (Adrian Dobson, Royal Institute for British Architects)

16 [Q547](#) (Edward Daffarn, Grenfell United)

17 [Building Safety Programme: Monthly Data Release](#), Ministry of Housing, Communities and Local Government, 10 June 2019

***be fully remediated and indicate when this will be. Government policies and funding mechanisms should work to meet this deadline, while sanctions should follow for building owners who fail to make their buildings safe within a reasonable timeframe.***

19. The figures published by the Government’s Building Safety Programme do not, of course, include buildings with other forms of potentially dangerous cladding, which is likely to also require remediation. For example, Dr Jonathan Evans told us that some forms of cladding incorporating High Pressure Laminate (HPL) had already been shown to be more dangerous than ACM cladding:

There are only two grades of high-pressure laminates on the market: there is a fire-retardant grade and a standard grade. We now know that the fire-retardant grade failed this test with combustible insulation in 2014 [ ... ] In the case of the fire-retardant version, the fire-retardant version of high-pressure laminate failed more quickly than the fire-retardant version of ACM. If you extrapolate that, it is also possible for the standard-grade high-pressure laminate, which contains 70% more combustible material.<sup>18</sup>

20. The Government has been slow to test non-ACM cladding, something we have raised in correspondence with the Minister of State for Housing and Planning, Kit Malthouse MP.<sup>19</sup> The lack of progress in this area has also been noted more widely. Edward Daffarn referred to the Government’s failure to test non-ACM cladding until just two months ago as “a casualness... a lack of focus”.<sup>20</sup>

21. It is encouraging that the Government has committed to completing its testing programme of non-ACM cladding by the summer.<sup>21</sup> However, we heard calls for transparency regarding the results of this testing programme. Some witnesses suggested that the Government already knew of materials that had failed fire safety tests, but that these had not been made public.<sup>22</sup>

**22. It is clear that concerns extend beyond the ACM cladding used on Grenfell Tower, but buildings with other forms of potentially dangerous cladding have not been given the focus they need. The slow rate of progress in testing potentially dangerous non-ACM cladding systems has been unacceptable and, as noted by Grenfell United, suggests to many a casualness and lack of focus from the Government.**

***23. The Government must publish the results of its testing process and release full details of all past test results of non-ACM cladding. Residents have the right to know whether the buildings they live in are safe or require urgent remediation.***

### **Government funding for remediation**

24. In our July 2018 report, we highlighted concerns around the pace of remediation in the private rented sector. We noted the legal challenges around freeholder liability for

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18 [Q619](#) (Dr Jonathan Evans)

19 [Letter to Kit Malthouse MP](#), Minister of State for Housing and Planning, 24 April 2019

20 [Q547](#) (Edward Daffarn, Grenfell United)

21 [Letter from Kit Malthouse MP](#), Minister of State for Housing and Planning, 23 May 2019

22 For example, [Q606](#) (Dr Jonathan Evans)

remedial works and, rather than see any further delays, called on the Government to urgently provide direct funding, to ensure that remedial works were carried out as quickly as possible and that costs need not be passed on to leaseholders.<sup>23</sup>

25. The Government did not agree with our recommendation and instead continued to argue that building owners and developers should be responsible for paying for the remediation of private sector buildings, telling us on several occasions that the Government would “rule out no options” if this failed to happen.<sup>24</sup>

26. Unfortunately, it did fail to happen. By April 2019, just 11 out of 173 private sector residential buildings with ACM cladding had been fully remediated, and only a further 16 had started a remediation process.<sup>25</sup> At the time, we wrote to the Minister of State for Housing and Planning, and called again for Government funding for private sector buildings:

The Committee is concerned that progress in remediating these buildings has been far too slow [ ... ] Almost two-years on from the fire at Grenfell Tower, this does not suggest that building owners are addressing this issue with the urgency that is required [ ... ] Will the Government reconsider our recommendation to introduce funding for private sector building owners, to ensure that remedial work is carried out as quickly as possible?<sup>26</sup>

On 9 May 2019, the Government relented and announced a £200 million fund to remove and replace unsafe ACM cladding from privately owned high-rise residential buildings.<sup>27</sup>

27. We have heard concerns, however, that the £200 million put aside for the funding would not be sufficient. For example, Dr Nigel Glen, representing the Association of Residential Managing Agents (ARMA), told us:

[ ... ] the £200 million is not enough, I am afraid. We have about 6,800 units or homes under cladding in ARMA. On average, they cost £1.6 million. We can do 124 buildings with that money, and that is not enough.<sup>28</sup>

**28. It is welcome that the Government has finally provided funding to meet the costs of replacing unsafe ACM cladding from privately owned high-rise residential buildings, as we called for in July 2018. We fear, however, that £200 million will not be sufficient to fully remediate all affected buildings, and the Government is highly likely to need to provide additional funding.**

29. We have noted that the fund was not considered value for money according to the rules set out by the Treasury in Managing Public Money. The MHCLG Permanent Secretary was therefore required to write to the Secretary of State, informing him that:

23 [Independent review of building regulations and fire safety: next steps](#), Housing, Communities and Local Government Committee, 18 July 2018, paras 86

24 For example, [Letter from Rt Hon. James Brokenshire MP](#), Secretary of State for Housing, Communities and Local Government, 16 January 2019

25 [Building Safety Programme: Monthly Data Release](#), Ministry of Housing, Communities and Local Government, 24 May 2019

26 [Letter to Kit Malthouse MP](#), Minister of State for Housing and Planning, 24 April 2019

27 [Government to fund and speed up vital cladding replacement](#), Ministry of Housing, Communities and Local Government, 9 May 2019

28 [Q561](#) (Dr Nigel Glen, Association of Residential Managing Agents)

[ ... ] it is not possible to reconcile a grant scheme with the principles of Managing Public Money [ ... ] it is important to ensure that sufficient steps are taken to ensure that the scheme does not create a precedent whereby leaseholders—or freeholders—expect the Government to stand behind failures in the construction or maintenance of residential buildings in future.<sup>29</sup>

**30. Despite Treasury rules, Ministers were absolutely right to insist that public money should be used to make people’s homes safe. The moral case for intervention has now been firmly established. This should be borne in mind in the context of calls for the extension of the funding to other forms of dangerous cladding.**

**31. It is questionable whether the use of combustible cladding resulted from failures in the construction or the ambiguity of regulations in Approved Document B, particularly whether the ‘filler’ in ACM was required to be of limited combustibility. As other types of cladding, including High Pressure Laminate (HPL), do not incorporate filler, the Government is duty bound to fund replacement should they also prove to be combustible, whether or not they are considered by the Treasury to be ‘value for money’.**

32. We are also aware that this funding is to be provided from existing programme budgets within the Ministry of Housing, Communities and Local Government. This represents 3 per cent of the entire Department’s capital and resource programme budgets in 2019/20.

