



OFFICIAL REPORT
AITHISG OIFIGEIL

Local Government, Housing and Planning Committee

Tuesday 10 May 2022

Session 6



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LOCAL GOVERNMENT, HOUSING AND PLANNING COMMITTEE
14th Meeting 2022, Session 6

CONVENER

*Ariane Burgess (Highlands and Islands) (Green)

DEPUTY CONVENER

*Willie Coffey (Kilmarnock and Irvine Valley) (SNP)

COMMITTEE MEMBERS

*Miles Briggs (Lothian) (Con)

*Mark Griffin (Central Scotland) (Lab)

*Paul McLennan (East Lothian) (SNP)

*Marie McNair (Clydebank and Milngavie) (SNP)

*Annie Wells (Glasgow) (Con)

*attended

THE FOLLOWING ALSO PARTICIPATED:

Dave Aitken (Local Authority Building Standards Scotland)

Chris Ashurst (High Rise Scotland Action Group)

Peter Drummond (Royal Incorporation of Architects in Scotland)

George Edwardes (Fire Protection Association)

Laura Hughes (Association of British Insurers)

Craig Ross (Royal Institution of Chartered Surveyors)

CLERK TO THE COMMITTEE

Euan Donald

LOCATION

The David Livingstone Room (CR6)

Scottish Parliament

Local Government, Housing and Planning Committee

Tuesday 10 May 2022

[The Convener opened the meeting at 10:00]

Decision on Taking Business in Private

The Convener (Ariane Burgess): Good morning and welcome to the 14th meeting in 2022 of the Local Government, Housing and Planning Committee. I ask all members and witnesses to ensure that their mobile phones are on silent and that all other notifications are turned off during the meeting.

Agenda item 1 is to decide whether to take item 3 in private. Do members agree to take that item in private?

Members indicated agreement.

Subordinate Legislation

Building (Scotland) Amendment Regulations 2022 (SSI 2022/136)

The Convener: The next item on our agenda is to take evidence on the Building (Scotland) Amendment Regulations 2022. The SSI is a negative instrument and there is no requirement for the committee to report on it. However, given the committee's long-standing interest in issues related to fire safety in buildings, and following on from the work of our predecessor committee, the intention is that this session will provide an opportunity to discuss that topic more broadly. Then, at our next meeting, we will take evidence on the regulations from the Minister for Zero Carbon Buildings, Active Travel and Tenants' Rights.

We are joined today by David Aitken, who is the building standards team leader at Dundee City Council and a past chair of Local Authority Building Standards Scotland; Chris Ashurst, who is the group co-ordinator for the High Rise Scotland Action Group; Peter Drummond, who is the chair of the practice committee at the Royal Incorporation of Architects in Scotland and chair of the building standards (fire safety) review panel; George Edwardes, who is the technical steering group manager for the Fire Protection Association; Laura Hughes, who is a manager for general insurance at the Association of British Insurers; and Craig Ross, who is a building standards specialist at the Royal Institution of Chartered Surveyors. We have apologies from Dr Paul Stollard, who is the former chair of the building standards (fire safety) review panel.

I welcome our witnesses to the meeting. There are a lot of you, which is fantastic. Before we get started, I want to correct for the record a factual error in one of our committee papers, which states that Dr Stollard chaired the most recent fire safety review panel. That panel was in fact chaired by Peter Drummond of RIAS. I apologise for any confusion.

George Edwardes and Laura Hughes join us remotely. Given the number of witnesses in the session, I do not expect everyone to respond to every question. It would be helpful if members could direct their questions to a specific witness where possible, although I will be happy to bring in others who wish to contribute. If other witnesses wish to comment, they should indicate to me or the clerk their desire to do so, and I will bring them in at an appropriate point. I would be grateful if George and Laura could indicate when they wish to come in by typing R in the chat function in BlueJeans.

I will now open up the session to questions from members. I will ask the first question, which I direct to Peter Drummond. Are you satisfied that the requirement to use only non-combustible material in external wall cladding systems on buildings with a storey that is 11m or more above ground is sufficient to protect occupants from the possibility of significant fire spread up the outside of such buildings?

Peter Drummond (Royal Incorporation of Architects in Scotland): The building standards (fire safety) review panel was tasked with taking an evidence-led approach to a fairly wide-ranging brief to identify all key areas of risk for building occupancy of high-risk structures. The evidence indicated that the principal risk is above 18m, although there is still a very significant risk above 11m. No substantial evidence was made available to the panel that properties below 11m carried with them the same level of risk.

There are a number of reasons for that. As you know, residential buildings and some other use classes in Scotland now require sprinklers. The Scottish building regulations have clear requirements for fire-tender access and firefighting facilities. The panel's view on that was predicated on all the different parts of the regulations working together in a unified approach, rather than in isolation. For that reason, my view is that we should continue to monitor the fire risk and the emerging patterns in buildings that are below 11m to ensure that our guidance and, in some cases, the regulatory bands, remain robust.

The Convener: As no one else wants to come in on that question, we will move on.

Miles Briggs (Lothian) (Con): Good morning, and thank you for joining us in the meeting room and online.

I will continue the line of questioning about the regulation preventing the use of

“highly combustible metal composite material”

in external cladding and insulation. Is the definition in the regulations robust enough to ensure that any dangers that are posed by such material have now been reduced as far as is reasonably practicable? Are there other things that we need to look at specifically in terms of metal composite material? Peter—you touched on that, so I will start with you.

Peter Drummond: That definition occupied a significant part of the panel's deliberations. The concern was that we had to provide a definition that was sufficiently tight to include the most flammable forms of material and that would not be open to abuse. For example, we have recommended a ban on panelling up to 10mm comprising a calorific value of 35 megajoules per

kilogram—my apologies for the technicalities. The risk is that someone would produce a 10.1mm board or panelling of a 34.9 MJ calorific value. For that reason, our advice to ministers and to the committee is that that be kept under review.

It is likely that new construction product materials will come on to the market, and because of the provisions in the Building Safety Act 2022 and the new national construction products regulator, one would like to think that those products will be tested more robustly. However, I would suggest that we should not be taking risks with people's health and wellbeing and with their lives. Consequently, there is a need for the ongoing work of building standards and review panels such as the one that I chair, and that Dr Stollard has chaired, to keep—[*Inaudible.*]—coming through the system and to feed in real-life intelligence.

I will take a slight diversion and point to the wealth of detailed technical assessment that was done for the Grenfell inquiry. Not all of that has been fully analysed by us yet, but it may cast light on where we need to make future changes to the regime so that we can continue to have a set of building regulations that put public safety front and centre.

Miles Briggs: Does anyone else want to come in on that? I know that George Edwardes is on the technical steering group.

Chris Ashurst (High Rise Scotland Action Group): I understand why there is a focus on the metal elements in the external wall system—those elements are significant. However, as a property owner who has experience of those regulations personally and as someone who has seen them operate in practice across Scotland, we are finding that, if we want to guarantee safety—that point has been touched on—the requirements must extend beyond that.

