



OFFICIAL REPORT
AITHISG OIFIGEIL

Local Government, Housing and Planning Committee

Tuesday 30 January 2024

Session 6



The Scottish Parliament
Pàrlamaid na h-Alba

© Parliamentary copyright. Scottish Parliamentary Corporate Body

Information on the Scottish Parliament's copyright policy can be found on the website - www.parliament.scot or by contacting Public Information on 0131 348 5000

Tuesday 30 January 2024

CONTENTS

	Col.
DECISION ON TAKING BUSINESS IN PRIVATE	1
HOUSING (CLADDING REMEDIATION) (SCOTLAND) BILL: STAGE 1	2

LOCAL GOVERNMENT, HOUSING AND PLANNING COMMITTEE
4th Meeting 2024, Session 6

CONVENER

*Ariane Burgess (Highlands and Islands) (Green)

DEPUTY CONVENER

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

COMMITTEE MEMBERS

*Miles Briggs (Lothian) (Con)

*Stephanie Callaghan (Uddingston and Bellshill) (SNP)

*Pam Gosal (West Scotland) (Con)

*Mark Griffin (Central Scotland) (Lab)

*Marie McNair (Clydebank and Milngavie) (SNP)

*attended

THE FOLLOWING ALSO PARTICIPATED:

Phil Diamond (Diamond and Company (Scotland) Ltd)

Jocelyne Fleming (Chartered Institute of Building)

John Marr (UK Finance)

Alan McAulay (Local Authority Building Standards Scotland)

Jim McGonigal (Institution of Fire Engineers (Scotland Branch))

Calum McQueen (e.surv Ltd)

John Sinclair (Law Society of Scotland)

Mervyn Skeet (Association of British Insurers)

Gary Strong (Royal Institution of Chartered Surveyors (RICS))

Kate Swinburne (OFR Consultants Ltd)

CLERK TO THE COMMITTEE

Euan Donald

LOCATION

The David Livingstone Room (CR6)

Scottish Parliament

Local Government, Housing and Planning Committee

Tuesday 30 January 2024

[The Convener opened the meeting at 09:00]

Decision on Taking Business in Private

The Convener (Ariane Burgess): Good morning, and welcome to the fourth meeting in 2024 of the Local Government, Housing and Planning Committee. I remind all members and witnesses to ensure that their devices are on silent and that all other notifications are turned off during the meeting.

The first item on our agenda is to decide whether to take business in private. Do members agree to take items 3 and 4 in private?

Members indicated agreement.

Housing (Cladding Remediation) (Scotland) Bill: Stage 1

09:00

The Convener: The second item on our agenda is to take evidence from two panels of witnesses on the Housing (Cladding Remediation) (Scotland) Bill, with the first session taking the form of a round-table discussion. We are joined in the room by Phil Diamond, who is the managing director at Diamond and Company, Jocelyne Fleming, who is the policy and public affairs officer at the Chartered Institute of Building, Gary Strong, who is the head of professional practice at the Royal Institution of Chartered Surveyors, and Kate Swinburne, who is the associate director at OFR Consultants. We are joined online by Alan McAulay, who is building standards hub pilot director at Local Authority Building Standards Scotland, and Jim McGonigal, who is joining us from the Institution of Fire Engineers. I welcome our witnesses to the meeting.

I will begin our conversation by inviting everyone to introduce themselves. I am Ariane Burgess, a member of the Scottish Parliament for the Highlands and Islands region and the convener of the committee.

Willie Coffey (Kilmarnock and Irvine Valley) (SNP): I am the MSP for Kilmarnock and Irvine Valley.

Kate Swinburne (OFR Consultants Ltd): I am associate director at OFR Consultants. I am a chartered fire engineer working on a range of different fire safety issues, including those related to external walls.

Marie McNair (Clydebank and Milngavie) (SNP): I represent the Clydebank and Milngavie constituency in the west.

Phil Diamond (Diamond and Company (Scotland) Ltd): I am a chartered building surveyor and I own a chartered building surveying practice. With my co-director, Steve Brooker, who is a chartered fire engineer, we are active in external wall and cladding issues north and south of the border.

Jocelyne Fleming (Chartered Institute of Building): I am the policy and public affairs officer for Scotland at the Chartered Institute of Building. My remit is to advocate in the public's interest on all matters related to the built environment.

Miles Briggs (Lothian) (Con): Good morning, I am an MSP for the Lothian region.

Pam Gosal (West Scotland) (Con): Good morning, I am an MSP for the West Scotland region.

Gary Strong (Royal Institution of Chartered Surveyors (RICS)): I am a chartered building surveyor. I specialise in fire safety, and I am the head of fire safety for RICS globally. I am based in the RICS headquarters in London.

Stephanie Callaghan (Uddingston and Bellshill) (SNP): I am the MSP for the Uddingston and Bellshill constituency in Lanarkshire.

The Convener: Thanks for that. We now turn to questions from members. Please indicate if you would like to come in to respond to a member's question or to something else that has been said. For those of you who are joining us online, please indicate if you would like to respond to a question by putting an R in the chat function. Some of our questions will be directed specifically to one person, potentially because they have the expertise on that subject. The intention is that this should be a free-flowing conversation rather than a question-and-answer session, so let us see how we get on with that.

I will begin with a couple of questions. What is your perspective on the fact that the Scottish Government has not publicly consulted on the proposals in the bill? Have your organisations had any opportunity to input into its development and, if so, how effective has the engagement been in improving the bill that we are considering?

Jocelyne Fleming: The bill is an important and welcome first step on the road to addressing Scotland's cladding issues. The CIOB is a member of the Scottish Government cladding stakeholder working group, so we have had some opportunity to feed into the wider cladding remediation programme of work to date. That said, as I am sure we will get into later, much of the detail is left to secondary legislation and is not included in the current bill. One of our biggest points is that there needs to be robust consultation with the industry as we start to flesh out the important details and implementation.

We have had a conduit through the cladding remediation working group. That said, there is certainly room for improvement in the level of transparency and consultation, given what we have had to date. We urge the committee to ensure that there is full consultation with the industry, as we move forward. As we highlighted in our written submission, an indicative timeline, with some caveats and room for flexibility, would give us an indication of when we might be able to feed into consultations and dialogue.

The Convener: That is very helpful.

Phil Diamond, have you been able to engage?

Phil Diamond: Yes. I took 10 or so MSPs around a development in north Edinburgh and spent an hour or so sharing a number of points.

We work daily with the team in the Scottish Government directorate, and we have probably now been working alongside the directorate and the wider Scottish Government for three or four years as part of this process.

Our business has an awful lot to offer. We have a comprehensive database on what is out there. We have been very active, particularly in Scotland, and have been trying hard to educate as we go.

Kate Swinburne: The convener's question was about consultation and engagement. A couple of years ago, we were involved a bit in the initial stages of the development of the single building assessment. Our business responded to the bill proposals, but we felt that we had pretty limited time to review the details. I think that we first became aware of the request for comments on the bill through a post by Phil Diamond on LinkedIn. I agree that there is still quite a lot of work to be done. We certainly had quite a few comments on the bill.

Gary Strong: Like Jocelyne Fleming's organisation, we have been involved in the cladding remediation stakeholder group and other committees including the ministerial working group on valuation issues, so we have worked with officials for quite a few years. That has been really important, particularly given the experience in England in relation to EWS—external wall system—1 certificates and possible cladding issues after the Grenfell tower fire. We have been heavily engaged on the proposals, which is good, because it is really important that the industry be consulted on the proposals. We would welcome that engagement's continuing.