**33. We are concerned that funding for remedial works is to be found from existing programme budgets. Notwithstanding the detriment to those budgets, this approach is likely to be unsustainable if the fund is found to be insufficient or is extended to other forms of cladding. *The costs of replacing all unsafe cladding should be established and the Treasury should provide this funding to the Ministry of Housing, Communities and Local Government to fully cover the costs of remediating buildings with unsafe cladding.***

### *Operation of the fund*

34. The Government has committed to providing full application guidance to building owners on the operation of the fund in July 2019.<sup>30</sup> While there has been broad support for the fund as outlined so far, we heard that there were some issues that required further clarification, particularly around where costs might not be covered and could continue to fall on leaseholders. Richard Silva, representing Long Harbour, reported that the fund was unlikely to cover some of the essential ancillary costs associated with remedial works.<sup>31</sup> Dr Nigel Glen, from ARMA, told us he was concerned about what might happen if, during remedial works, further issues were uncovered:

Our big concern is, once we start taking the cladding down, what we will find behind it, particularly compartmentalisation. Will funding be

29 [Letter from Melanie Dawes](#), Permanent Secretary at the Ministry of Housing, Communities and Local Government, to Rt Hon. James Brokenshire MP, Secretary of State, 8 May 2019

30 [Letter from Rt Hon. James Brokenshire MP](#), Secretary of State for Housing, Communities and Local Government, 10 June 2019

31 [Q558](#) (Richard Silva, Long Harbour)

required for that? Again, will that fall on the leaseholders? If so, we could find ourselves in a situation where a building has its cladding removed and is exposed to the elements, and we spend two years fighting in the courts about who should pay again.<sup>32</sup>

**35. *While we await the publication of the full application guidance, it will need to provide greater clarity on the scope of the funding. In particular, the fund must be flexible enough to cover all ancillary costs associated with remedial works—such as building surveys—and the reasonable costs of any additional essential works that become apparent after remediation has begun. The benefits of the fund would be diminished if high costs were anyway passed on to leaseholders, or if building owners and managing agents refused to participate in the scheme because of perceived financial risks to themselves.***

36. An area of particular concern relates to the Government’s definition of who should be responsible for the administration of funding for the remediation of buildings with dangerous cladding.<sup>33</sup> Since the announcement of funding for replacement cladding of high rise buildings, the Government changed its definition of those responsible for carrying out that work from “building owner” to the “responsible entity”. The Government now defines “responsible entity” as the entity that has the legal obligation to carry out the works and the legal right to recover funds from the leaseholders. Government advice explains that this will normally be the building owner but could also be the developers, managing agents and enfranchised leaseholders that have a share of the freehold and it could also include a body acting on behalf of the “responsible entity”.

37. Consequently, the Committee is aware that, in at least one case, a freeholder has interpreted this definitional change as having effectively been released from its obligations, and is now insisting that the First Tier Tribunal-appointed property manager—a small family business—should be fully, and financially, responsible for the remediation of the affected building. This has become problematic because there is a lack of confidence that the Government’s fund will cover the full costs of remedial work - that there may be a shortfall which could not then be charged on to leaseholders - opening the property manager up to significant contractual and financial risks. In the specific case the Committee has been made aware of, the property manager feels they have no choice but to seek authority from the First Tier Tribunal to relinquish responsibility for the building. Dr Nigel Glen told us this was a big concern for managing agents:

It is a huge concern [ ... ] That is what section 24 is all about. If you are trying to get rid of a bad landlord, you put the managing agent, under the First tier Tribunal, in their place. This would be very worrying for a managing agent. Contrary to popular belief, most managing agents are small family affairs and they could not afford the responsibility of doing this, if it was put on them [ ... ] They would have to withdraw, if they could, from that [ ... ] If I had that firm, I would shut it down. The liability is just too much.<sup>34</sup>

**38. There is considerable concern from managing agents that the Government’s definition of who should be responsible for the administration of funding for the**

32 [Q560](#) (Dr Nigel Glen, Association of Residential Managing Agents)

33 As outlined in a [letter to Kit Malthouse MP](#), Minister of State for Housing and Planning, 25 June 2019

34 [Q562-4](#) (Dr Nigel Glen, Association of Residential Managing Agents)

**remediation of buildings with dangerous cladding could see many managing agents walking away from their buildings due to the significant contractual and financial risks. *The Government should clarify that it is the building owner, the freeholder, who should retain full responsibility for remedial works that are to be paid under the Government's scheme.***

39. There is also a lack of clarity as to whether the funding will cover the replacement of potentially combustible insulation, as well as external cladding. Adel Chaoui, from Grenfell United, told the Committee this was an area of concern:

I have concerns about it, yes. I believe the remediation fund is looking at combustible materials beyond cladding, but I have not had a straight answer to it either. It would be great if this Committee could extract that.<sup>35</sup>

**40. *The Government should confirm that the costs of replacing combustible insulation will also be covered by this fund. It would not be fair to charge leaseholders for the removal of dangerous insulation, while it would be perverse to incentivise building owners to leave it in place due to a lack of funding.***

### *Extension of the fund*

41. The Secretary of State told us that funding for the removal of unsafe ACM cladding was “wholly exceptional”, noting the “unparalleled fire risk” that ACM posed.<sup>36</sup> He said that the Government continued to be of the view that building owners should be responsible for the remediation of non-ACM cladding.

42. However, as outlined earlier in this chapter, other forms of cladding have been shown to be unsafe and potentially as dangerous, if not more so, than the ACM cladding on Grenfell Tower.<sup>37</sup> Lord Porter, representing the Local Government Association, expressed his view that it would not be morally acceptable for the Government to provide funding for the remediation of one form of dangerous cladding, but not another:

The Government will have to adopt the same principle. Once we have the test results back on all the external cladding materials and all the insulation, the Government will end up having to stand that bill. You would not be able to morally justify why somebody living in a building with cladding made from one type of material could get compensation to fix it and somebody living in another equally unsafe building could not get compensation to fix it. The Treasury will have to be prepared.<sup>38</sup>

43. In January, we asked the Housing Minister about the removal of non-ACM materials found to be dangerous. He told us:

By definition, it is then combustible cladding which is now banned. We would obviously have to see remediation as we are doing with ACM.<sup>39</sup>

35 [Q551](#) (Adel Chaoui, Grenfell United)

36 [Letter from Rt Hon. James Brokenshire MP](#), Secretary of State for Housing, Communities and Local Government, 10 June 2019

37 [Q619](#) (Dr Jonathan Evans)

38 [Q573](#) (Lord Porter, Local Government Association)

39 [Q477](#) (Kit Malthouse MP, Minister of State for Housing)

We note that, even fire retardant versions of High Pressure Laminate (HPL) cladding have a ‘B’ Euroclass rating, which is a combustible classification.

44. Further, in our July 2018 report, this Committee called on the Government to amend its proposals for a combustible cladding ban such that it would not only apply to high-rise buildings, but also to high-risk buildings where there was likely to be a significant risk to life.<sup>40</sup> A similar argument could be made for the funding for the remediation of buildings with dangerous cladding.

**45. The Government is right to argue that leaseholders should not be forced to pay for the remediation of their buildings, but is wrong to only provide support to residents with a specific type of cladding. The Government cannot morally justify funding the replacement of one form of dangerous cladding, but not others.**

**46. There is an unfortunate feeling of *deja vu* around the Government’s approach to non-ACM cladding and a sense that they will inevitably end up paying for it after a short period of prevaricating. In the meantime, tens of thousands of affected residents continue to live in potentially dangerous buildings, or have been sent large and distressing bills for remedial works.**

**47. The Government should fully fund the removal and replacement of any combustible cladding—as defined by the Government’s combustible cladding ban—from any high-rise or high-risk building. *The Government should, therefore, immediately extend its fund to cover the removal and replacement of any form of combustible cladding from a high-rise or high-risk building.***

**48. There will be a considerable cost associated with such a commitment, as well as a sense of unfairness that most freeholders have again failed to do the right thing. However, the safety of residents must be the Government’s primary concern.**

## Support for Grenfell Tower survivors

49. Grenfell United, which represents the survivors and families of the victims of the Grenfell Tower fire, told us about the ongoing difficulties they face to get their voice heard and access the support and services they need. They said that the pace of change at Royal Borough of Kensington and Chelsea (RBKC) since the fire has been “far too slow”<sup>41</sup> and survivors continue to experience problems with their housing.