I can talk about a building with which I am intimately involved, where the cladding has been classed as A1, which is wonderful. However, 14 per cent of the wall area is rendered and apparently there is an expanded polystyrene system behind that. Merely—if I can put it that way—focusing on metal is perhaps unhelpful. Some of our owners are besides themselves because of that definition and they cannot understand why their buildings cannot be deemed safe when they do not have that cladding.

The Convener: We are having technical difficulties—Laura Hughes and George Edwardes cannot hear us. I will temporarily suspend the meeting until we sort that out, because I want them to be part of the conversation. I apologise for that.

10:09

Meeting suspended.

10:32

On resuming—

The Convener: I apologise for that suspension. We have sorted out the technical issue by moving to a new committee room. I will now give the floor back to Miles Briggs to continue with his questions.

Miles Briggs: A number of external building elements are specifically excluded from the requirement to use non-combustible materials—examples of that are doors, windows and glazing. Are the witnesses satisfied that those exemptions will not potentially compromise fire safety? If not, what changes would you like to see made to the regulations?

Chris Ashurst: I am fairly ignorant on that issue because I was not on the group that worked on it, although I have had to pick up the matter latterly. I will duck the question slightly and say that it is clear that things such as windows are key in external wall systems. That is one of the critical matters in the single building assessment, which we might touch on later.

Peter Drummond: Miles Briggs is very correct to mention those problems, which were highlighted at the early stages of the panel's discussions. Not only are there issues around potentially flammable products such as some window or door components, but there are also other supplementary small items, from grommets upwards, that are part of a cladding system. The challenge for us all is that the huge number of those products would make comprehensive testing of them all on large-scale rigs almost impossible.

However, on the back of Grenfell and the well-publicised problems south of the border, a number of specialist bodies, including the Centre for Window and Cladding Technology, the Chartered Institution of Building Services Engineers and the Safety and Reliability Society, have prepared some very good analyses. The last report that I saw was of substantial thickness. As we move forward from BS 8414 and BR 135, I think that there is another piece of work to be done into how we assess the whole of the assembly in a robust manner.

In the interim, I think that a ban on flammable cladding on the main part of the façade and the use instead of A1 and A2 materials only—which, for our purposes, are non-flammable—is the only sensible precautionary way forward. As I said before, I do not think that we can be taking risks with people's lives.

Miles Briggs: Does anyone want to come in? I know that George Edwardes and Laura Hughes have had sound issues, but do either of you want to come in on those points? I see that they do not.

My final question is about the Government having changed the threshold from 18m to 11m, which I welcome. Do you think that all buildings should be included in that specific reduction? That is for Peter Drummond.

Peter Drummond: I apologise if I am monopolising the meeting.

There needs to be a balance between the actual risk and how we deal with it in policy and in regulation. There is little evidence, for example, that one and two storey timber-clad structures of the kind that we encourage and see in the national parks, or that we use to address the zero carbon agenda, are causing significant problems.

The Scottish Fire and Rescue Service advice to the committee was that it was not seeing significant issues below 11m, but again—apologies for repeating myself—I think that you really need to keep an eye on that issue. As we move forward with the net zero carbon agenda, there will be an understandable desire to use those products. We cannot afford to find ourselves in a position in which we have, for example, a five or six storey—or even a four storey—block of flats with that cladding. Before anyone says that that seems unlikely, I point out that the Danes are building eight storey plywood-clad buildings. We must examine how we deal with that, and I would suggest that we do so fairly soon if we are to meet the Scottish Government's climate change targets.

There are materials that we can get that are more fire resisting, and there are robust compounds that we can put behind them, but that is a highly complex technical issue. I think that that would require the same kind of panel that has been looking at the cladding crisis—I think that we can safely call it that—to consider how we take that forward across the whole of industry.

The final thing that I will throw in is a word of caution. I, and indeed RIAS, entirely endorse the retrofit policies of both the Scottish and United Kingdom Governments, and the ambitious targets that have rightly been set. However, those policies also run the risk of introducing flammable materials into existing buildings in a way that will require considerable care if we are not to see a repeat of—dare I say it?—the Dorran house problems of the 1970s and 1980s in this country.

Miles Briggs: That is helpful. Does anyone else want to come in?

Laura Hughes (Association of British Insurers): Thank you very much for having me, and apologies for not being in the room with the

committee. Thank you also for moving rooms so that George Edwardes and I could join the meeting.

From the insurance industry's perspective, we know that fire does not distinguish between heights. We certainly welcome the change from 18m to 11m, but we are conscious that certain buildings that are under 11m might still be a significant fire risk. The industry looks at high-risk properties; it does not specifically look at high-rise properties. Therefore, it does not believe that there should be a height limit, although a limit of 11m is significantly better than a limit of 18m.

I also want to flag up a distinction that the insurance industry makes. A lot of the conversation is around combustible cladding, but we know that that is not the only issue with some of those buildings. Another issue is their structural integrity. Fire can, indeed, shoot up through, for example, inside cavities. Those are the two areas in which the insurance industry has really started to understand where there have been building defects in the past.

Miles Briggs: Thanks for that.

The Convener: We have a request from George Edwardes to repeat the second question so that he can respond to it.

The regulations would prevent the use of highly combustible metal composite material in external cladding and insulation.

Is the definition of such material robust enough to ensure that the danger that is posed by that material has been reduced as far as is reasonably practicable?

George Edwardes (Fire Protection Association): I am not sure that it is. I will say a few things about that.

I am unsure why 10mm was chosen as the limitation on the thickness of the material, as it opens a window for people to make 11mm panels. I am also not sure that the definition covers a wide enough range of highly combustible façade panels. For example, the regulation still allows for high-pressure laminate materials. I am also unsure why 35 MJ per kg was chosen, as that seems to be a very high number. We know that aluminium composite materials and metal composite materials are capable of achieving 3 MJ per kg, which is much lower than what the regulation requires. Lots of those materials are rated to A2-s1,d0.

The Convener: Thank you for bringing in that important bit of detail.

We will move forward with the questions. I will bring in Annie Wells.

Annie Wells (Glasgow) (Con): The new building standard 3.28 requires buildings to be designed to reduce the risks to occupants' health from overheating. What implications would that have for developers? What impact might that have on home owners' use of their properties?

It is open to any of the witnesses to respond.

The Convener: Are there any takers for that? Peter Drummond, do not worry about dominating the meeting, if you have the insight.

Peter Drummond: I fear that I am struggling a little, because that matter is dealt with by others on my committee, for which I apologise, ladies and gentlemen.

As I understand it, one of the problems that has arisen as we have moved towards much higher standards of insulation and airtightness in buildings is that, in some cases, even before Covid concerns, we had significant problems with air changes within buildings. Ironically, we have introduced artificial ventilation that meant that the building was almost the same as it would have been before we ventilated it. You are right to be worried.