I will mention the experience in England of the Building Safety Act 2022 and the raft of regulations in secondary legislation that followed. The 2022 act can be very top heavy in detail, which has tripped up the Department for Levelling Up, Housing and Communities a little bit when it has tried to define things in secondary legislation. My plea is that, if the Housing (Cladding Remediation) (Scotland) Bill is going to talk only about cladding, it needs to be at quite a high level, and the regulations in secondary legislation should define the detail. I see that questions might be asked about the PAS—publicly available specification—9980 and the single-building assessments, for example. Those things should not be defined too tightly in primary legislation, because that would tie us up in knots and the primary legislation would then need to be changed. Our view has always been that such things should be defined in secondary legislation, because it is much easier and quicker to change things in regulations.

The Convener: That is very helpful.

I will bring in Alan McAulay, who is online. Has Local Authority Building Standards Scotland been involved?

Alan McAulay (Local Authority Building Standards Scotland): Yes. LABSS is represented on the cladding remediation working group. We attend those regular meetings, and our member on the group updates the LABSS membership in due course. We attend those meetings to represent the role of the local authority verifier, which comes into its own when we talk about building warrant submissions and how verifiers assess those. We very much keep a watching brief on the bill's development. I am happy to answer any questions on the specific role of the local authority verifier as and when that comes up during our discussions.

The Convener: Thank you. Jim McGonigal, has the Institution of Fire Engineers been involved?

Jim McGonigal (Institution of Fire Engineers (Scotland Branch)): Thank you for giving us the opportunity to attend today's meeting. The Institution of Fire Engineers in Scotland has been very much involved in the cladding issue since it arose. We have been involved in pilot studies relating to buildings that have had to have external cladding removed.

With regard to the bill itself, we did not provide a collective response; it was down to individuals to respond on that. However, we have attended the various meetings of the cladding remediation unit and we have kept a watching brief.

The Convener: I will stay with you for my second question, but anyone else can come in on it. I am interested in your thoughts on the focus and scope of the bill. Should the bill focus solely on cladding remediation or should it extend to cover all fire safety issues—or even all significant building safety matters?

Jim McGonigal: The bill is definitely welcome, but it will have challenges and I think that that is one of them. On the question about the scope of the bill, it has been driven by the tragic events that happened at Grenfell and the need to remove cladding that could put owners at risk and cause rapid fire spread across a building. That is the situation that we want to mitigate as soon as possible. We also want to reassure the residents of affected buildings and to address the other impacts that that situation could have on them. Therefore, that part is good—it is very clear.

However, the nature of the process of going into buildings to look at them and determine whether they are safe means that you will pick up other issues—for example, in the common areas of buildings. The reality is that, no matter what building you go to, if you look at it you will always find faults—things that are maybe not quite right—

so a fire engineer who goes to look at a building will pick up other matters.

The issue is the point at which those other matters become more of a problem than the cladding itself. I heard what Gary Strong said about the detail and the fact that it is probably better for that to follow in secondary legislation. However, the scope of the bill needs to be clarified so that we can identify the typical level of safety that we are looking for. For example, you could assess a building with cladding on it and determine that it is tolerable but that the problems that you have uncovered elsewhere in the building are more of a risk. Those two parts have to go together, but that outcome will delay the process.

Kate Swinburne: I would reflect a lot of what Jim McGonigal said, because the way in which a building is dealt with will depend on the scope of the bill. I can appreciate that, for example, insurers and lenders might be more focused on cladding. That is absolutely not my area of expertise, but I know that they are quite interested in that. However, just as Jim said, if I go to look at a building, cladding is just one part of that process. That is recognised in our building regulations—we have 15 mandatory standards, for example. I am a bit concerned that pulling out only the cladding to be looked at prioritises one issue as being more important than the others.

If you look around a building, you might find that there are some issues with the cladding, but what if you find significant compartmentation breaches, inadequate protection to the stairs or that the firefighting facilities are not acceptable? If we spend our money remediating only the external walls, what happens to the other provisions and are you leaving residents with issues that they have to figure out how to deal with themselves?

For me, the question is about what we are trying to address with the bill. Are we trying to address issues with cladding only? If so, that is fine and that will be clear, but what about all the other stuff? As a fire engineer, I would not consider one issue as the whole problem. Those things are all really interlinked. The single building assessment approach speaks to that, because when you do a fire risk assessment you look at the whole building. Focusing your attention on remediating only the external wall does not make sense to me. You need to consider the building as a whole.

Jocelyne Fleming: We need to determine exactly what the scope of the bill is. One of the reasons why we are strongly advocating for further consultation with the industry is that we need to proceed very carefully and think about some of the unintended negative consequences that could come from expanding the scope of the single building assessment.

Obviously, safety is paramount and we want to ensure the safety of various aspects of the buildings and homes that we have in Scotland. I am conscious that the conversations that we are having right now about cladding and the single building assessment have highlighted a related adjacent issue, which is that we are not adequately monitoring the safety of other aspects of buildings in Scotland, in the absence of certain mechanisms, frameworks and regulations that exist in other jurisdictions.

09:15

We are also part of the Scottish Government's tenement maintenance working group, and a sub-group of that, which particularly involves RICS, is considering the development of a five-yearly building passport that would look very much like a building MOT, as you have suggested previously, convener. In those discussions, very difficult conversations have arisen about what we might do if we had a group of people in a tenement building with mixed ownership, and the report said that there were significant safety issues that needed to be addressed right away. In the absence of things such as sinking funds or building management and factors, we might be handing people a real problem to address.

We need to think about the possible insurance and lending implications for those people. We already have a cohort of home owners in Scotland who face challenges with insuring and with selling and financing their homes. We need to be careful about whether we might be expanding that cohort. I am not a lawyer, and I am not suggesting that we are doing that, but there are real questions that need to be answered.

A point that colleagues have raised is that, if we extend the single building assessment much further than what is within the responsibility of developers to pay for and address in terms of external wall cladding, we then need to think about what that will do to the cladding assurance register. My colleagues at Homes for Scotland have asked what should be done if 90 per cent of a building has been remediated and the developer has fulfilled its legal and financial obligation to remediate cladding but the single building assessment has identified other safety issues—with fire doors, for example. Would that building go on to the cladding assurance register because that work has been done? Alternatively, would we hold off doing that until issues with the fire doors are addressed?

I am not necessarily answering you or saying what the scope should be; I am saying that there are real questions to which we do not have answers right now. The way that we roll out the measures and the order in which we do so are

really important. We maybe need to have a parallel discussion about the wider building safety challenges that we face in Scotland and take the cladding piece as a stand-alone first step that is part of a much larger discussion.

I just wanted to raise those additional questions and the importance of consultation and thinking about how we build this out.

Gary Strong: Immediately after the Grenfell tower fire, everybody was focused on the combustible cladding issue. We said from the get-go that the assessment is a holistic assessment of the building and is not just about cladding. In some instances, the cladding is not necessarily the issue—other more important fire safety issues have been uncovered in some blocks as part of the investigation.

To reinforce what Jocelyne Fleming said, the bill is a good first step, but the feedback that we have had—we have been involved in the issue for the six and a half years or so since the Grenfell tower fire—is that a lot of problems have been uncovered since we started to investigate cladding as part of fire risk assessments of external walls, which now happens under PAS 9980. Those issues are not necessarily to do with the cladding or even the insulation behind it; they are to do with things such as a lack of fire stopping and cavity barriers. There are then also wider issues within buildings, as Kate Swinburne said.