### Quality of housing

50. Bellal El Guenuni told us that the main issue with regards to housing now is with the state of the properties survivors have been moved into and the repairs needed.<sup>42</sup> He told us that people had been locked in their homes by faulty front door locks,<sup>43</sup> while Adel Chaoui said there had also been structural issues with homes:

40 [Independent review of building regulations and fire safety: next steps](#), Housing, Communities and Local Government Committee, 18 July 2018, para 37

41 [Q531](#) (Bellal El Guenuni, Grenfell United)

42 [Q524](#) (Bellal El Guenuni, Grenfell United)

43 [Q528](#) (Bellal El Guenuni, Grenfell United)

We have had the ceilings of balconies falling down into the balcony cavity in brand new buildings effectively, so construction methods have just failed them again. Given where they lived and what they went through, the last thing you would expect is a brand new building to be constructed in such a way that parts of the building are falling down on to the balcony where you could be sitting.<sup>44</sup>

### Toxic contamination

51. Grenfell United told us that residents had been raising concerns about the potential for toxic contamination of the surrounding area since the fire in June 2017. They said that the Government and the local council only took action after the preliminary results of the independent study led by Professor Anna Stec into ‘Environmental Contamination following the Grenfell Tower Fire’, were reported in the press in October 2018.<sup>45</sup> Professor Stec said she had found “huge concentrations” of carcinogens in the dust and soil close to the tower.<sup>46</sup> The report said analysis of the surrounding area, as well as independent soil testing is necessary.<sup>47</sup> In October 2018, Government announced additional environmental checks to provide reassurance to survivors and local residents.<sup>48</sup> In a written statement to the House on 29 November 2018, Secretary of State James Brokenshire MP said:

An expert multi-agency group which includes the Environment Agency, Public Health England, RBKC and NHS England has been set up to make sure soil surveying around Grenfell Tower is comprehensive and that analysis will be provided to the public<sup>49</sup>

52. However, with regard to the Government’s action on environmental checks only after the preliminary findings were reported, Bellel El Guenuni said:

[ ... ] it is a classic example of authorities not listening to the residents of north Kensington or the Grenfell residents. They asked and asked and put pressure on to have checks in place for soil contamination and toxicology reports very early on. They were ignored.<sup>50</sup>

53. The Report by Professor Stec also said the toxicants in the fire effluent could “have potential long-term adverse health effects on emergency responders, clean-up workers and local residents.”<sup>51</sup> The study recommended that monitoring for health effects should be undertaken.<sup>52</sup> Professor Stec said that health authorities should consider testing the blood and saliva of those affected by the fire to monitor damage to their DNA.<sup>53</sup>

44 [Q528](#) (Adel Chaoui, Grenfell United)

45 [Grenfell: toxic contamination found in nearby homes and soil](#), The Guardian, 28 March 2019

46 [Huge concentrations’ of toxins found in Grenfell soil, study finds](#), The Guardian, 12 October 2018

47 [Community update on publication of Professor Stec’s research](#), Ministry of Housing, Communities and Local Government, 28 March 2019

48 [Further environmental checks for Grenfell site](#), Ministry of Housing, Communities and Local Government press release, 26 October 2018

49 [HCWS1126](#), Grenfell update, James Brokenshire MP, 29 November 2018

50 [Q532](#) (Bellel El Guenuni, Grenfell United)

51 Anna A. Stec, Kathryn Dickens, Jessica L.J. Barnes, Clare Bedford, [Environmental Contamination Following the Grenfell Tower](#), Chemosphere, vol 226 (2019) 576–586

52 Anna A. Stec, Kathryn Dickens, Jessica L.J. Barnes, Clare Bedford, [Environmental Contamination Following the Grenfell Tower](#), Chemosphere, vol 226 (2019) 576–586

53 [Huge concentrations’ of toxins found in Grenfell soil, study finds](#), The Guardian, 12 October 2018

## Health services

54. On 9 October 2018, NHS England announced up to £10 million a year for up to five years to provide a new fast-track community health service that would give support and treatment to people affected by the fire with physical and mental health issues.<sup>54</sup> But Bellal El Guenuni told us that adequate screening is still not in place:

[ ... ] we are worried that there is screening in place but the screening is minimal. You go to your GP and he will say, “Blow in this tube and see how your lungs are functioning”. Absolutely, that needs to be done, but there have to be deeper checks in terms of long-term effects of cyanide poisoning, all these toxins that people have inhaled, and they are not in place yet.<sup>55</sup>

In an update to the community on 28 March 2019 MHCLG said “screening can only be implemented where there is a risk of a specific condition and a specific treatment or advice is available”<sup>56</sup> but that does not rule out more extensive health checks for those affected by the fire.

**55. The response by the Government and the Royal Borough of Kensington and Chelsea to provide the support and services people affected by the fire need continues to be too slow. Two years on, survivors are still experiencing significant problems with their permanent accommodation.**

**56. Further, we note that the Government has announced a new fast-track community health service for Grenfell survivors. However, it is apparent that the community are not receiving the standard of health checks that they had expected. *The Government should urgently implement a programme to provide comprehensive public health services to survivors of the Grenfell Tower fire and the local community.***

**57. In the context of concerns around contaminated land in the vicinity of the tower, we welcome the introduction of a programme of comprehensive environmental checks but the Government should have listened to local residents’ concerns and implemented these checks sooner.**

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54 [NHS to provide long term screening service for Grenfell community](#), NHS England, 9 October 2018

55 [Q532](#) (Bellal El Guenuni, Grenfell United)

56 [Community update on publication of Professor Stec’s research](#), Ministry of Housing, Communities and Local Government, 28 March 2019

## 2 Response to the consultation

58. On 6 June 2019, the Government published a consultation into its proposals for reform of the building safety regulatory system.<sup>57</sup> The consultation sought views on the Government’s proposals for a new building and fire safety regulatory system, including: the scope of the new regulatory regime, the role of dutyholders in the system, proposals to give residents a stronger voice, regulatory structures to strengthen oversight, and a new regime of enforcement and sanctions. This chapter addresses each of these areas in turn, drawing on the evidence we heard during our evidence session on 8 July and in written submissions.