A lot of people have created what I would glibly call plastic bags, and then expected folk to stay in them. Tim Sharpe at the University of Strathclyde has been doing a significant amount of research on that area, working with the Scottish Futures Trust, the Scottish Government, RIAS and other bodies on a way forward.

I think that the problem will get slightly worse—I will tell you why. The most recent changes to the Scottish building regulations on insulation and zero carbon do not go quite far enough to meet the Scottish Government's ambitious targets, which means that there will be another round of regulations in the near future, and we will also face issues about when we retrofit buildings. I am afraid that I cannot offer the committee any great technical insight into that risk, other than to say that I think that that is something that we will have to continue to focus on, using experts such as Professor Sharpe and his team at the University of Strathclyde.

Dave Aitken (Local Authority Building Standards Scotland): I am part of the Scottish Government's energy standards working group, and I understand that phasing in the new standards under section 6 will take into account the very thing that you are asking for on ventilation. As we build tighter, as it were, ventilation becomes a bigger issue. The ventilation strategy is being considered within the changes.

Paul McLennan (East Lothian) (SNP): I want to ask about the regulations on carbon dioxide emissions, which require the design and

construction of buildings with direct emissions heating systems to be capable of reducing the energy demand of the building.

What is the practical impact of that? Dave Aitken, I will come to you first, and then open the question up to the rest of the panel.

Dave Aitken: Are you asking about the practical impact of the changes that are coming our way?

Paul McLennan: Yes.

Dave Aitken: From being involved in the working group, it is my understanding that, as far as buildability is concerned, it is the status quo. Therefore, there will still be flexibility with regard to how compliance is achieved. That will involve a holistic approach. The building fabric will be looked at, as well as how the building is insulated, used, ventilated and so on. A holistic approach will be taken in relation to how compliance with section 6 is achieved.

10:45

Marie McNair (Clydebank and Milngavie) (SNP): Good morning. Are home owners still being prevented from moving or obtaining mortgages as a result of flats that are covered with potentially combustible cladding being valued at zero? If so, what impact is that having on people? I pose that to Chris Ashurst.

Chris Ashurst: The whole scenario that we are discussing is centred around safety and so on, but it also affects health and wellbeing. When I gave evidence to the Local Government and Communities Committee two years ago, which was the first time that I had attended a parliamentary committee meeting, I had some horrific statistics on how the mental health of people in flats was being affected. Their experiences were truly horrible.

Two years on, I researched the situation further just yesterday, knowing that I would be giving evidence to the committee today. I found that *Which?* magazine has run stories that include accounts from people who live in such flats. The statistics on mental health are still horrific, and that is because people still cannot move. One of our owners—he is not in the development that I am in, but he has a property in Glasgow—had been on the verge of a breakdown because he could not sell. He went abroad to work for a few months. He is now living in the north of England, but he still cannot sell because he cannot get the certification. That is having a huge impact on him, and he believes that his building is safe.

We have people in the building that I am particularly familiar with who have EWS1—external wall system 1—certificates. That is wonderful, as it means that people can sell their

flats. However, there are potentially other issues that are not related to the metal cladding. I am not here to criticise the press, but the heading “Cladding” in newspapers gets people’s attention, because of Grenfell. We really need to understand that the issue is about so much more than cladding. As a layman, in conveying information to people who own flats and are in this situation, I have to make the point that the issue is not just with cladding, because people do not understand that. A guy said to me, “But my building’s safe.” When I asked, “How do you know it’s safe?”, he said, “The Scottish Government ought to just release all these buildings that are safe and let them get their certificates.” I repeated the question, “How do you know your building’s safe?” He said, “Well, you just look at it—it hasn’t got any metal on it.”

That does not address the question, “How do you know that your building is safe?” The issue goes far beyond that. It extends to not only the construction and the materials, but the competency of the people who fitted them. Were they appropriate people to do such work? Did they follow the design? It is simply not possible to tell. Therefore, people are really on the edge. They cannot move; they cannot grow their family or move job. There are still people who are stuck in that situation. Frankly, it is horrific.

Marie McNair: My next question, which is about the insurance industry, is for Laura Hughes. Do home owners whose properties are wrapped in potentially combustible cladding have access to affordable building insurance? What is the insurance industry doing to assist that?

Laura Hughes: Can everyone hear me?

The Convener: Yes, we can.

Laura Hughes: I was not sure whether my microphone was on.

Thank you for the question. As Chris Ashurst set out clearly, people who have to live in some of the buildings that we are talking about are experiencing severe trauma. The industry is entirely sympathetic to people who are in such a difficult situation.

It is clear that, as Chris Ashurst said, the issue is not just cladding but the structural integrity of buildings. Cladding is one of the issues, but the construction of the building and the materials that were used are important factors, which the insurance industry certainly takes into account.

The insurance business is based on risk-based pricing. As the industry has started to delve into the detail of how buildings were constructed, it has identified significantly high fire risk in relation to some buildings, unfortunately, which has led to higher insurance premiums.

We know that that is a problem and we have been working closely with the industry. The ABI convened an industry round table, which includes underwriters, insurance brokers and re-insurers, who try to get to the bottom of what is driving price changes and what the industry can do.

A problem that we have across the United Kingdom is that no one really has enough data on the buildings that are affected. We fully support and welcome the Financial Conduct Authority's work to collect data from insurers and brokers, to try to understand some of the difficulties and key drivers of price increases, so that the industry can work with relevant Governments and other stakeholders to consider whether there are solutions or options that could ease the difficulties that home owners are experiencing.

Ultimately, the answer is to remove combustible cladding and do other work that will enable a building to be declared safe, including structural work where that is needed. If the risk is reduced, the buildings premium cost will follow that risk reduction and the price will reduce.

The Convener: If no one else wants to come in, we will move on to questions from Willie Coffey.

Willie Coffey (Kilmarnock and Irvine Valley) (SNP): Marie McNair talked about zero-valued homes and EWS1 certification. My question is for Craig Ross and Laura Hughes, who represent surveyors and insurers, respectively. Is there a legal issue if a certification scheme that has no statutory basis—and which my notes say creates particular issues in the context of Scots property law—is used to tell a homeowner that their property is valued at £0? Does hanging that value on a non-statutory process create a legal issue?

Craig Ross (Royal Institution of Chartered Surveyors): The external wall system 1 form was developed after Grenfell and the series of advice notes for England that were released to address problems. It was developed for England at first, for buildings over 18m, to address a particular problem. It is designed to inform lending by giving the lender an idea of whether there is a problem with the cladding, and it is meant to be in a simple format.

You asked whether there are potential legal issues when it comes to using EWS1 in Scotland. I think that the Scottish building standards division recognises the issue. It has come up with its own system, the single building assessment, which is designed for Scotland. We are supporting the approach with training, for example, and by learning lessons from the EWS1 process as it has gone through iterations.

I cannot answer your question about the legal issues, but I can come back to you after taking appropriate advice from RICS. I think that the

single building assessment will be a great improvement on EWS1. It is designed specifically for Scotland.

Willie Coffey: Laura Hughes, can you add to our understanding of the issue?