The London Fire Brigade and others have raised repeatedly with us the question of how to address those issues if we are just dealing with the cladding on its own. Our view, based on our experience, is that the proposals are a good first step, but my fear is that you are still possibly going to leave residents in homes that may be unsafe. The fire risk assessment of the external walls informs the overall fire risk assessment of the whole building, and they very much go hand in hand—you cannot really have one without the other. That is an important consideration.

England has gone further with the Building Safety Act 2022, which addresses structural safety as well as fire safety, which was thought to be important. It is a question of how far you go with the single building assessment standard. However, if you just focused very narrowly on cladding remediation, I would worry about the other issues that might exist in blocks.

The Convener: Before I bring in Phil Diamond and then Alan McAulay, I will bring up something with you, Gary, although I know that others have made this point. We have heard that the bill is a good first step. Is there a sense from the work that you have been doing on the cladding working group and the directorate that there is more to come and that we need to do this because there is

an urgency to get moving on it? I understand the point that, if you are going to assess a building, you should do the whole package. The committee is just seeing this piece of proposed legislation, but is there more in the pipeline that is being considered?

Gary Strong: Personally, I cannot say that we have seen that. We have been involved only with regard to cladding and the cladding remediation stakeholder group has been involved only with cladding, with input from lots of us to those meetings. Therefore, unless I have missed something, I do not see any work going on beyond that.

The single building assessment is a great initiative because of the differences between the legislation in Scotland and the legislation in England and Wales and the different ownership. That is a great leap forward.

However, the issue is how to move forward with the overall remediation. Some of the challenges might relate to exactly what the specification is for remediation, because it starts to go beyond the cladding itself. If you start looking at fire breaks and things that go beyond the cladding—beyond the external wall—where do you stop? That is the difficulty that you are going to run into.

The devil is always in the detail, is it not? Every building is different, so there is no generic answer to a lot of this. However, my fear, as you start getting into the process, is around what you specify as your ask of the developer. Is he going to replace just the outside cladding or is he going to address all the other issues with the building?

The Convener: The committee heard last week from developers that there is an issue that, for example, doors might since have been changed, which goes beyond the scope of the developer because that is not how they left the building at the time.

Phil Diamond: I will share our experience. We took one property in Aberdeen right through the process on behalf of the Scottish Government and the co-proprietors. We started the SBA, with the full fire risk assessment, and tendered and remediated externally. What that process threw up was really what the guys are talking about: a raft of things needed to happen internally.

Solving the external part of the problem is actually quite straightforward in a lot of cases but, to this day, we have been unable to get consent from the co-proprietors to go into the common areas and address a small pile of stuff that was identified in the fire risk assessment. It is quite tricky in Scotland to get inside a lot of common areas, take people's front doors out, upgrade the doors and frames and deal with fire stopping and all that kind of stuff.

It is quite a difficult thing to scope and it should not focus solely on the external cladding, albeit the external cladding is probably the easier bit to fix. The internal aspect is where the detail really is: compartmentation or fire stopping, and systems—including life safety systems—and services. As has been said, the devil is in the detail, and it is very difficult.

My slight concern is that, if that is all lumped into the one ask, we will not get anything done in Scotland. We have to stream that work in some way—break it up, parcel it and acknowledge that it all needs to be done—but, if you try to do everything, you will end up doing nothing, and that will slow the whole programme down. That is a concern of mine; we need to look at a different way to tackle that.

We need to deal with the building holistically, but it is often different contractors that do the internal works anyway, particularly the services aspect. We tie ourselves in knots and nothing gets done because we are trying to do everything. There needs to be a way to split that process.

The Convener: If the ability to go into the building to remediate all those things that you listed had been in place as part of the pilot, you would have gone ahead with that to demonstrate a whole experience of a building being completely remediated. Is that the idea?

Phil Diamond: That has not happened for a combination of reasons. There are legal issues and issues to do with consent and funding—all sorts of things—but that was a relatively small building of eight storeys in Aberdeen. It took a wee while to get around it and resolve the cladding issue, and we were constantly trying to address the internal issues as well but, to this day, we have not been able to get consent to do that work.

There are issues with consent and having the legal ability to go into the internal common parts of buildings in Scotland to fix, for example, fire doors, because those are privately owned by flat owners. That is a different type of problem, which needs to be covered off somehow. However, my concern with the whole process is that, if we tie those two things rigidly together, we will not get anything done. We have to start with the major risks.

Alan McAulay: To build a little on what Phil Diamond said, it is important to separate out fire safety issues that are to do with construction, including cladding remediation, from a failure that relates to the age of a building, in recognition of the fact that building regulations continue to mature over time. The age range of the buildings that people live in, in Scotland, is huge; the issue is insurmountable, to an extent.

There is also the recent direction of travel in building regulations to consider. In 2019, we

introduced a requirement for two escape stairs in buildings more than 18m high. Since 2021, there has been a requirement for suppression systems in all new flats.

That is where the value of the single building assessment comes in. Its methodology plays a key role in making sure that we use the resources that are available to address proportionately the areas that are critical to life safety—and that we recognise that, by their nature, older buildings do not meet all current building regulations. You need to look at those two different areas separately.

The Convener: Thanks, Alan, that is helpful. It is about how to parse out the issue. It is important to find the right way—or as close to that as possible—to look at it.

Jocelyne Fleming: I echo what Phil Diamond said, convener. Your initial question was about the bill being seen as a good first step. The Building Safety Act 2022 is a huge piece of legislation, which we cannot adopt wholesale in Scotland for a number of reasons, not the least of which is the fact that our tenure system is incredibly difficult—and because access is a huge challenge, as I know through parallel workstreams. That is how the CIOB has looked at it. As a first step, the bill tackles some of the challenges that arise from Scotland's tenure system. However, it is probably a first step also when it comes to the wider challenges that have been raised during the committee's evidence sessions, because we know that we need to look at those pieces.

I also echo Alan McAulay's points about how we might parse out, first, the challenges that arise from construction, then the things that happen over time. Our first step was tenure based, initially, but we know that we need to do a lot more work on both cladding specifically and building safety more widely.

The Convener: Thanks for that. I will bring in Jim McGonigal next.

Jim McGonigal: Before we move on, I want to clarify and highlight something. We have been talking about the different fire risks in buildings and what happens if we do not address those risks that are encountered in the common parts of the building, or problems with cavity barriers. The fire statistics in Scotland do not highlight a problem. Fewer than 1 per cent of fires spread beyond the flat of fire origin; since Scotland took responsibility for the fire stats, there have been no fatalities beyond the flat of fire origin; and, in the past 10 years, there has been a 57 per cent reduction in the number of fires in flats above six storeys. A lot of that has to do with different measures that are brought into the handbooks. Great work has been done to extend the coverage of fire alarms and detectors to all domestic buildings, for example.

As Alan McAulay said, further measures are added to the regulations over the years. To start with, there is nothing, really, for single-storey buildings. As buildings go up in height, additional fire safety measures are added, such as fire-rated doors, detection and alarm systems and sprinkler systems. To an extent, there is redundancy in the fire safety measures within the buildings. Although some areas may not include the installations that a manufacturer would expect to be installed, that does not mean that, overall, the building is putting the residents at risk. The fire stats seem to reflect that—although, obviously, you would not be complacent about that.

Phil Diamond is spot on when he talks about how tying the two together slows things up. For example, we can bring people in to deal with an external wall system, but it is a whole different case for problems inside the buildings. How have they got there? Was it a developer problem? Are they due to works that have been carried out afterwards? Have they arisen from residential impacts? That is a real problem.