### Scope of the regime

59. The Government’s consultation sets out the proposed scope of the new building safety regulatory regime:

[ ... ] the regime should cover all multi-occupied residential buildings of 18 metres (approximately 6 storeys) and above. We propose to apply the reforms at the design and construction stage to new builds and, as appropriate, to major refurbishments. We propose to apply the reforms at the occupation stage both to new builds and to existing buildings (after a suitable transition period).<sup>58</sup>

The Government said it was their intention that, “over time, additional buildings—for example where vulnerable people sleep—may be brought into scope on the basis of further work to understand risk profiles that apply to different categories of buildings.”<sup>59</sup> Further, the Home Office is also consulting on whether these reforms should be applied to higher risk workplaces under the Fire Safety Order.<sup>60</sup>

60. Our witnesses told us that the Government should not establish the scope of its regime on the basis of height. Lord Porter, representing the Local Government Association, told us height was not the only relevant factor:

The height is a bit of a red herring, really. It is the complexity of the building and the complexity of the needs of the people who live in the building. A five-storey building full of elderly, infirm people is probably more of a health risk than a seven-storey building full of relatively fit young people. A building with two fire escapes is a lot better than one with one fire escape. The height is missing the point; it needs to be the complexity of that building. Overall safety factors should be taken into account, not just an arbitrary height.<sup>61</sup>

57 [Building a safer future: proposals for reform of the building safety regulatory system](#), Ministry of Housing, Communities and Local Government, 6 June 2019

58 [Building a safer future: proposals for reform of the building safety regulatory system](#), Ministry of Housing, Communities and Local Government, 6 June 2019, para 34

59 [Building a safer future: proposals for reform of the building safety regulatory system](#), Ministry of Housing, Communities and Local Government, 6 June 2019, page 13

60 [The Regulatory Reform \(Fire Safety\) Order 2005: call for evidence](#), Home Office, 6 June 2019

61 [Q577](#) (Lord Porter, Local Government Association)

61. Adrian Dobson, from the RIBA, agreed. He told us that “the risk to people in buildings is not just about height”, but that risk was a combination of factors, including whether a building is where people sleep, or where there are people with limited mobility.<sup>62</sup> Richard Silva, from Long Harbour, described the possibility of a “risk matrix for each building to understand exactly what the right solution is”.<sup>63</sup>

62. However, Dr Nigel Glen, representing ARMA, told us that one of the risks of widening the scope of the regime would be the capacity of the industry and regulator to accommodate that.<sup>64</sup>

63. Lord Porter also called for greater consistency with regard to the scope of the regulatory regime. He noted that, in the third chapter of the consultation, the Government describes the new gateway points that must be met before permission will be granted for the next stage of development; Gateway One—before planning permission is granted—applies to buildings over 30 metres in height, whereas the second and third Gateways—before construction begins and before occupation begins—applies to buildings over 18 metres in height.<sup>65</sup> Lord Porter recommended that, were the Government to go ahead with a scope for the new regime based on height, there should be greater consistency between these gateways.

64. We also asked our witnesses about what might be learned from the June 2019 fire in Barking, east London, particularly with regard to the proposed scope of the new regulatory regime.<sup>66</sup> It was noted by Adel Chaoui, representing Grenfell United, that the 18 metre threshold for the combustible cladding ban—and the proposed scope of the new regulatory system—“made no difference to Barking.”<sup>67</sup> Roy Wilsher, representing the National Fire Chiefs Council also described the scope of the combustible cladding ban as “inadequate”, and called for it to be extended to all buildings where there are vulnerable people, such as hospitals and care homes.<sup>68</sup>

**65. The scope of the new regulatory system should not be determined by height alone. Instead, the new regime should apply to all buildings where there are vulnerable people, while other determinants of risk should also be taken into consideration. While a more complex risk matrix might lack the clarity of a simple height threshold, restricting vital safety measures to buildings above 18 metres in height is inadequate.**

**66. We acknowledge that the Government intends, over time, to bring more buildings within the scope of the regime. We also heard concerns around the capacity of the industry and regulator to accommodate a wide scope from the very beginning. However, as we have noted earlier in this report, the pace of change in the sector has already been far too slow, and the Government should be ambitious with the scope of the new regime from the outset, setting out timescales to bring different types of buildings within scope.**

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62 [Q612](#) (Adrian Dobson, Royal Institute of British Architects)

63 [Q577](#) (Richard Silva, Long Harbour)

64 [Q584](#) (Dr Nigel Glen, Association of Residential Managing Agents)

65 [Q585](#) (Lord Porter, Local Government Association)

66 [Barking fire: Blaze destroys 20 flats in east London](#), BBC News, 9 June 2019

67 [Q548](#) (Adel Chaoui, Grenfell United)

68 [Q612](#) (Roy Wilsher, National Fire Chiefs Council)

## Dutyholders

67. Chapter Three of the consultation describes the Government’s proposals for dutyholders to be involved in the design, construction and ongoing management of buildings within scope.<sup>69</sup> During the design and construction phase, there would be five dutyholder roles: client, principal designer, principal contractor, designer and contractor. During the occupation phase, the Government proposes the introduction of a new ‘accountable person’, who would be legally responsible for ensuring that building fire and structural safety risks are reduced, and who must also name a ‘building safety manager’, responsible for carrying out the day to day functions of ensuring that the building is safely managed.

68. We heard concerns that the Government’s proposals could lead to higher costs for leaseholders. Dr Nigel Glen told us that requiring all high-rise residential buildings to have building safety managers could be expensive:

It will be expensive for leaseholders, I believe. That is a concern, but we just have to be upfront about that. These people are not going to be cheap. Every building needs a named individual who is available. That will fall fair and square on the leaseholders as part of the service charge, which could be an issue. That is probably what will happen.<sup>70</sup>

69. Several witnesses expressed concerns that the roles of ‘accountable person’ and ‘building safety manager’ during the occupation phase would be too onerous and most people would be unwilling to take it on. Lord Porter asked:

Does anybody here fancy being one? Does anybody fancy taking on that responsibility? [ ... ] That is the real risk with it: that it becomes such an onerous position to take on that nobody actually does it for real. It becomes a charade. It is the same as how you can get directors of companies who are not necessarily of director-quality material.<sup>71</sup>

This is particularly relevant in the context of the Government’s ambition—and this Committee’s call—for more multi-occupancy residential buildings to be held in commonhold. Dr Nigel Glen told us that this proposal would be “absolutely counter to that” ambition, because “it is a very rare person who would be prepared to put their name down as an amateur unpaid director on a commonhold board, [Resident Management Company] board or [Right To Manage] board and potentially end up in prison.”<sup>72</sup>

70. The Government has proposed that the accountable person would, in most cases, be the relevant building owner, but could also be a management company, such as those with responsibility under the lease for collecting and discharging service charges or a right to manage company.<sup>73</sup> However, Dr Nigel Glen warned that managing agents would not want to take on this role:

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69 [Building a safer future: proposals for reform of the building safety regulatory system](#), Ministry of Housing, Communities and Local Government, 6 June 2019, Chapter Three

70 [Q588](#) (Dr Nigel Glen, Association of Residential Managing Agents)

71 [Q586](#) (Lord Porter, Local Government Association)

72 [Q586](#) (Dr Nigel Glen, Association of Residential Managing Agents)

73 [Building a safer future: proposals for reform of the building safety regulatory system](#), Ministry of Housing, Communities and Local Government, 6 June 2019, paras 160–1

If managing agents are made the accountable person, it will be very damaging to the industry. As you mentioned, the profitability just is not in there to cover yourself for insurance. The average profit is probably about £10 per year per unit, which is risible; 5.5% is the average return on equity. That is a problem.<sup>74</sup>

71. Richard Silva, however, suggested that people would be willing to undertake these roles, so long as they had sufficient control:

You need to be able to control what people do inside their own flats, which is controversial. If there is a concern that there is inappropriate fire safety behaviour behind the front door of somebody's unit, how are we going to deal with that? That is a much more complicated point.<sup>75</sup>

72. Other witnesses were supportive of the principle of a single dutyholder during the occupation phase. For example, Roy Wilsher told us that, from the perspective of fire and rescue authorities, "it would certainly help us to enforce regulations if we knew who to go to."<sup>76</sup>

**73. The Government is right to propose a new dutyholder regime with individually-held responsibilities across the whole life-cycle of a building. However, there are several challenges that will need to be overcome, particularly around the significant levels of personal risk likely to be associated with being an Accountable Person and Building Safety Manager during the occupation phase of a building, particularly as professional freeholders may decide to exit the UK market following the Government's announcement that future ground rents will have no monetary value. Making these roles attractive to qualified individuals will be vital. It will also be important to ensure that any costs associated with these new roles, which are likely to be passed on to leaseholders, are not excessive.**

**74. We believe that the Government's definition for an accountable person is too wide and potentially poses a risk to the viability of many management companies. The Government should clarify that it is the building owner, the freeholder, who should always be the accountable person. Where a freehold has a complex ownership structure, the accountable person should be a board member of the freehold company.**

## Residents' voice

75. The Government says that it intends "to empower residents within a new building safety system with residents at its heart."<sup>77</sup> It makes proposals around the proactive provision of information to residents, including the measures in place to mitigate potential fire risks.<sup>78</sup> Residents should be engaged with through developing and implementing a Resident Engagement Strategy, which would include a management summary setting out how the accountable person will deliver resident involvement and participation in their

74 [Q588](#) (Dr Nigel Glen, Association of Residential Managing Agents)

75 [Q586](#) (Richard Silva, Long Harbour)

76 [Q625](#) (Roy Wilsher, National Fire Chiefs Council)

77 [Building a safer future: proposals for reform of the building safety regulatory system](#), Ministry of Housing, Communities and Local Government, 6 June 2019, page 16

78 [Building a safer future: proposals for reform of the building safety regulatory system](#), Ministry of Housing, Communities and Local Government, 6 June 2019, para 253

buildings, and an engagement plan for residents setting out how the strategy will work in practice.<sup>79</sup> The Government says it is considering whether there should be a requirement for residents to cooperate with the accountable person to keep the building safe.<sup>80</sup> Further, the accountable person should implement an internal complaints process, with residents able to escalate concerns to the building safety regulator if they feel these are not being dealt with appropriately.<sup>81</sup>

76. Edward Daffarn told us that Grenfell United had identified improving tenants' voice as one of the two most important elements of their campaign to fundamentally change how people who live in social housing are treated:

The reason they are the most important to us is that they were where we were fundamentally let down [ ... ] It was not as if we were not highlighting the kind of abuse we were experiencing. We were highlighting it and we were ignored. The idea that those same agencies, the same dog, the same kennel, can respond to what we were saying is not acceptable to us [ ... ] We are asking for tenants' voice, so residents who live in social housing are listened to.<sup>82</sup>

77. Mr Daffarn explained that many social housing residents were still not having their voices heard by those responsible for the management of their buildings. He told us that many residents found the most effective way to have their voices heard was through social media, and that this was not good enough:

The truth of it is that, at the moment, if you live in social housing and you have a complaint about where you live, whether it is mould or health and safety, the primary way you get this complaint addressed is by getting a mobile phone, taking a photograph, uploading it on to Twitter and hoping you can embarrass your housing provider enough that it does something about it. That is not good enough post-Grenfell.<sup>83</sup>

He called for new mechanisms through which tenants' voices could be heard, such as elected representatives, tenants' unions or residents' unions, with the broad principle that "it needs to be something that comes from the bottom up, rather than top down."<sup>84</sup>

78. We heard that the Government's proposals would make a difference to how residents are listened to. Victoria Moffett, representing the National Housing Federation (NHF), told us the proposals would change how housing associations manage buildings.<sup>85</sup> She said there were several examples of housing associations which are reviewing how they provide fire safety information and escalate concerns within their organisations. Dr Nigel Glen told us that ARMA was proposing to run a trial of the Government's proposals, and noted how technology would play an important part in this process.<sup>86</sup>

79 [Building a safer future: proposals for reform of the building safety regulatory system](#), Ministry of Housing, Communities and Local Government, 6 June 2019, para 263

80 [Building a safer future: proposals for reform of the building safety regulatory system](#), Ministry of Housing, Communities and Local Government, 6 June 2019, para 278

81 [Building a safer future: proposals for reform of the building safety regulatory system](#), Ministry of Housing, Communities and Local Government, 6 June 2019, para 283

82 [Q534](#) (Edward Daffarn, Grenfell United)

83 [Q534](#) (Edward Daffarn, Grenfell United)

84 [Q544](#) (Edward Daffarn, Grenfell United)

85 [Q592](#) (Victoria Moffett, National Housing Federation)

86 [Q592](#) (Dr Nigel Glen, Association of Residential Managing Agents)

79. **The Government is absolutely right to prioritise measures to strengthen the voices of residents concerning building and fire safety. This is one of the most important lessons from the Grenfell Tower fire; that residents must be listened to, their concerns need to be taken seriously, and mechanisms should be in place so residents can escalate their concerns if they do not feel these are being adequately addressed.**

80. **Residents' voice is an issue, of course, that goes beyond fire safety and must form a central part of the next Government's social housing reforms. It is unacceptable that some residents continue to feel that the only way to get their landlords to take their concerns seriously is to seek to embarrass them through social media. We are concerned by the lack of progress around the Social Housing Green Paper since its publication in August last year, and call on the Government to set out a clear timetable for action.**

### Oversight mechanisms

81. The fifth chapter of the Government's consultation sets out several proposals concerning the oversight of the building safety and wider regulatory regime.<sup>87</sup> The Government proposes the establishment of a single building safety regulator, which would have responsibility for oversight of the new regulatory regime for buildings in scope; setting standards; advising Government on changes to the scope of that regime; and oversight of work to drive increased competence of professions and trades working on buildings across the whole of the built environment.<sup>88</sup> The consultation also proposes a new Industry Committee, strengthened oversight and regulation of construction products, and an independent periodic review of the building regulation system.