Laura Hughes: I, too, cannot comment on the legal issue or levers in that regard, largely because the insurance industry does not use the EWS1 form or the single building assessment. Nor does it use zero valuation. Insurance is based on the costs associated with needing to rebuild a building should it be a total loss and need to be demolished and rebuilt. Insurers therefore focus on the cost of rebuilding, which is how they consider risk. We do not use the EWS1 form or the single building assessment.

That said, we asked our membership their views on the single building assessment and, in general, the majority of insurers support it. Given that insurers are busy collecting as much data and information as possible, if that information is shared with them, they will consider it within their general assessment of the building.

Generally speaking, however, insurers go into much more detail about the construction of the building and the material used in it, along with how it is managed and run, in order to assess the risk. The industry does not really consider the single building assessment, the EWS1 form, or zero valuation as part of its risk assessment.

Willie Coffey: There remains the issue that Chris Ashurst perfectly described of people having their homes valued at £0 because of a process. What is your view on that, Chris? How can people find themselves in those circumstances because of a process that is not statutory?

Chris Ashurst: I give some credit to the banks and RICS for at least trying to address the mortgage question and coming up with an answer in the shape of the EWS1 form. Although the motive was good, the form sadly failed to address the tenure system in Scotland—or the whole issue here. I understand that most of the properties that they are dealing with are not in Scotland, but our problem is in Scotland and we need to deal with that.

It was a commercial arrangement. Although I am not a lawyer—I used to be an insolvency practitioner—I would doubt that there is a liability for people in relation to the EWS1 form, because it is a commercial arrangement between a buyer and a lender and so on. However, I will bow to lawyers on that.

The SBA is definitely a step forward. I hear what Laura Hughes is saying; the insurers' interest is in making sure that a building owner will not suffer catastrophic loss. That is the route and that is

what they are looking for, which is a whole different ball game to deciding whether to lend on a property. It is about whether there will be a catastrophic loss if there is a fire in the building. That is their bottom line. It is not that they do not care for people, but that is what they are there for.

I say to Laura—as I have said to others—that the SBA is a much better-informed process and gets into the detail of how a building is constructed. I am involved with one at the minute where that information will become very clear. The sort of specific questions that insurers ask—“What about this bit of wall” and “What about that?”—will be addressed in a single building assessment. That information will be available to insurers to inform their assessment of risk with a reliability in relation to the materials used that was not there in the previous system. The SBA is much more robust and detailed, and addresses those issues much more comprehensively.

11:00

Craig Ross: I agree with Chris Ashurst’s points about the single building assessment. It is definitely a good step in the right direction and a more encompassing assessment—including a fire risk assessment—of the building. That covers the points that we mentioned earlier, in that it is not only a cladding problem.

I will drill down on the zero-value issue, which is not caused by the EWS1 form. If the valuer is asked to go to the property on behalf of the lender and is not able to identify whether the cladding—in this case—is combustible, they put down zero value. That is really simply to alert the lender that there is a problem. As I mentioned, the EWS1 form was originally intended for buildings over 18m, which is a very specific group of buildings. However, we found through practice that lenders and valuers were requesting it for other types of buildings. In order to assist in reducing the zero-value problem, we therefore came up with additional guidance to try and guide valuers as to when they should and should not ask for the EWS1 form. Although that does not answer the point on the legal status of the EWS1 form, it clarifies what it is used for, which is simply to give the valuer guidance on whether the cladding is combustible and therefore whether it would need to be remediated at unknown cost.

Willie Coffey: That is interesting. However, if a seller chose to contest that valuation, its defender would surely point to the certification process, which is non-statutory, to justify it.

Craig Ross: Yes, potentially. If the seller was of the opinion that the cladding was not combustible or that it would not be a problem, there could be an issue.

Peter Drummond: The RIAS view has always been that the EWS1 form, regardless of its quality as a tool, has been misapplied and that, because of that, problems have occurred in the sector. We are in the fortunate position that we do not value buildings and therefore do not have to deal with that fallout.

We support the Scottish Government’s single building assessment, which we think is the way forward. However, I will also draw attention—very briefly, the committee will be relieved to hear—to the British Standards Institution’s publicly available specification 9980:2022, “Assessing the external wall fire risk in multi-occupied residential buildings”, which was released in January.

That is a much preferable alternative to the previous systems that were employed because it drills down into the risk for a property. It does that on a building-by-building basis; it does not apply a one-size-fits-all, or perhaps a one-warning-fits-all approach. The surveyors will rightly point out that I am sweeping with a very wide brush indeed, but we are dealing with highly complex technical issues and they require highly complex responses.

As Chris Ashurst correctly pointed out, it is not only about the cladding material. In some cases, we have very flammable insulation within unsealed cavities, and we know from English experience that they may not be properly protected. We have other problems with buildability.

To round that off, I am flying a flag for the Scottish Government and building standards to continue to take account of PAS 9980:2022. I will also nod in the direction of CIBSE, which was heavily involved in its development, given its expertise.

Willie Coffey: I thank everyone for their answers, which have also covered my question on the building assessment programme.

The Convener: I will follow up. We have begun to discuss the issue, but I will tidy it up a little. I direct my questions to Chris to start with.

What challenges do you foresee in taking forward the single building assessment programme and the Scottish Government-funded cladding remediation work? That is one bit of the question.

I represent a region that has a lot of islands and rural areas. I am therefore interested in what challenges might be faced by those parts of Scotland. That is my second question.

I also have a third question—I will get them all in in one go. How do we ensure that quality is not compromised in favour of budgetary savings?

Chris Ashurst: I will kick off and see whether I can remember all those.

The Convener: I can always remind you.

Chris Ashurst: Thank you. There are challenges. I remember discussing this in a Zoom meeting two years ago, at a similar committee, and saying that in essence we need an MOT for buildings. If you buy a car, you can look it up and see that there is a certificate, so you know that at least it has been tested within the past 12 months and verified that it is safe. Out of that discussion came what we now have as the SBA.

The idea was that every building in Scotland should eventually have an MOT—or SBA—to say that the building is safe, which would provide detail as to what is in the building—the key components. It would allow people to verify not only what the components are but that they were fitted and constructed in accordance with the proper instructions, because without that there could still be a risk.

It is about a year since the SBA pilot scheme got under way at around the end of last summer. There are 25 buildings in that scheme and some are further down the route than others. The challenge was in moving from the wonderful idea that we had to its implementation. I had black hair when we started and it is now grey. It is a whole different ball game and the pilot scheme is identifying issues with the process.

One of the issues that we and others have faced is the limited resource in terms of people who are competent and qualified to undertake the work. In a building that I am familiar with, which is a 279-flat development in two big core buildings with 11 stairs, when someone was sought to undertake a single building assessment the question was who could do it. Precious few people can, so they widened the scope to include national UK companies with good names.