As its name indicates, the single building assessment looks not only at external cladding but at the building overall. In Scotland, we do not have a fire risk assessment process for the common areas of a building. Therefore, I agree with Phil Diamond. The two parts could be looked at separately or, in some way, registered separately. That is where the PAS 9980 process comes in, because it looks at the building holistically and produces a result, which sets out mitigation measures and indicates how issues with the building should be addressed.

09:30

Kate Swinburne: I have a slightly different point to make. I take on board what has been said about the issues with access and the question of responsibility—that is, whether the developer is responsible or whether the issue has come about over time as a result of legislative change or changes in expectations—but it is worth making the point that it is not possible to separate out the external wall in all cases.

For example, the external wall might be assessed as posing some kind of risk, but remediating the external wall might not be the only way of addressing that risk. It might be possible to do something internally that will be sufficient to address the risk that is posed by the external wall. It might be better to spend money on reducing the risk in the whole building than to spend it on the external wall. Instead of spending money on having a very low risk external wall, would it not be better to use that money to address a different risk in the building or to do something else that would

reduce the risk that is posed by the external wall to a tolerable level?

I totally appreciate that, in some contexts, it makes sense to separate out the different elements in order to allow work to get done, but I do not think that such separation is possible when it comes to achieving an adequate level of safety for residents.

The Convener: That has been a helpful opening discussion on the scope of the bill and what it includes and what it does not include. Some interesting points have emerged.

We will move on to questions from Willie Coffey.

Willie Coffey: Good morning, everybody. Do you think that some of the terminology that is used in the bill might act as a barrier to more rapid progress? Over recent weeks, a variety of people, including developers, have told us that they think that terms such as “development”, “premises” and “risk to human life” need to be more clearly defined. Do you think that a lack of clear definitions is a genuine barrier to speedier progress?

Gary, in your opening remarks, you said that, rather than have too much definition in the primary legislation, we should clarify and define things more clearly in secondary legislation. What are your views on the matter?

Gary Strong: That is a good point, because people try to interpret words to their own advantage—we have seen that happen. It is an issue, as we have seen in England with what has happened with the Building Safety Act 2022. That is why there is secondary legislation that seeks to define things such as what a high-risk building is and what its height is. There is even secondary legislation on how to measure the height of a high-risk building. If too much detail is included in the primary legislation, people will try to twist the meaning of it. The detail can be nailed down in the secondary legislation—that is what DLUHC has done in relation to the Building Safety Act 2022.

If you are clear that the bill applies to residential buildings of more than 11m in height and you put in the bill that those are the premises that the legislation is aimed at, in the way that the 2022 act does, no parties will be able to get out of it should they try to do so. However, if there is still an issue with it, the definition can be nailed down in secondary legislation. That is where I was coming from in my earlier remarks—things could be defined more tightly in that way. If you try to define things too tightly in the primary legislation, you can get into difficulties. With the Building Safety Act 2022, there were difficulties with the original drafting and the Government had to bring out secondary legislation to correct it and clarify what was meant.

That is the kind of experience that I was trying to portray. Secondary legislation will be key if you can enact it quickly, which speaks to Phil Diamond’s point that you do not want to slow the process. There has to be an impetus to keep going with cladding remediation, because it will soon have been nearly seven years since the Grenfell tower fire. Progress must be made to make the affected buildings safe; you do not want to get bogged down too much. The Building Safety Act 2022 is really complex and perhaps overly complex. Those of us who deal with it on a day-to-day basis struggle with it. I would suggest that you do not want to have something that is 200 pages long, which then has a raft of secondary legislation alongside it—you want to get something moving quickly in order to get on with addressing the issues. You can then bring in secondary legislation to tighten up any issues that you may find.

Willie Coffey: Are there any other views on whether the terminology that we are using in the bill to define things is actively creating a barrier to quicker progress? It would also be helpful to hear if you have not heard that view.

Phil Diamond: My suggestion would be that, at this point, people should not be challenging definitions and so on—we do not want to be overanalysing it. We need to get things moving in Scotland. As Gary Strong says, during the secondary legislation process, there will be time to create a glossary and let the wordsmiths define things in a great deal of detail. I do not think that now is the time for that. Having read the bill, I cannot imagine that the terminology is a barrier for people. I do not think that that is the case.

Jocelyne Fleming: I echo Gary Strong’s and Phil Diamond’s points that we should look at terminology in secondary legislation and regulation. That would allow us to be much more responsive and flexible where we need to be, so that we can develop things over time. Inevitably, we will come across challenges as things are rolled out and as we go through the process. Being able to make changes and to adapt is really important. My understanding is that the Law Society of Scotland’s response raises some challenges regarding definitions. It is certainly in a better position than I am to comment on the legal ramifications of the way in which we define things.

As Phil Diamond has said, we need to get on with it and start making some progress for the people who are living in buildings with problematic cladding. The bill is a welcome first step that allows us the time to think carefully about how we define things and how we roll them out.

Alan McAulay: I will use the Building (Scotland) Act 2003 as an example. Alongside the primary legislation, there is extensive secondary legislation, including the building regulations

documents, which allows for terms to be updated regularly in a more efficient process.

What jumps out for me is that the bill appears to be fairly light on definitions in sections 27 and 28. Gary Strong alluded to the definition of the height of a building in the section on the SBA. From a building standards point of view, that is clearly well defined in building regulations. There is an opportunity to narrow down the definition and to define the terms more clearly, especially those that are already within the Building (Scotland) Act 2003, to make them fit for purpose. We can learn lessons from the architecture of the Building (Scotland) Act 2003 and apply those to the Housing (Cladding Remediation) (Scotland) Bill in order to allow it to progress as quickly as stakeholders require it to.

Willie Coffey: At previous committee meetings, there have been calls for buildings to be added to the cladding assurance register at a much earlier stage in the assessment and remediation process, instead of when the works are completed, which seems a little odd to me. Are there any views on that point?

Phil Diamond: I will pick that up. We have a very healthy database and portfolio in Scotland. A lot of the stock is absolutely fine. To me, the cladding assurance register could start with the buildings that have been rated as green, which could go straight into the system. It is quite obvious that we should be doing some kind of portfolio assurance-type exercise on a large scale, which could involve a fairly simple report. We could get an army of surveyors, engineers and architects, for example, to go around and capture the basic data, with some high-level criteria. The first area would be height. In England, there are four different definitions of height—Gary Strong can correct me.

The first thing to do is resolve what is in scope and what is out of scope. There is a lot of stock out there that is quite good and there is a lot of stock out there that is blighted by things that are not particularly risky. There is an exercise to be done to accelerate the programme to get all the good stuff clarified and put on to a cladding assurance register while the more difficult stuff is addressed and added as it is dealt with. It is a gigantic triage exercise in the first instance.

Kate Swinburne: That is a good point. As Jim McGonigal and I have discussed separately, we have lots of buildings and, if we are only putting on the register the ones that have been through that single building assessment process, a lot of our existing stock will either not get on it or will take a long time to get on it, because nobody is particularly looking at it.

When buildings should go on the cladding assurance register depends on what we are trying to achieve with the register. Is the aim to support lending and insurance? That is outwith my expertise, but, in that case, perhaps they only want to know when a building is adequately safe. However, if the register is also being used to communicate to people living in the building or others about how safe a building is or the current status of the building as part of that single building assessment process, perhaps buildings need to go on the register earlier. When a building should go on depends on exactly how that information is going to be used and who is going to have access to it.