82. The proposal for a single building safety regulator is particularly noteworthy because it differs to Dame Judith Hackitt's recommendation for a Joint Competent Authority and a separate Overarching Competence Body. The Government argues that the formation of a single body in an already complex landscape of national and local regulators will avoid the introduction of further complexity into the system.<sup>89</sup>

83. Roy Wilsher told us that the National Fire Chiefs Council had no objections to the proposals and would want to be involved in the new regulator, recommending that the body have the power to set standards and perhaps be able to inspect or audit people and deal with dispute resolution.<sup>90</sup> Adrian Dobson told us that the RIBA also welcomed the clarity that a national regulator would bring to the system:

When Dame Judith's first report came out, there was a great deal of vagueness, because at the time she was not able to say whether it would be done regionally, nationally or locally. A single regulator that has

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87 [Building a safer future: proposals for reform of the building safety regulatory system](#), Ministry of Housing, Communities and Local Government, 6 June 2019, Chapter Five

88 [Building a safer future: proposals for reform of the building safety regulatory system](#), Ministry of Housing, Communities and Local Government, 6 June 2019, para 310

89 [Building a safer future: proposals for reform of the building safety regulatory system](#), Ministry of Housing, Communities and Local Government, 6 June 2019, para 310

90 [Q626](#) (Roy Wilsher, National Fire Chiefs Council)

responsibility for the overall regulations as well as the system is probably to be welcomed. It is not unusual in industries where you bring in regulation to have that single regulator.<sup>91</sup>

84. On the Government's proposal for an independent periodic review of the building regulation system, Mr Wilsher supported the five-year time frame that had been proposed.<sup>92</sup> Dr Jonathan Evans recommended that the public should be involved in the process of reviewing the regulations:

[ ... ] we talked a lot earlier on about residents having a say when things go wrong in their properties and so on, but, equally, there is not enough representation of the public when it comes to creating the regulations in the first place. There is no accountability. Over the last 20 years, from Garnock and Lakanal coroners and so on, we have seen the anonymous body that comes up with our regulations practically ignore these changes that have been recommended by people like yourselves. There should be some representation of the public when it comes to creating regulations so they can actually force changes.<sup>93</sup>

**85. We agree with the Government's proposal to establish a single national building safety regulator, as it is sensible to seek to limit complexity within the system. However, clarification is required as to how the national regulator will operate at the local level. It will be important to ensure that local authorities and fire and rescue authorities continue to play a central role in the new regulatory system, and their influence in local decision making is not diminished.**

**86. The Government is also right to recommend the implementation of an independent periodic review of the building regulation system. The Government should ensure, however, that residents' representatives are included in any review of the building regulations, to ensure that the views the public are suitably reflected in any future regulatory regime.**

## Strengthened enforcement and sanctions

87. The Government's consultation puts forward proposals to improve compliance and strengthen enforcement and sanctions within the new system, noting the Independent Review's conclusion that there had in the past been inadequate enforcement by regulators and limited deterrence against non-compliance.<sup>94</sup> The Government described a three-step process to having "a tougher building safety regulatory framework" and "credible and effective enforcement and sanction powers."<sup>95</sup>

88. Roy Wilsher expressed his view that sanctions should be tough.<sup>96</sup> Dr Jonathan Evans agreed, noting that people's lives were at stake, but he cautioned against sanctioning

91 [Q626](#) (Adrian Dobson, Royal Institute of British Architects)

92 [Q628](#) (Roy Wilsher, National Fire Chiefs Council)

93 [Q628](#) (Dr Jonathan Evans)

94 [Building a safer future: proposals for reform of the building safety regulatory system](#), Ministry of Housing, Communities and Local Government, 6 June 2019, page 17

95 [Building a safer future: proposals for reform of the building safety regulatory system](#), Ministry of Housing, Communities and Local Government, 6 June 2019, page 17

96 [Q625](#) (Roy Wilsher, National Fire Chiefs Council)

people for failures that were outside of their control.<sup>97</sup> More generally, he criticised the Independent Review for failing to address the causes of low levels of competence in parts of the industry, and suggested that a greater focus should be placed on reforms to encourage higher-calibre individuals into the sector.<sup>98</sup> He noted, for example, concerns around diversity and the gender pay gap, and suggested that addressing some of these issues could also help to attract more competent individuals into the industry.

**89. The Government is right to establish a tough building safety regulatory framework with effective enforcement and sanction powers. However, the Government should also reflect on the causes of low levels of competence and support the industry in addressing issues that could help to attract higher-calibre individuals into the sector.**

### Funding implications of the Government's proposals

90. The Government estimates that the total aggregate cost for the policy proposals put forward in its consultation to be between £312 million and £570 million per year.<sup>99</sup> The benefits of the building safety programme were estimated to be £190 million to £380 million per year.

91. Both the LGA and the NHF called on the Government to ensure that sufficient funding will be made available for the implementation of the new regime. In a recent press release, the NHF said, “The Government needs to ensure the implementation of the new system is fully funded so that housing associations can ensure existing residents are safe in their homes, and continue their other essential work to tackle the housing crisis.”<sup>100</sup> Similarly, Lord Porter warned:

We have not seen all the costs that are likely to be necessary to implement it in the way the Government want, but the risks of it not being sufficient are great, because generally, when central Government regulate local government, we get a lot of wish list and not a lot of cash. If you are not prepared to pay for it, do not clear your conscience by wishing that we did it. The Treasury has to be prepared to write the cheque for whatever is necessary. If the Government are going to be serious about it, it is not going to be a cheap solution.<sup>101</sup>

92. Similarly, Roy Wilsher warned that fire and rescue authorities would need additional funding to meet the new responsibilities set out in the consultation, particularly prior to Gateway One:

[ ... ] we are concerned about some of the resource implications. We have been subject to austerity, the same as everyone else, but we have not had any protection over 10 years. We have lost 40% of our inspecting officers in 10

97 [Q625](#) (Dr Jonathan Evans)

98 [Q603](#) (Dr Jonathan Evans)

99 [Building a safer future: proposals for reform of the building safety regulatory system](#), Ministry of Housing, Communities and Local Government, 6 June 2019, Annex A: Analytical Overview, para 2

100 [National Housing Federation responds to the Government consultation on building safety](#), National Housing Federation, 6 June 2019

101 [Q599](#) (Lord Porter, Local Government Association)

years. We are playing catch-up on the current regulations, let alone the new responsibilities that will come. The Home Office recognises that and we are in discussions about how we might resource that in the future.<sup>102</sup>

**93. The proposals that the Government has put forward are likely to be expensive to implement, particularly for councils and fire and rescue authorities. *The Government must ensure that new burdens funding is made available where it expects public bodies to take on new responsibilities.***

# Conclusions and recommendations

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## The pace of change since the Grenfell Tower fire

1. The pace of change set by the Government in reforming the building and fire safety regulatory regime has been far too slow. It has been over two years since the fire at Grenfell Tower, and more than a year since the publication of the Final Report of the Independent Review of Building Regulations and Fire Safety, and yet the Government has only just published a consultation into its proposals for reform of the building safety regulatory system. *The Government must pick up the pace of reform, before it is too late and we have another tragedy on the scale of Grenfell Tower.* (Paragraph 10)
2. We reiterate the view we expressed last year, that Dame Judith Hackitt was right to call for greater accountability, robust oversight and strengthened sanctions in the new regulatory regime, but that this must be underpinned by strong, prescriptive standards, which are essential if residents are to be kept safe. (Paragraph 13)
3. *The Government has already shown its acceptance of the need for some prescription, having implemented a ban on combustible cladding and insulation. It should now go further and require the installation of sprinkler systems in new and existing high-rise and high-risk buildings, including residential buildings, student accommodation and hospitals, where structurally feasible.* (Paragraph 15)
4. It is taking far too long to remove and replace potentially dangerous cladding from high-rise and high-risk buildings. *The Government should set a realistic, but short, deadline by which time all buildings with any form of dangerous cladding should be fully remediated and indicate when this will be. Government policies and funding mechanisms should work to meet this deadline, while sanctions should follow for building owners who fail to make their buildings safe within a reasonable timeframe.* (Paragraph 18)
5. It is clear that concerns extend beyond the ACM cladding used on Grenfell Tower, but buildings with other forms of potentially dangerous cladding have not been given the focus they need. The slow rate of progress in testing potentially dangerous non-ACM cladding systems has been unacceptable and, as noted by Grenfell United, suggests to many a casualness and lack of focus from the Government. (Paragraph 22)
6. *The Government must publish the results of its testing process and release full details of all past test results of non-ACM cladding. Residents have the right to know whether the buildings they live in are safe or require urgent remediation.* (Paragraph 23)
7. It is welcome that the Government has finally provided funding to meet the costs of replacing unsafe ACM cladding from privately owned high-rise residential buildings, as we called for in July 2018. We fear, however, that £200 million will not be sufficient to fully remediate all affected buildings, and the Government is highly likely to need to provide additional funding. (Paragraph 28)