Three or four of the companies—I cannot remember the exact number—were invited to put in their plan as to what work would be done. Sadly, even with some of the big names, where the directors of the companies said that they had something that would fit the bill—“We’ll take this template off the shelf”—and provide the information required for an SBA, we found that it would not give the required information. Some of the proposals made no reference at all to the Scottish guidance note or the Scottish legislation.

Given my previous professional background, I know that if I had submitted a proposal to a bank or an organisation in the terms that those companies were submitting their proposals to us, it would have been thrown out. Apart from the fact that they were in bad English, they simply did not address the issues. When it came to looking at who could do the SBA, we felt that we could place no reliance on those companies.

The work on the pilot was being done hand in hand with the Scottish Government team, who did not direct who should do the assessment, but it was quite clear that one or two people stood out head and shoulders above the others, and the rest were nowhere to be seen. At the moment, there are very few people who can do the SBA, but that is being addressed to some extent. The Scottish Government and RICS are training people up and there is an additional component that will enable assessors who are competent, can be relied upon and have a good track record to be added into the scheme so that more people will be available. However, we are talking about only 25 buildings, we are a year on, and only a few of the assessments are under way. That is a matter not of blame, but of fact; that is where we are.

The other day, I was talking to an assessor who is doing an SBA and who had gone out to contractors to get some work done—I cannot remember exactly what, but it involved scaffolding or cherry pickers or something. The contractors gave him a quote and the guy who is responsible for doing the SBA said, “You’ve got to be joking! I haven’t got that sort of money in the budget. You’re pulling my leg.” That sort of thing adds yet another time delay.

People are living in those flats and know that an assessment is under way. In that development, people will be saying, “It’s under way, so has it been finished yet? Will it take a week?” Actually, it will probably take four or five weeks. The road might have to be closed because scaffolding might have to be put up and there might have to be cherry pickers. It does not happen instantly. There are huge hurdles that have to be jumped in order to make progress.

The people who are in the single building assessment pilot schemes have some comfort that perhaps something is happening but, at the last count of buildings in Scotland that are over 18m—we are not talking about those over 11m—there were well over 300. That means that there are people living in 200 or 300-odd buildings where nothing is happening. They do not know what is going on or where the process is at. They are finding that intolerable.

There are huge hurdles. People are doing their best to try to address them, but there really is not a magic wand.

I have addressed only one of your questions.

The Convener: Clearly, we face a very challenging situation. Does anyone else want to come in on the challenges?

Craig Ross: I will follow on from what Chris Ashurst said—I agree entirely with his points.

On the challenges, when I spoke to the committee in the previous session of Parliament, the focus was very much on competence. Professor José Torero raised the issue of the lack of competent professionals in the market. Since that meeting, we have worked closely with what was the Ministry of Housing, Communities and Local Government to develop a training course for people to enable them to do external wall system assessments. We recognised that it was a niche area and that there was, in the market, a lack of people who could do that, which was contributing to jams in the system.

The course has been designed and 1,000-odd people have enrolled on it. So far, only about 63 people have completed it. One issue with people completing the course is the availability of professional indemnity insurance. People ask why they should spend their time doing the course when, at the end of it, they might not get PI insurance to enable them to do the surveys or inspections.

We have since been in discussions with Local Authority Building Standards Scotland to create, as Chris mentioned, a bolt-on to allow course completers to work in Scotland. The initial figure of English surveyors who were interested in working in Scotland was 16-odd per cent, which would mean around 160 people being able to assist with the process in Scotland. They face the same issue with PI insurance.

Peter Drummond mentioned the PAS 9980 system. We fully support its use as part of the training course for external wall system assessors. That promotes a risk-based approach. It is not just about saying, "There's a problem, so let's strip off the cladding"; it is about looking at the building holistically and at all the fire risk and considering whether there are alternatives to simply removing the cladding. The aim is to create a more proportionate response to the fire risk, rather than just immediately going for the cladding.

Dave Aitken: We are looking for greater assurance in the process and for greater rigour to be introduced with the changes to the regulations. It is important for the committee to note that, under regulation 8, where remediation is required or has been identified as a need, that will be subject to a building warrant and a completion certificate. That is an important change that is being introduced in the regulations.

With regard to competence, a significant change in regulation 8 is that a far more prescriptive approach will be taken when dealing with cladding systems. Test data will have to be submitted as part of the building warrant process that confirms that the materials that form part of an external wall cladding system meet European classification A1 and A2. The regulation will also place a statutory

duty on designers, specifiers, developers, building owners and managers to employ competent people to oversee that process. That is another important change in the regulations.

11:15

The Scottish Government has undertaken a lot of work, and I have been heavily involved with its building standards futures board, through which many workstreams are coming. In the workforce strategy workstream, we have introduced a competency assessment system—CAS—which will ensure, from a local authority verifier's perspective, that staff with the necessary skills will work on high-risk building types.

Another workstream is the delivery model. In May, a building standards pilot hub project will be formed. It will include investigation of the establishment of a fire safety hub, which will be tasked with providing local authority verifiers with the necessary levels of support to ensure that more complex fire safety designs are competently handled.

Finally, on-going work is taking place in the compliance plan workstream, which will see the introduction of a compliance plan manager who will be employed by the "relevant person"—a term that is used in the Building (Scotland) Act 2003—to ensure that safety-critical features, such as external wall cladding systems, have been designed, procured and installed to meet fire safety standards.

I hope that that provides the committee with some assurance that, through the changes, additional rigour will be applied.

The Convener: Thank you for that data. It is reassuring to hear the raft of requirements.

Peter Drummond and Laura Hughes have indicated that they want to come in.

Peter Drummond: I agree with what Dave Aitken has said and I will build on it. A regulation, no matter how well drafted, is of no value if it is not enforced and delivered. Over the past 20 years, I can count on the fingers of one hand—in my case, that is rather less than the rest of you—the number of projects in which I have seen independent clerks of works and site engineers. We no longer have site agents, site architects or site engineers, although housing associations—bless them—and some public authorities still employ clerks of works.

We therefore find ourselves in a position in which builders and developers are marking their own homework—they are particularly guilty of that in many design and build cases. Building control has employed its resources as best it can on a risk-based system to deal with that situation, but

the requirement is huge, so the RIAS thoroughly endorses the move towards a compliance management regime.

Previously, the application for the completion certificate from building control—people of my age will remember it as a habitation certificate—had to be submitted by the relevant person, who gave a legal undertaking that the building was built. That undertaking was taken at face value unless a serious risk was identified. I repeat—people have been marking their own homework.

The compliance plan moves to fundamentally change that in ways that are subtly different from what is envisaged in England under the Building Safety Act 2022. The compliance plan manager will, in my view, have to be independent—there are various views on that point in the discussion groups—divorced from those who have a financial interest in delivery of the building at a bottom-line cost, and they will have to have very clear legal liabilities and duties that are more akin to those of an expert witness than those of a traditional consultant.

A lot of what we are discussing today around cladding, quality and remediation only works if we have a strong leading system for delivering it on site. The challenge that Craig Ross, Dave Aitken and others, especially Chris Ashurst, have identified is in ensuring that there are the professionals—the clerks of works and site staff—to deliver that quality, and who understand how to build things.