Willie Coffey: Are there any other views on that?

Gary Strong: I will come in on that, because our experience south of the border is that you need certainty about all the buildings. As Phil Diamond suggested, there are an awful lot of safe buildings out there, but people just do not know. Sometimes, a building is blighted because people just do not know about its status—transparency about the condition of a building is really important. All those buildings that are safe could go on to the register straight away. For those buildings that have been identified as perhaps being problematic but that are in the process of going through the SBA and eventually to remediation, there needs to be complete transparency, because the valuers, insurers and lenders need to know that information. One of the real issues that we have struggled with over the past six years or so is not knowing what the state of play is with particular buildings. I urge transparency about all buildings.

If the buildings could be put on a public register—it must be publicly accessible so that people can see the information—that would be an enormous help in keeping the industry moving. In particular, that would help the insurers, lenders and valuers, because they would not have to search around for information, which is something that can completely stall any lending, sales or purchases of properties.

Jocelyne Fleming: I echo those points on transparency and on trying to provide assurance to people. One of the possible challenges that we need to consider if we are going to wait until a building has been remediated is that there will be a lot of grey areas for residents and other people who will not have any information until the work is finished. We need to consider that very carefully.

On Kate Swinburne's point, we need to try to establish what we are trying to achieve with an assurance register. Knowing who the register is for and what are we trying to convey to people will provide a little bit of direction about when things go

on the register. However, Phil Diamond made an excellent point about triaging and putting up the information that we already have.

Phil Diamond: I do not know where you guys are at with what you think the size of the problem is in Scotland, but we have been running an exercise and we reckon that there are something like 7,000 buildings that are in scope in Scotland. We reckon that about 60 per cent of those buildings, if they were to go through a PAS process, would probably present a tolerable risk and would be okay. That leaves a 40 per cent chunk of the portfolio that will range from having a minor problem to having a major problem. The industry could collectively get to a position where we know whether buildings are red, amber or green fairly quickly. We have created a bit of a problem for ourselves with the SBA because it is a binary thing—a pass or a fail. The nature of that means that everything is going to fail, because there will always be something wrong with a building. Professionals should be allowed to exercise their judgment—we have all got a lot of experience and we should be assessing the buildings on a different risk basis.

Willie Coffey: I think that someone will be asking a question on the issue that you have raised. I have a final question. The assurance register is a snapshot in time. Should it be regularly updated? Should there be a record of any changes to a building, which would constitute another assessment?

Gary Strong: Definitely. I would say that the information in the register needs to be constantly updated—almost weekly—because the information is fast evolving: it is live. The information needs to be regularly updated because the professionals in the market who will be using it need to see that it is live and updated. That is really important.

09:45

Willie Coffey: If a building does not change structurally and there is no record of any changes—

Gary Strong: It is a matter of refreshing the register and ensuring that when information becomes available it is put straight on to the register.

Jocelyne Fleming: For me, it comes back to the question of what we are trying to achieve through the framework. As things stand, we are currently thinking about a cladding assurance register to provide—broadly speaking—a list of buildings that have been remediated. What I think we are having a conversation about, however, is a safe buildings register. It is important not to conflate the two things, unless we are actually

moving towards something that looks like a safe buildings register.

As I said, to me, it comes back to the question of what we are trying to achieve using the proposed mechanism. Is it simply a ring-fenced list of buildings that have had remediation works completed, or are we looking for a longer-term register of buildings that are safe, while monitoring their safety? If it is the former, it is okay to consider a point in time. The building has been remediated to an acceptable degree—it is done; it is on a list. If we are trying to monitor the safety of our built environment and our homes overall, that will require a very different tool and framework. I could be wrong, but I wonder whether we are conflating two things that we could discuss—and perhaps need to discuss—at this point.

Kate Swinburne: I agree: it depends on what the exact scope of the register is.

I agree that the register needs to be updated, whatever the time period is, even if it is just to add confirmation from someone. EWS1 uses a period of five years. At some point, you would want to go back to check that all the information is still relevant. That could be a short exercise, or it could pick up things that have changed but did not go through a building-warrant process or whatever. If you look at a building that has been on the list for 15 years and you find that nobody has gone back to check what is applicable, you might start to ask questions about whether the information is still relevant.

Willie Coffey: Does anybody else want to add something, or will we move on, convener?

The Convener: Jim McGonigal wishes to come in on that.

Jim McGonigal: Jocelyne Fleming asked a good question: what is the purpose of the register? I agree that it should be updated when changes are made to a building that could have an impact from a fire safety point of view. However, you then get into questions about who will determine whether there are impacts on fire safety. We do not have, in Scotland, a requirement to carry out a fire risk assessment for stairs or the common areas of buildings, whereas there is such a requirement down in England.

To me, the register provides a way to address that, but that would need to be bottomed out. It almost looks as though the register could provide an MOT for buildings, as it were, whereby an annual check would be carried out of whether the fire-critical elements of the building are all still in place and functioning.

The Convener: I want to clarify something. What Jocelyne Fleming was saying was interesting. We have a question about what the

cladding assurance register is for. We can also ask whether we are moving in the direction of developing something else—a safe buildings register that includes the MOT idea that has emerged through our conversations. Is it useful to conflate those, or is it better to keep them separate, because of what we are trying to do?

I will bring in Pam Gosal with questions on the single building assessment.

Pam Gosal: Good morning, panel. Last week, witnesses indicated that there was a “lack of clarity” as to what a single building assessment is—its specification, what it looks like and what standards it is assessing. They also felt that, until that is adequately specified, the programme will not quickly address the life-critical fire safety issues that are associated with external wall systems. Would you agree with that? Do you believe that the use of the PAS 9980 guidance would provide much more clarity on issues that are unclear in Scotland? I put that to Phil Diamond first.

Phil Diamond: We are certainly lacking some specification and guidance on the SBA.

We have developed our own in-house guidance for doing SBAs, but that is basically born out of normal professional practice in which any chartered professional would be engaged. We desperately need something to benchmark that, so that everybody is working to the same standard and singing from the same hymn sheet. That is definitely lacking. The SBAs are currently very cumbersome and unnecessarily long-winded. In addition, we have a real problem with the binary-output scenario.

With regard to PAS 9980, we have been working with it in England for a number of years, and I think that the PAS process definitely has merit up in Scotland. We use PAS assessments: when we are dealing with a Scottish property, we run the two things—PAS and SBA—simultaneously.

I am a fan of the PAS process. I like it because it gives the professional a bit more ability—“discretion” is probably not the right word—to use their professional skills, whereas the SBA does not do that at all. Not every bit of cladding and every defect in the building will necessarily have a major impact on life safety, but under the SBA process, that would automatically be a fail. Under the PAS, we can use the professional tools at our disposal to mitigate or look at other factors. It is a much more useful tool, and it is more mass market, in that there are more people out there who understand it.

We have a big competency issue with the PAS side of things, but given that it has been tried and tested south of the border, I would have thought

that a kilted version of it would certainly be the way forward. We cannot simply pick up the English model right away, because we clearly have issues up here with different tenures and legal aspects that do not quite fit in the box. With a bit of modification, however, the PAS could be the way to go.

Gary Strong: I was on the committee that developed the PAS, so I would say this, wouldn't I? We were at pains, when we did so, to ensure that it was applicable north of the border—not just in England, but in Scotland, Wales and Northern Ireland—for the very reason that a fire is a fire and a building is a building, wherever it is, geographically.