8. Despite Treasury rules, Ministers were absolutely right to insist that public money should be used to make people's homes safe. The moral case for intervention has now been firmly established. This should be borne in mind in the context of calls for the extension of the funding to other forms of dangerous cladding. (Paragraph 30)
9. It is questionable whether the use of combustible cladding resulted from failures in the construction or the ambiguity of regulations in Approved Document B, particularly whether the 'filler' in ACM was required to be of limited combustibility. As other types of cladding, including High Pressure Laminate (HPL), do not incorporate filler, the Government is duty bound to fund replacement should they also prove to be combustible, whether or not they are considered by the Treasury to be 'value for money'. (Paragraph 31)
10. We are concerned that funding for remedial works is to be found from existing programme budgets. Notwithstanding the detriment to those budgets, this approach is likely to be unsustainable if the fund is found to be insufficient or is extended to other forms of cladding. *The costs of replacing all unsafe cladding should be established and the Treasury should provide this funding to the Ministry of Housing, Communities and Local Government to fully cover the costs of remediating buildings with unsafe cladding.* (Paragraph 33)
11. *While we await the publication of the full application guidance, it will need to provide greater clarity on the scope of the funding. In particular, the fund must be flexible enough to cover all ancillary costs associated with remedial works—such as building surveys—and the reasonable costs of any additional essential works that become apparent after remediation has begun. The benefits of the fund would be diminished if high costs were anyway passed on to leaseholders, or if building owners and managing agents refused to participate in the scheme because of perceived financial risks to themselves.* (Paragraph 35)
12. There is considerable concern from managing agents that the Government's definition of who should be responsible for the administration of funding for the remediation of buildings with dangerous cladding could see many managing agents walking away from their buildings due to the significant contractual and financial risks. *The Government should clarify that it is the building owner, the freeholder, who should retain full responsibility for remedial works that are to be paid under the Government's scheme.* (Paragraph 38)
13. *The Government should confirm that the costs of replacing combustible insulation will also be covered by this fund.* It would not be fair to charge leaseholders for the removal of dangerous insulation, while it would be perverse to incentivise building owners to leave it in place due to a lack of funding. (Paragraph 40)
14. The Government is right to argue that leaseholders should not be forced to pay for the remediation of their buildings, but is wrong to only provide support to residents with a specific type of cladding. The Government cannot morally justify funding the replacement of one form of dangerous cladding, but not others. (Paragraph 45)
15. There is an unfortunate feeling of *deja vu* around the Government's approach to non-ACM cladding and a sense that they will inevitably end up paying for it after

a short period of prevaricating. In the meantime, tens of thousands of affected residents continue to live in potentially dangerous buildings, or have been sent large and distressing bills for remedial works. (Paragraph 46)

16. The Government should fully fund the removal and replacement of any combustible cladding—as defined by the Government’s combustible cladding ban—from any high-rise or high-risk building. *The Government should, therefore, immediately extend its fund to cover the removal and replacement of any form of combustible cladding from a high-rise or high-risk building.* (Paragraph 47)
17. There will be a considerable cost associated with such a commitment, as well as a sense of unfairness that most freeholders have again failed to do the right thing. However, the safety of residents must be the Government’s primary concern. (Paragraph 48)
18. The response by the Government and the Royal Borough of Kensington and Chelsea to provide the support and services people affected by the fire need continues to be too slow. Two years on, survivors are still experiencing significant problems with their permanent accommodation. (Paragraph 55)
19. Further, we note that the Government has announced a new fast-track community health service for Grenfell survivors. However, it is apparent that the community are not receiving the standard of health checks that they had expected. *The Government should urgently implement a programme to provide comprehensive public health services to survivors of the Grenfell Tower fire and the local community.* (Paragraph 56)
20. In the context of concerns around contaminated land in the vicinity of the tower, we welcome the introduction of a programme of comprehensive environmental checks but the Government should have listened to local residents’ concerns and implemented these checks sooner. (Paragraph 57)

### Response to the consultation

21. The scope of the new regulatory system should not be determined by height alone. Instead, the new regime should apply to all buildings where there are vulnerable people, while other determinants of risk should also be taken into consideration. While a more complex risk matrix might lack the clarity of a simple height threshold, restricting vital safety measures to buildings above 18 metres in height is inadequate. (Paragraph 65)
22. We acknowledge that the Government intends, over time, to bring more buildings within the scope of the regime. We also heard concerns around the capacity of the industry and regulator to accommodate a wide scope from the very beginning. However, as we have noted earlier in this report, the pace of change in the sector has already been far too slow, and the Government should be ambitious with the scope of the new regime from the outset, setting out timescales to bring different types of buildings within scope. *However, as we have noted earlier in this report, the pace of change in the sector has already been far too slow, and the Government should be ambitious with the scope of the new regime from the outset, setting out timescales to bring different types of buildings within scope* (Paragraph 66)

23. The Government is right to propose a new dutyholder regime with individually-held responsibilities across the whole life-cycle of a building. However, there are several challenges that will need to be overcome, particularly around the significant levels of personal risk likely to be associated with being an Accountable Person and Building Safety Manager during the occupation phase of a building, particularly as professional freeholders may decide to exit the UK market following the Government's announcement that future ground rents will have no monetary value. Making these roles attractive to qualified individuals will be vital. It will also be important to ensure that any costs associated with these new roles, which are likely to be passed on to leaseholders, are not excessive. (Paragraph 73)
24. We believe that the Government's definition for an accountable person is too wide and potentially poses a risk to the viability of many management companies. *The Government should clarify that it is the building owner, the freeholder, who should always be the accountable person. Where a freehold has a complex ownership structure, the accountable person should be a board member of the freehold company.* (Paragraph 74)
25. The Government is absolutely right to prioritise measures to strengthen the voices of residents concerning building and fire safety. This is one of the most important lessons from the Grenfell Tower fire; that residents must be listened to, their concerns need to be taken seriously, and mechanisms should be in place so residents can escalate their concerns if they do not feel these are being adequately addressed. (Paragraph 79)
26. Residents' voice is an issue, of course, that goes beyond fire safety and must form a central part of the next Government's social housing reforms. It is unacceptable that some residents continue to feel that the only way to get their landlords to take their concerns seriously is to seek to embarrass them through social media. We are concerned by the lack of progress around the Social Housing Green Paper since its publication in August last year, and call on the Government to set out a clear timetable for action. (Paragraph 80)
27. We agree with the Government's proposal to establish a single national building safety regulator, as it is sensible to seek to limit complexity within the system. However, clarification is required as to how the national regulator will operate at the local level. It will be important to ensure that local authorities and fire and rescue authorities continue to play a central role in the new regulatory system, and their influence in local decision making is not diminished. (Paragraph 85)
28. The Government is also right to recommend the implementation of an independent periodic review of the building regulation system. The Government should ensure, however, that residents' representatives are included in any review of the building regulations, to ensure that the views the public are suitably reflected in any future regulatory regime. (Paragraph 86)
29. The Government is right to establish a tough building safety regulatory framework with effective enforcement and sanction powers. However, the Government should

also reflect on the causes of low levels of competence and support the industry in addressing issues that could help to attract higher-calibre individuals into the sector. (Paragraph 89)