Every professional institute in the UK today has put in place a start to training. There will be a lead-in period for that—the architects are no different from the surveyors, the technologists or the engineers. However, my advice to the committee is that we must see such measures as part of a wide net of measures to protect the public from a repeat of this disaster, and remember that it is a repeat of the disasters that happened with concrete pre-cast buildings in the 60s. We do not seem to have learned lessons from the past, and people in other jurisdictions that have moved away from a mainstream building control system have seen that writ large.

I apologise, because I am getting a bit preachy, but we now have an opportunity, through compliance plans and the cladding scheme, to make a real difference for the next 20-30 years. However, that will rely on our keeping on top of the problem and not resting on our laurels. If we do, I fear that the next time we see Chris Ashurst he will have the same amount of hair as me.

The Convener: Thank you for that response and that clear direction for us to be aware of.

Laura Hughes: I would echo comments on the importance of ensuring that the people who

complete works on the buildings have the appropriate competency, which will give the insurance industry confidence in them.

The insurance industry has seen over the past five years, post-Grenfell—and further back than that—that the competency requirement has not been met. The more insurers investigate the construction of buildings, the more they understand that they have not been built exactly as they were signed off or as it was planned that they would be constructed.

Craig Ross mentioned professional indemnity insurance, which is essentially liability insurance for professionals providing a service. That liability insurance covers an historical period, so it is not just about providing liability for the works that are done here and now—it provides cover for the works that have been undertaken in previous years. The professional indemnity insurance market has hardened significantly, largely for the construction industry, surveyors and people who are involved in fire safety elements. However, it has also hardened significantly across the globe and for all other sectors. It has hardened for solicitors, brokers and others.

I want to touch on the fact that the training that is going on is really important from an insurance industry perspective, because it gives us confidence that the people working on the buildings are doing the right thing, and that there will not be liability claims for negligence or causation in the future. The industry is starting to get a better understanding of who is competent. There is certainly professional indemnity insurance available for people who can clearly demonstrate that they are doing various pieces of work to help their competence.

In February 2021, the UK Government announced a Government-backed scheme for professional indemnity. It is a very narrow scheme—it is largely for fire engineers and people who work on EWS1 forms. Forgive me, but I am unsure whether that will bleed into the single building assessment, too. It will be relevant in Scotland, though, so we are very much looking forward to the scheme being launched, which will help the speed of remediation and the ability for certain individuals to access the right professional indemnity insurance in order that they can do the work that they need to do.

The Convener: Thank you. Chris Ashurst has indicated that he would like to come back in.

Chris Ashurst: Laura has hit the nail on the head. It is my understanding that the scheme in England will extend to the EWS1 element of work done under the SBA. There is therefore partial, not whole, covering of the PII costs. That is a step in the right direction.

Mark Griffin (Central Scotland) (Lab): I will continue the discussion of professional indemnity insurance. Craig Ross, what would help your members? What should be addressed to assure them that they will be able to get the insurance that they need to carry out the work? There will be a major issue if we have no one to assess the buildings.

Craig Ross: I have not personally been involved in the discussions. During the design and implementation of the training course, members of the RICS team have been working with the Government at Westminster to look at a PI package that would cover surveyors or course completers. That has not been bottomed out yet, so I do not want to elaborate further, but we expect to have more details soon.

In the absence of professional indemnity insurance from the private market, it would certainly be helpful to have some kind of Government-backed scheme, if that were possible.

Peter Drummond: I apologise for breaching in again. I sit on the RIAS's insurance steering group and also at national level on the steering group of the Royal Institute of British Architects. By and large, architects now find it completely impossible to get PI cover for any form of cladding work or remediation.

Small practices are still able to get a limited amount of fire coverage for normal domestic projects—for example, under the RIAS insurance scheme. Some of the very big UK practices can provide an element of coverage through their own mutual insurance schemes. The same pool of underwriters caters for architects, technologists and many surveyors, who now find themselves in a position where they cannot get PI insurance to remediate the problems that are ahead of us.

That would previously have gone to contractors and subcontractors as specialist contractor design portions. The RIAS and Construction Industry Collective Voice, which is a cross-sector body that liaises on a range of building issues in Scotland, have evidence that even building contractors are having great difficulty in obtaining PI coverage.

Craig Ross is right to say that the scheme that draws from Westminster and will be extended to Scotland helps with identification of the problem, but we are going to have great difficulty in finding people who can put the required remediation scheme in place.

In the past two years alone, the cost of insurance for consultants who deal with fire safety issues has increased by between 200 per cent and 400 per cent. That has forced a large proportion of the practices that are capable of doing that work out of the sector. I stress again

that that applies not only to architects and to my members; I hear the same comments from members of Chris Ross's organisation, from the Chartered Institute of Architectural Technologists and from fire engineers. I am sure that Laura Hughes will have a view on that. It is understandable that the market is shying away from those considerable risks. Many projects out there are in a boorach.

The most sensible view that I have heard—which came from CICV rather than from the architects—is that we now find ourselves in the same position with insurance cover as we did for flooding, or for asbestos in the 1990s, and that the Government, either at devolved or at UK level, should be thinking about whether it could act as a re-insurer of last resort, absent any change in market conditions. It is a difficult question. It is outside my ken as an architect, but I think that all the good work that we are doing might otherwise stall before we can fix all the buildings. The losers in that situation will be people such as those Chris Ashurst represents.

The Convener: Thank you, Peter. Laura Hughes wants to come in on this question, too.

11:30

Laura Hughes: I just want to echo those comments. The insurance industry is very cognisant of the fact that a broad number of professionals are finding it difficult to access or, indeed, to afford professional indemnity insurance.

I will touch a bit more on how cover for the liability of professionals operates. Historically speaking—say, between six and 10 years ago—we had an environment in which, as we know, building regulations were determined by some as being not fit for purpose. Clearly, a lot of work has been going on to try to improve them, but at the time, the market got incredibly hard. That situation was not helped by the fact that professional indemnity insurance is not particularly profitable for the industry. We saw a number of insurers pulling out of that market as a result, and that is what determines that there will be a harder market.

We at the ABI are working with the International Underwriting Association, which also has a lot of professional indemnity insurers. We have been taking a closer look at the professional indemnity market in the years since Grenfell, and the association has recently drafted some model wording to try to help professional indemnity insurers to open up their market a little bit more. That has started to happen.

However, insurance is often very cyclical, with a tendency to go between hard and soft markets, and the dynamics at the moment in relation to how

buildings are built, the significant claims that insurers have been seeing and the risk of seeing a significant number of claims in the future are making them very nervous about providing fire safety and cladding cover.