There might be differences in tenure. However, I highlight the FRAEW—fire risk appraisal of external walls—process as part of the PAS, which gives three options: low, medium or tolerable, and high risk. It is not as binary as the SBA, which includes either a pass or a fail. It allows, therefore, use of professional judgment and flexibility in order to say that the risk is neither one nor the other—it is neither low nor high, but somewhere in between, and is therefore tolerable, although some mitigation measures might be needed.

I would say that the FRAEW process within the PAS works. RICS has a training programme for assessors in which we train on PAS 9980, because we think that it is a good document. It is the first version—it came out in January 2022, and we are still learning about the whole process around it. However, it is the first version of the standard; there will be a second version at some point, and that will be something to be adopted.

My problem with the SBA is that there is no real standard around it. It is quite a brief document, and it is quite binary: there is just low risk or high risk. I have an issue with that, because it does not work in practice.

Jocelyne Fleming: I emphasise that, with regard to Phil Diamond's point, our position is that we cannot adopt the English legislation wholesale in Scotland's unique context, for a number of reasons. Nevertheless, where there is an opportunity to harmonise standards, there is certainly merit in doing so and we would, in general, support that.

With regard to where or when we define the SBA, I echo the points that we made earlier about the merit in considering those things through secondary legislation and regulation later on, so that we have—as Gary Strong alluded to—the ability to evolve and change them as we need to.

The Convener: I will bring in Kate Swinburne, then we need to move on. We are in a sticky situation: we are getting a lot of good information but we are only halfway through the questions,

and we have only half an hour left, so we have to strike a balance.

Kate Swinburne: I will be brief, in that case. I reiterate these points. We definitely need some more definition about what the single building assessment is. As a business, we have not been massively involved in that, which is partly to do with lack of clarity on the single building assessment.

To us, the PAS is a framework. Although it references some English guidance, that does not limit you to considering a building in England; it can absolutely also be applicable in Scotland, because it is a framework and not a set of prescriptive recommendations or requirements that must be followed.

The other point is that there is a limited resource of competent people, and an even more limited pool of competent people in Scotland. If we have our own Scottish process or adopt a different standard, I would worry that we would exclude a big pool of competent people elsewhere in the United Kingdom who could help us with that process.

We are familiar with using the PAS 9980 process. As Gary Strong said, it is the document that we have and the best approach that we have at the moment, so I do not know why we would try to invent something else.

The Convener: I know that Alan McAulay and Jim McGonigal want to come in, but I will first invite Pam Gosal to ask her next question. Maybe witnesses can answer it, as well.

Pam Gosal: My question is for Jim, so that is okay.

The Convener: Perfect.

Pam Gosal: John McKenzie, the regional secretary of the Fire Brigades Union Scotland, said that failure to make meaningful progress in removing the cladding more than six years on is “reprehensible” and shows

“complacency to the point of contempt for those living, working and being educated in buildings wrapped in these materials, and for the firefighters who would be called to rescue occupiers and extinguish cladding fires.”

What is your view on the possible inclusion in the bill of timescales for delivery of cladding remediation, and how might that work in practice, given the various technical and industry factors that could delay such work?

Jim McGonigal: I fully understand the concerns for anyone who had a building with aluminium composite material on it following—as I said—what we have seen after the tragic events at Grenfell. My understanding is that, following Grenfell, all buildings with significant amounts of

ACM were identified, and measures have been put in place to deal with that, with developers—such as Taylor Wimpey, at Glasgow Harbour—taking steps to remove it. A process has been put in place to deal with that. I think that about 25 buildings with significant amounts of ACM were identified, and a process is in place for dealing with those higher-risk buildings.

We are now dealing with other buildings that have other cladding that does not meet the non-combustible requirements that we look for now. I understand where the fire service is coming from, and the concerns of residents living in such buildings.

That is why the register, which Phil Diamond mentioned earlier, is a good thing. People are living in buildings and fear that they might be at greater risk from fire. As Phil said, a large number of those buildings will not have a high fire risk. That is why it is good to bring them into the register earlier and to educate the people in those buildings.

I go back to what I said earlier about the fire stats. Our guidance and so on is different from that in England and Wales. There was a high-rise fire in Irvine back in 1999, in which fire spread to a number of storeys; the guidance was changed after that. A requirement was brought in for non-combustible material in relation to domestic buildings back in 2005, and sprinklers for buildings above 18m were required. We are therefore in a slightly different situation from the one down south. However, I understand the concerns, which is why we fully welcome this process and the bill and taking things forward swiftly.

The Convener: Thanks for that response, Jim. Do you have anything to add to what was discussed in relation to Pam Gosal’s previous question about the SBA and PAS process, or anything to say that differs from what has already been said?

Jim McGonigal: I think that witnesses have covered it all. The PAS system is well recognised. All the pain in developing it has been gone through in England.

The Convener: Thanks very much.

Alan McAulay wants to come in on the previous question. You might also have something to add around timescales.

Alan McAulay: The point that I want to make in relation to the previous question is that, although I agree that the PAS document is a robust framework, and also that we need greater clarity around the scope of the SBA, we need to be aware that it references many times “Approved Document B (fire safety)”, which relates to the fire safety regulations in England and Wales.

Therefore, we need to ensure that the PAS document is suitable for the Scottish system and, more important, the Scottish mandatory standards. We would have to update it in that regard. However, as a methodology, we totally support it.

10:00

On Pam Gosal's point about timescales, if the methodology and the risks that require to be mitigated are right, the timescales will be as efficient as possible. Given the complexity of the process, definitive prescriptive timescales might only raise the expectations of the stakeholders who are involved. For example, we are involved in the building-warrant application process; we will endeavour to assess that as quickly as possible, but it takes as long as it takes, depending on the complexity of the application and the speed of response to questions that arise.

If we get the methodology and the processes correct, that will reduce the process from start to finish and build resilience and efficiency into the process—as opposed to any definitive prescriptive timescales.

Stephanie Callaghan: Thanks, everyone, for joining us. We have already heard a bit about tolerable risk. Phil Diamond spoke about the fact that probably 60 per cent of the 7,000 buildings that are in scope in Scotland fall into that category.

My question is directed at Jim McGonigal, first. We have heard about the calls for the bill and associated guidance to better reflect the idea of tolerable risk rather than just high risk, and that measures could include the use of alternatives to cladding replacement that have similar fire safety benefits. Would you support that approach, Jim, and how might it work in practice? I am happy for anyone else to come in after that.

Jim McGonigal: I am not a fan of the risk ratings being only low risk or high risk, in the single building assessment. The guidance on the document says that, if anything in the building needs to be mitigated, the building is high risk. That means that the majority of buildings that will be looked at will fall into the high-risk category. Again, I note that that has an impact on the residents of those buildings, who might struggle to get insurance because their building is now regarded as high risk. There is also the impact of the fear that people feel about the idea that, from a fire safety point of view, their building is high risk. That is pretty scary.

That is why I and, from what I can gather from those around the table, my colleagues, as it were, are supportive of the PAS process, because it includes low, medium and high-risk categories. That process has been working in England; people there have gone through that pain.

What you find is that residents want additional information, so many people adopt the health and safety measures, which include low, tolerable, moderate, significant and high-risk categories, with information set out clearly against those categories. In that way, residents know exactly what the risk is in their building—whether it is tolerable and whether minor things need to be done, for example. At the end of that process, residents will be told what is wrong with the building and whether there are any mitigation measures to be taken. The process is very transparent and open.