30. The proposals that the Government has put forward are likely to be expensive to implement, particularly for councils and fire and rescue authorities. The Government must ensure that new burdens funding is made available where it expects public bodies to take on new responsibilities. *The Government must ensure that new burdens funding is made available where it expects public bodies to take on new responsibilities.* (Paragraph 93)

## Annex: Correspondence with the Ministry of Housing, Communities and Local Government since July 2018

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Outlined below is a list of the correspondence the Committee has had with the Minister of State of Housing and Planning, Kit Malthouse MP, and the Secretary of State for Housing, Communities and Local Government, Rt Hon. James Brokenshire MP, since the Committee published its last report into this issue in July 2018:

- (1) **Letter from the Chair to the Secretary of State** - [26 July 2018](#)
- (2) **Letter from the Secretary of State to the Chair** - [24 October 2018](#)
- (3) **Letter from the Chair to the Secretary of State** - [13 November 2018](#)
- (4) **Letter from the Secretary of State to the Chair** - [17 December 2018](#)
- (5) **Letter from the Chair to the Secretary of State** - [10 December 2018](#)
- (6) **Letter from the Secretary of State to the Chair** - [20 December 2018](#)
- (7) **Letter from the Secretary of State to the Chair** - [16 January 2019](#)
- (8) **Letter from the Minister for Housing to the Chair** - [19 February 2019](#)
- (9) **Letter from the Chair to the Minister for Housing** - [25 February 2019](#)
- (10) **Letter from the Minister for Housing to the Chair** - [20 March 2019](#)
- (11) **Letter from the Chair to the Minister for Housing** - [24 April 2019](#)
- (12) **Letter from the Secretary of State to the Chair** - [13 May 2019](#)
- (13) **Letter from the Chair to the Secretary of State** - [20 May 2019](#)
- (14) **Letter from the Minister for Housing to the Chair** - [23 May 2019](#)
- (15) **Letter from the Secretary of State to the Chair** - [10 June 2019](#)
- (16) **Letter from the Chair to the Minister for Housing** - [25 June 2019](#)

# Formal minutes

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**Monday 15 July 2019**

Members present:

Mr Clive Betts, in the Chair

Bob Blackman

Andrew Lewer

Tanmanjeet Singh Dhesi

Mary Robinson

Helen Hayes

Mohammed Yasin

Kevin Hollinrake

Draft Report (*Building regulations and fire safety: consultation and connected issues*) proposed by the Chair, brought up and read.

*Ordered*, That the draft Report be read a second time, paragraph by paragraph.

Paragraphs 1 to 93 read and agreed to.

Summary agreed to.

Annex agreed to.

*Resolved*, That the Report be the Seventeenth Report of the Committee to the House.

*Ordered*, That the Chair make the Report to the House.

*Ordered*, That embargoed copies of the Report be made available, in accordance with the provisions of Standing Order No. 134.

[Adjourned until Monday 22 July at 3.30pm.]

## Witnesses

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The following witnesses gave evidence. Transcripts can be viewed on the [inquiry publications page](#) of the Committee's website.

### Monday 18 December 2017

**Dame Judith Hackitt**, Chair of the independent review of building regulations and fire safety [Q1–79](#)

### Thursday 17 May 2018

**Dame Judith Hackitt**, Chair of the independent review of building regulations and fire safety [Q80–199](#)

### Wednesday 27 June 2018

**Peter Caplehorn**, Deputy Chief Executive and Policy Director, Construction Products Association, **Mirella Vitale**, Senior Vice President (Group Marketing, Communications and Public Affairs), Rockwool, **Richard Burnley**, Managing Director (Britain and Ireland), Kingspan Insulation, and **Adrian Dobson**, Executive Director, Royal Institute of British Architects [Q200–243](#)

**Dr Debbie Smith**, Managing Director, BRE Global, **Claire Curtis-Thomas**, Chief Executive Officer, British Board of Agrément, **Mark Hardingham**, Chair (Protection and Business Safety Committee), National Fire Chiefs Council, and **Sir Ken Knight**, Chair of the Independent Expert Advisory Panel [Q244–314](#)

### Monday 2 July 2018

**Mark Norris**, Principal Policy Adviser, Local Government Association, **John Stewart**, Policy Manager, Residential Landlords Association, **Huw Evans**, Director General, Association of British Insurers [Q315–352](#)

**Dominic Raab MP**, Minister of State for Housing and Planning, Ministry of Housing, Communities and Local Government, **Andrew Pattison**, Director, Independent Review of Building Regulations and Fire Safety, Ministry of Housing, Communities and Local Government [Q353–412](#)

### Monday 28 January 2019

**Dame Judith Hackitt**, Former Chair, Independent Review of Building Regulations and Fire Safety [Q413–453](#)

**Kit Malthouse MP**, Minister of State for Housing and Planning, Ministry of Housing, Communities and Local Government; **Bob Ledsome**, Deputy Director, Building Regulations and Energy Performance Division, Ministry of Housing, Communities and Local Government [Q453–522](#)

## Monday 8 July 2019

**Edward Daffarn**, Grenfell United; **Bellal El Guenuni**, Grenfell United; **Adel Chaoui**, Grenfell United

[Q523–552](#)

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

[Q353–600](#)

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

[Q601–634](#)

## List of Reports from the Committee during the current Parliament

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All publications from the Committee are available on the [publications page](#) of the Committee's website. The reference number of the Government's response to each Report is printed in brackets after the HC printing number.

### Session 2017–19

First Report	Effectiveness of local authority overview and scrutiny committees	HC 369 (Cm 9569)
Second Report	Housing for older people	HC 370 (Cm 9692)
Third Report	Pre-legislative scrutiny of the draft Tenant Fees Bill version	HC 583 (Cm 9610)
Fourth Report	Private rented sector	HC 440 (Cm 9639)
Fifth Report	Business rates retention	HC 552 (Cm 9686)
Sixth Report	Pre-legislative scrutiny of the draft Non-Domestic Rating (Property in Common Occupation) Bill	HC 583 (Cm 9633)
Seventh Report	Long-term funding of adult social care: First Joint Report of the Health and Social Care and Housing, Communities and Local Government Committees	HC 768
Eighth Report	Planning guidance on fracking	HC 767
Ninth Report	Independent review of building regulations and fire safety: next steps	HC 555 (Cm 9706)
Tenth Report	Land Value Capture	HC 766 (Cm 9734)
Eleventh Report	High streets and town centres in 2030	HC 1010 (CP 84)
Twelfth Report	Leasehold Reform	HC 1468
Thirteenth Report	Brexit and local government	HC 493 (CP 109)
Fourteenth Report	Funding of local authorities' children's services	HC 1638
Fifteenth Report	Modern Methods of Construction	HC 1831
Sixteenth Report	Housing Ombudsman pre-appointment hearing	HC 817