That said, something is starting to happen, but I repeat that it will be a slow process and there is certainly no magic bullet for it. We have had discussions with Government officials—more at Westminster than in Scotland—about the realities with regard to the options for Government-backed professional indemnity schemes. We are really positive that such a scheme will operate in Scotland as well as in England, but I point out that it has not yet been launched and, as we have said, its scope is very narrow. The reality is that the scheme is not going to help the broader group of professionals who are having the problems. Insurance is available, but unfortunately it is extremely expensive at the moment, because of the associated risks.

Mark Griffin: Those comments were very helpful. It would also help if we highlighted to the Government what is clearly a substantial issue .

I move on to cladding remediation work in Scotland and how it compares with what is going on in the rest of the UK. Where are we in Scotland with that? Are we lagging behind, or are we leading the way? What is the state of play in Scotland, and are there any lessons to be learned from what other parts of the UK are doing?

Chris Ashurst: I have already mentioned the SBA pilot scheme, which will inform the necessity not just for remediation, which is a word that we have been using a lot, but for mitigation, which we should be talking about, too. The answer to some of these issues might be not to rip out and replace something but to find efficient ways of significantly reducing risk and making it tolerable. After all, we all live with risk every day, so the question is whether we can reduce it. There is, therefore, remediation and the possibility of mitigation, which might be less expensive.

As for where we are at, the actual work of taking things down or off or putting things up is hardly happening on the ground. We are just before that stage. We are all aware of a big development in the west of Scotland where work was done, which took some years. However, nothing has happened yet on the main core of buildings in Scotland, and we are two years on from when we started discussing the problem.

How do we get there? I think that that has to be informed by the single building assessment, because it will identify what needs to be done. I have latched on to Laura Hughes's phrase from, I think, two years ago, when I remember her saying to me in a conversation that we were talking about

not high-rise buildings but high-risk buildings. That has been thoroughly recognised within the single building assessment. Buildings are deemed to be either high risk or low risk, and if your building is deemed to be high risk, the SBA should give you the route to get it to low risk and tell you the things that need to be done.

However, precious little is happening on the ground, or in the air around flats.

Mark Griffin: How does that compare with work in England, Wales and Northern Ireland?

Chris Ashurst: I cannot answer for Northern Ireland. I am aware that the tenure system is different in England, so a management company or the freeholder can just go out and instruct someone to do the work. We do not have that ability in Scotland—it does not reside here. There is not an owner, because buildings are, in essence, co-owned; they might even be owned publicly or whatever. We cannot just impose the work, so there is another hiccup in the system. You have to get the owners' consent in order to have some of the work undertaken, so it is a different scenario.

I am not too familiar with what is happening in England. I keep a watching eye on it, but there are more buildings, so more work is being done.

Peter Drummond: I will keep this brief, you will be relieved to hear. Because it was asked to assist with some aspects, the RIAS is aware that the Scottish Government's building standards division has been looking at resources and placements for additional technical assistance to move forward the remediation scheme at, I infer, a reasonable rate of knots. I am not aware of how far that has gone on the ground. That question would be best directed to the building standards division. I could speculate as to whether Dave Aitken might have any insight into that, through the futures board.

Dave Aitken: Not really, no. LABSS is working in partnership with the Scottish Government to help with the SBA methodology. I have no doubt that, once the SBA is rolled out, identifying the buildings that could potentially require to be remediated will have an impact on local authority resources.

Craig Ross: It may be dangerous to compare what is happening in England with what is happening in Scotland. The scale of the problem is different and there are different regulations. What Scotland is doing very well is the pre-emptive work, such as limiting things down to 11m. That is certainly seen as leading the way—the building standards system in Scotland is seen as leading the way.

To be able to make more of a comparison, it would be good to have additional data to

understand the full nature of the problem. We have the high-rise inventory for 18m-plus in Scotland—I think that there are only 774 buildings on it. In England, there are 12,500 buildings, and anecdotal evidence from lenders and valuers shows that most of those have had an EWS1 certificate. That does not mean that cladding has been remediated. There is good data on 18m-plus, but having more data on 11m-plus would certainly be beneficial in order to start working out the nature of the problem and where we are with it.

It is a very complex issue. As we have seen, many legitimate stakeholders are involved in the process. The number of working groups that we have attended since Grenfell shows the sheer scale of people's involvement, and everyone has legitimate viewpoints. It is a very complex problem to address.

The phrase that has come up many times is “unintended consequences”, and working from a knee-jerk reaction can definitely create unintended consequences. We are passing on learning points from the EWS1 process to the building standards team, and it is definitely commendable that that team is taking a sensible approach in Scotland to ensure that it does not create unintended consequences.

Chris Ashurst: I am in fairly constant touch with the building standards team here—indeed, I was speaking with members of the team yesterday. I know that they are considering ways in which they can advance that work at a pace. It is not an easy situation to deal with, but the team is working very hard on it, so watch this space.

Mark Griffin: In a previous answer, Mr Drummond talked about our moving on from BS8414. Have we moved on from it, or is it still a route to compliance?

Peter Drummond: That is a difficult question. Let me answer it slightly backwards. BS8414 and its twin BR135 are no longer acceptable for use on buildings above 11m in Scotland in any of the high-risk groups—I suggest that some are medium-risk groups—that the minister's letter sets out. We can no longer use BS8414 for any residential buildings, places of public assembly, student residences or hotels, and certainly not for hospitals or nursing homes.

At the moment, BS8414 can still be used to demonstrate limited combustibility in properties below the 11m threshold. One of the concerns that my panel has—I respectfully suggest that we should all have it—is what we now know about the presentation of previous tests by some manufacturers in test houses outwith Scotland. Great caution must be exercised when interpreting and understanding the tests until the new products regulator in England deals with those tasks. My

personal view—I stress that it is a personal view—is that we should be very cautious about the use of BS8414 in most facets of the building regulations until we can have faith in it.

I go back to something that was highlighted previously, which is that although BS8414 is a large-scale assembly test, it does not take cognisance of what happens when extra components are added into the cladding system, which makes sense—the cladding system could be applied to 400 different kinds of window, which cannot all be tested.

As part of my panel's work, the building standards division carried out a review of systems that are comparable to BS8414. The conclusion was that, done properly, it was still a reasonable indicator of how a cladding panel, in isolation, would perform.

My personal view—it is not necessarily shared by all the fire safety experts on my committee—is that further work has to be done on an appropriate test regime that will allow us to sleep at night and which takes account of a wider range of issues, such as those that the Australian and some middle eastern Governments have tried to grapple with in the past year. I would be very cautious about the continuing widespread application of BS8414 at the current time.

Mark Griffin: That is helpful. The key phrase that you used there was “done properly”, because we have heard evidence that that is not happening. Colleagues who are joining us online have publicly raised concerns about BS8414. Do Laura Hughes or George Edwardes want to come in on whether it is appropriate to continue with its use?

11:45

George Edwardes: Many studies have been done on the consistency of BS8414 and concerns have been raised about various aspects. The fuel source can vary by a factor of two from test to test; the construction is not detailed in a way that allows it to be replicated on a building; and features such as cavity barriers can be put into locations that are not necessarily recorded, so those are not replicated.