The process also allows housing associations and so on to prioritise buildings that are at risk. It gets rid of the issue of suddenly blighting a building by saying that it is high risk, despite the fact that, in the real world, although it might have things wrong with it, the risk might be tolerable or just moderate. That kind of detail, which reassures residents and the insurance industry, is needed in Scotland.

The Convener: Does anyone else want to come in on that? I do not mean to stifle conversation. We are now ahead of time. If anyone has a burning comment, a different perspective, or wants to make sure that we understand something clearly, please come in.

Kate Swinburne: I largely agree with what Jim McGonigal said. A system that designates only low risk and high risk is far too binary. All our building stock has a level of risk—every building. We cannot remove risk completely, but I agree with what Jim said about things being either high risk or low risk.

There is a risk that lots of buildings will be lumped into the high-risk category. That does not allow residents to feel safe, but it also does not allow us, as professionals, to focus our attention on the buildings that really are high risk, and to leave some that are at a tolerable or lower level of risk.

The Convener: That lack of nuance has certainly come through in previous evidence sessions as well.

Stephanie Callaghan: I would like to follow that up with Jim McGonigal. I wonder whether part of the challenge is to get all that data together so that we can prioritise the risks that need to be addressed urgently, and use that information to take a wider, more holistic look at the issues that are coming up and what we should be looking to tackle as we move forward. Is that also part of the thinking?

Jim McGonigal: Yes—you have nailed it. Taking that holistic approach is all important. As mentioned earlier, there are lots of fire safety measures in a building, and the fact that there are

some things wrong with the building does not mean that the whole building is at risk. For instance, there could be similar buildings in Newcastle and Edinburgh and the one in Edinburgh, assessed under the SBA, could be found to be high risk, while under the PAS assessment, just a moderate risk could come up for the one in Newcastle—even if there is no difference in the fire risk.

Insurance and mortgages and so on are all done at a UK level, so there is the potential to confuse the market as well as the people living in the buildings. The PAS process allows us to take in all the information for a building and therefore come up with a more realistic assessment of risk. The PAS process involves looking at 53 very defined risks, so everyone has become familiar with the process. That is the way forward—it may not be perfect, but it would lead to a far better outcome.

Stephanie Callaghan: That is really helpful.

The Convener: I am getting confused. We talked earlier about the scope of the bill, and now we are talking about PAS and whether that is what we would want to use. Does PAS just look at fire safety? Earlier we were talking about the need to look at cladding in order to move that forward, and now we are talking about PAS, which looks at the whole fire safety of a building. Am I getting that right?

Do we want to use PAS to look at the whole building, but use the triage approach that Phil Diamond suggested to get on with the cladding part of it, while we understand that there are other pieces that we might need to come back and do? Could you explain a bit more?

Gary Strong: The PAS is a methodology for assessing the external walls. The fire risk assessment of external walls—the FRAEW—is the framework of the PAS. However, the FRAEW informs the holistic fire risk of the whole building. In England, we have a fire risk assessment—you do not have that in Scotland as such—and it informs the risk of the whole building. Just to clarify, the FRAEW is about the external walls.

The Convener: That is really helpful—thank you. I am glad I asked that, because I am sure I am not the only one who was getting a bit lost.

Marie McNair: Jim McGonigal, do you feel that there are enough qualified fire engineers, surveyors and building industry professionals in Scotland to undertake the single building assessment and remediation work that is required to be done within the timescale? If not, how might any shortfall be tackled?

Jim McGonigal: It was interesting to hear Phil Diamond mention earlier that using a height of

11m and upward would bring the number of buildings within the scope to about 7,000, which is a huge number. I think there would be a limited number of fire engineers currently in Scotland with the appropriate knowledge, experience and training to do the external walls. That is compounded by the fact that many fire engineers and others do not want to take on such work for a number of reasons, including the on-going insurance costs.

You were asking how we would address the issue and whether we could get other people in and train them to be fire engineers. At the moment, that would be problematic, because Glasgow Caledonian University is ending the degree it offers in fire engineering—the course that the professionals in the fire service, building standards, fire engineers and so on will have taken. This is the last year of that course, so I am not sure where other fire engineers will come from to help to deal with this huge amount of buildings. Therefore, I would say that, yes, there is a definite problem with having sufficient numbers of fire engineers in Scotland at the moment.

Jocelyne Fleming: I echo that point. One of the things that is yet to be established is exactly who will be able to undertake single building assessments. I am conscious that the cabinet secretary and Scottish Government officials have used different language: sometimes they have referred to surveyors and fire engineers and sometimes only to competent fire engineers. The bill just says that ministers have the right to appoint people to undertake SBAs, which might include a group of people with a particular qualification.

On consultation, one of the challenges for the cladding stakeholder working group has been that the task and finish group has been somewhat closed door: broadly speaking, it has only involved developers and officials and, thus far, professional bodies have not been part of those conversations. The challenge is that we have skill shortages across the sector, so it stands to reason that we will probably not have enough people, especially given the scope of the problem. As Phil Diamond said, we might be facing a huge number of buildings that need those SBAs.

We do not really know who will be doing the SBAs in the first instance, and we have not been around the table to develop the scope and the spec to see who that might be. That makes it really difficult for professional bodies such as the CIOB. I cannot speak for Gary Strong, but we would love to start communicating with our members and making sure that we are moving in the necessary direction in order to start training competent people. However, we are not around the table and able to start doing that yet. The

earlier we are part of those discussions, the better ready the industry can be. That is not only so that we know who will be undertaking single building assessments, but also so that we can communicate the impacts of the legislation and educate the wider industry and so that it is ready to respond as well.

Kate Swinburne: That is good a question and one that we discussed a little earlier. I agree that a lot of different people will be involved in the process, but I am not sure whether there are enough competent people. For example, I would want the person doing the PAS assessment, which is a fire safety assessment, to be a competent fire safety professional. We might take that to mean a chartered fire engineer, but it would need to be someone who is not just chartered, but has sufficient experience—as a chartered fire engineer, I would not undertake work that I do not have the experience to do. Therefore, for someone to do that work, they would have to be chartered, have the competence, be willing—not everybody wants to do external wall work and the fire safety industry is very busy—and be available. Looking ahead, we might be available in two weeks' time or it might be 12 weeks, depending on what our current workload is, and I am sure that the situation is similar for others who work in my industry. That means that the number of people who could undertake that kind of work is quite limited. It is an issue, and one that we see in England, as well, at the moment, but I am not sure how we could address it. I have nothing more to add to what Jim McGonigal said.

Phil Diamond: I see it slightly differently, perhaps. We know how many buildings there are, and not every one of those buildings needs a chartered fire engineer, a chartered building surveyor, a chartered architect or whatever to assess it. To me, the missing piece is some kind of initial assessment. We need a fairly high-level minor report—a cladding census type of thing—to find out what we are actually dealing with. Then the buildings can be streamed—we can say, “Right, that one is very complex; that is chartered fire engineer territory” or “That one is not so complex; it can be dealt with by two or three different disciplines”—all the way down.

We need to build a competent army—I think that was the phrase that I used earlier. There is no reason why this should be the preserve of chartered fire engineers and chartered building surveyors alone; it should be chartered fire engineers, chartered building surveyors, chartered architects and chartered engineers. Anybody who builds stuff understands what is on those buildings. As long as we are giving those people the right type of building to look at, they are properly trained, they have the competence and, critically, they have the professional indemnity

insurance, there is no reason why we could not expand the skill set away beyond chartered fire engineers.