From my perspective, it is not a robust test. Some products that are good can pass, but there are lots of things that get through on the borderline, and the 15-minute criterion does not seem to be appropriate. A more robust standard for approving systems is needed.

Laura Hughes: I recall what George Edwardes said about the realities of BS8414 and the failures in the testing that the FBA did after the ABI commissioned that testing in 2018. We presented

on that to this committee's predecessor in 2019. We are fully supportive of ending the use of BS8414 for certain buildings and are pleased that the evidence has been taken on board.

Dave Aitken: As Mark Griffin said, the greatest criticism of BS8414 is the flawed way in which it is used, which comes back to the competence of the people who try to apply it. In March 2021, changes to the technical handbook saw BS8414 being removed, but, as Peter Drummond said, it can still be used as a route to compliance.

I can give the committee some reassurance. Section 34 of the Buildings (Scotland) Act 2003 says that if the use of BS8414 is proposed in any building warrant application, building standards verifiers are required to notify the building standards division of the Scottish Government to ensure appropriate use. We are not aware of any issues since BS8414 was removed at that time, or of any applications citing its use since it was removed. However, we understand that there is an intention to reintroduce it in the annex of new versions of the handbooks.

The changes to regulation 8 that I mentioned earlier will limit the use of BS8414, because it will not be permitted on buildings more than 11m high. Its use will be hugely marginalised. We also have that greater scrutiny—its appropriate use will be looked at.

Craig Ross: I will wrap up on this point. RICS also has a fire safety expert panel of men and women who know far more than I do about the subject. BS8414 always causes an interesting discussion; we can never agree on it. We have experts who worked on its development and understand the pros, but we have also been presented with the cons, limitations and shortcomings of the test itself.

It is important to understand what BS8414 is. It gives an indication of fire spread. You can compare two different materials in controlled conditions. BS8414 is not proof of the material in an external wall application—that shortcoming must be understood.

The Convener: Thank you for that useful detail.

Before drawing to a close, I want to give everyone the opportunity to say anything that they think we have not heard. Please indicate if you would like to come back in. I see that Chris Ashurst wants to do so.

Chris Ashurst: We welcome the statutory instrument; it is brilliant. However, we do not want people to be sitting here in 20 or 30 years' time looking back—I will not be—and saying that we took that action but that they still have a problem.

The issue that I see, and that I have experienced, is one where developers develop a

building, they have their plans and then there is a handover to factors. In most cases, developers will be instrumental in appointing the factors in the first instance. I am not sure that I am comfortable with such an approach, but that is the way it is. I know of a development where a well-known national UK developer did its stuff and withdrew from the site, saying that it had handed over the plans and the operations and maintenance manuals—or, at least, that it left them in the office that the factors were to move into. The developer was adamant that the manuals had been left, while the factors were adamant that they were not there when they moved in.

You would have thought that it would be simple enough to go back to the developer and ask for another set, but they said, "Oh no, we don't have them any more." When someone asked about the local authority records, they said, "Ah well—they're corrupt." So, the factors do not have the information, apparently; the builders do not have the information, apparently; and there is no reliable information in the local authority portals.

From here on in, we need a really robust system for new builds in which information on the material that is used and on the construction of a development, and the related operation and maintenance manuals, are not just passed to the factors but kept in a central, secure repository. It was before my time, but my understanding is that, back in 2007 or 2008, there was an edict that some paper-based local authority records be transferred to electronic form. The work was undertaken by a contractor, but the records were corrupted. Therefore, that issue is not a limited problem.

However, that is just looking back—it is history, it has gone and we just have to live with that. We might have new regulations and we might make things safe, but we must ensure that that sort of thing never happens again, and that information is kept in a safe place and is available. That is my big plea.

The Convener: Thank you very much. I see that Peter Drummond, Dave Aitken and Craig Ross want to come in, too.

Peter Drummond: Having worked throughout the British Isles, I have no doubt, from my experience, that Scotland has benefited from the most robust of all five regulatory frameworks. However, if I have one criticism—it is only one—it is that, since the Garnock Court fire, the system has been reactive rather than proactive.

With the changes that we have seen since Grenfell, the previous fire safety review panels and the workstreams on compliance management, the system is now proactive, and I very much endorse the view that we continue to investigate such

matters and take the lead on ensuring that our building regulations in Scotland meet not just current but future needs in the most robust possible way.

Dave Aitken: As Craig Ross has said, changing building regulations is hugely complex; it is not an easy task at all and requires in-depth investigations and consultations that, if they are not robust and defensible, will lead to unintended consequences, as he mentioned.

I absolutely sympathise with owners, because the situation is not of their making. However, to provide Chris Ashurst with some assurances on new builds, I would say that we have been on quite a journey. The unfortunate nature of building regulations is that they evolve over time and require tragic events such as Grenfell to drive change.

As I have said, reviewing the regulations is no easy process. It involves setting up review groups with relevant stakeholders, reviewing other legislation, carrying out impact assessments, conducting various consultations and then reviewing the information that has been gathered. Since Grenfell, we have been on quite a journey, with various reviews identifying and making recommendations on areas of the current system that can be strengthened. With the creation of the Scottish Government's building standards futures board, several workstreams have been taken forward, and the introduction of a compliance plan manager, in particular, should go a long way to addressing some of the issues that have been raised today.

We have also seen, since 2019, consequential improvements being made to fire safety standards and introduced into the technical handbooks. Those improvements include: sprinklers in flatted developments and social housing dwellings; two escape stairs for buildings over 18m high; more onerous fire safety measures for external wall cladding systems applied to buildings over 11m high; and enhanced fire detection and evacuation alert systems for use by the fire service. On top of that, the cladding remediation team has been set up in the building standards division to deal with our existing stock. Its initial focus was on the high-rise inventory, but it has now moved on to the SBA—the single building assessment—to look at buildings higher than 11m. As I have said, we have been on quite a journey since Grenfell.

The Convener: Thank you for that, Dave. It is good to hear a rundown of what has been put in place.

Craig Ross: I will just wrap things up, although the points have been covered by the rest of the witnesses. The issue is very complex, because it is not just about designing new regulations but

about dealing with the problems with existing buildings, the cladding crisis and so on. We are also talking about designing new regulations that address life safety, buying and selling issues and so on, which are hugely complex problems. RICS absolutely welcomes the ban on combustible materials and the hard work that has been done so far in implementing Scottish building standards.

I know that there has been a significant call for the process to be speedier, but it is wise that we tread carefully and take into account further research beyond the ban on combustible materials. We look forward to further proactive collaboration with industry colleagues and the Government. I thank the committee very much for the invitation to give evidence today.

The Convener: As no one else wants to come in, I draw to a close what has been a rich evidence-taking session. You have given us plenty of directions to look in and things to be aware of, which will be tremendously helpful in giving everyone on the committee themes that we might discuss with the minister next week.

As agreed at the start of the meeting, the next item will be taken in private. I close the public part of the meeting.

11:57

Meeting continued in private until 12:10.

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