10:15

Kate Swinburne: I definitely agree that a lot of people would be involved in that process and a chartered fire engineer would not necessarily be needed in every circumstance. However, if an initial triage approach is taken, it is important to make sure that the people who make those decisions are competent enough to spot everything. It might be a simple building, but you need somebody with sufficient experience to identify that, initially.

Phil Diamond: I see that first part of the approach not as a survey, as such, but as a data-capture exercise, because that is what is missing.

The Convener: Will you say a little more about the difference between data capture and a survey?

Phil Diamond: Basically, we need to know where the building is, what it is, whether it is clearly more than 11m and whether there is a mix of materials on that building. You do not have to send somebody who can say, “There are four materials on this building, and they are the following: X, Y, Z.” The fact that the building was not of uniform construction would alert you.

You could design a survey programme that captured the data, although that would still have to be validated, checked and corrected. The process could then move on to a more detailed survey. In Scotland, we are doing that from a standing start: we do not have that data to hand. That is the first part of the task.

Kate Swinburne: I have one last thing to add to that. I was involved in the single building assessment pilot a couple of years ago, although I went on maternity leave before it got properly started. As part of the Institution of Fire Engineers, we tried to help with that process a little, but, because of the amount of information, we found it difficult to come up with an easy process for triage.

For some buildings, it would be possible to look at them and say, to put an extreme case, “That is covered in Cat 3 ACM,” which, obviously, is bad, or, “That is masonry,” which is obviously fine. However, we found that looking at lots of different buildings and putting them in order was a challenging process. However, it happened, and lots of people were involved. In principle, it is a good idea.

The Convener: That might be taken offline and discussed a bit further. However, it also sounds as though you have tested the proof of the pudding,

having gone through some of that difficulty, so that may be helpful.

I go back to Marie McNair, for her next question.

Marie McNair: Jocelyne Fleming and Gary Strong want to come back in.

Jocelyne Fleming: I reiterate that it is absolutely imperative that we build out exactly who is competent and qualified to do those things, not only so that we know that the data on those single building assessments is iron clad—forgive the wording—and has captured things accurately; we also have to regain the public's trust a little, and it is important that we can demonstrate that the people who are doing those things are competent and qualified.

In the English context, I draw attention to the fact that the competence steering group of the Construction Industry Council has just published a report that sets out a bunch of competence frameworks, which might be worthy of a review. I am not necessarily endorsing any of those frameworks but there might be learning from other jurisdictions that we can bring back to Scotland.

Gary Strong: I will share our experience of the training programme for external wall system assessors. DLUHC grant funded us to put together a training programme in recognition of the fact that there was a shortage of chartered fire engineers given the scale of the problem in England where there are thousands of buildings in scope. DLUHC approached us to see whether chartered building surveyors, such as Phil Diamond and me, could be trained to the level of assessing those external wall systems. That is about competence. We want to make sure that we have the right base knowledge of experience to begin with, followed by the skills, knowledge, experience, and behaviours—that is the definition of competence.

Our training course is a level 6 qualification—a degree-level training course—under the Office of Qualifications and Examinations Regulation. That is deliberate, so that only people who are like Phil and me are eligible to go on the course. They will be trained to assess external wall systems of up to 18m. Above 18m, a building is more complex, so we would normally refer to a chartered fire engineer such as Kate Swinburne, whereby we might do the survey work but they would do the overall assessment. That was aimed deliberately at increasing the number of professionals in the market.

So far, we have had something like 1,300 applicants and a lot of those are currently going through the course. Just over 120 have passed the course and are now out in the market doing those assessments.

However, we launched the course in January 2021, so it has been a slow grind. The course is open to not only RICS chartered members but IFE members. We found that the Royal Institute of British Architects did not really want to get involved. The architects found it to be a challenging and complex process with regard to external wall system assessments and there is also the high risk if you get it wrong. There are also the challenges around professional indemnity insurance.

Having those challenges in the mix has meant that the flow of people coming through the pipeline has been slow. That was surprising in a way because we had thought that we would have several hundred assessors by now who would have qualified and been available in the marketplace. Actually, in Scotland, we only have only one course completer.

That gives you the scale of the appetite to do that work in the first place and then actually to complete the course. It is a tough course. The failure rate is quite high, but we make no apologies for that, because we want people to really understand what they are doing, pass the assessments, graduate from the course and be able to do that work in order to restore the public's confidence that they know what they are doing.

There is plenty of work for people. You do not necessarily have to go through the course; it is not a mandatory course. There are plenty of people, such as Phil, who are out there doing that work and who have the competence to do it. However, we have to be really careful that we have the right people doing it and that we do not just let anybody go in thinking that they are suddenly an expert in external wall systems because our experience is that, often, they do not know what they are talking about. We have to be really careful about that.

The Convener: Stephanie Callaghan has a brief supplementary question.

Stephanie Callaghan: Gary Strong, on the point that you just made that people have to be competent to do that work, how would you go about defining competence if someone does not have that qualification? You have not had many people applying for the course. Would it be better to target the course at the type of people who have been most interested in it?

Gary Strong: The course eligibility requirement, which is set by DLUHC, is that you must be a member of a professional body. That is defined as being a chartered member of a professional body. If you are a member of RICS, you have to be a chartered surveyor, and not a lower grade; the same applies to members of IFE. You have to be at chartered level to get on to the course to undertake the training. That is the initial base level

of knowledge that we expect people to have before they are eligible. For example, an interior designer would not be eligible, because they have no background in fire safety that we can determine. They have no official training or professional qualifications around any of that. Frankly, they would be wasting their time as well as ours by undertaking the course. They would fail the assessment—absolutely.

Stephanie Callaghan: You said that people do not need to have that qualification, so my question was also about how you identify who has those skills. Maybe that question could get rolled in as we go on.

Gary Strong: I can follow that up with more information about the training.

The Convener: Thank you, that would be helpful.

Marie McNair: Gary, having listened to your previous comments, and given your experience, what is your understanding of how the single building assessment process will work with the EWS1 process? Is there any way to streamline the operation of the two systems?

Gary Strong: The EWS1 process came about in 2019 because of the complete snarling up of the lending market and the fact that lenders were not willing to lend on tower blocks that may or may not have some form of combustible cladding. We had to find a process, with the support of DLUHC, to find a way through that. However, we always envisaged that that would be a temporary process because there was nothing else out there.

The EWS1 process came about to try to find a way to assess fairly quickly whether tower blocks were safe or not safe. Although the EWS1 form has a five-year timespan—the fifth anniversary is at the end of this year—we see the EWS1 process fading away. In the frequently asked questions section on our website, we make the point quite strongly that it is a temporary process.

If the SBA process is robust enough, gives people the information that they require and can be relied upon as a sufficiently robust standard, that will be fine. We need transparency so that valuers, lenders and insurers can rely on the process. It has to be robust, otherwise the default might be that people would go back to EWS1, which we do not see as a long-term thing.

My colleague John Marr from UK Finance, which was one of our partners in developing EWS1, along with the Building Societies Association, will give evidence as part of the next panel of witnesses. You might want to ask him that question. However, we are happy to work jointly with Scottish Government officials around the

EWS1 process and on how the SBA would eventually replace it.

Phil Diamond: There is a whole pile of small print on the back of the EWS1 form, part of which says that the EWS1 process has to be preceded by a PAS 9980 assessment. I might be reading between the lines too much, but if there is a notion that, in Scotland, the EWS1 process is to be somehow tied to the SBA process, that will be a disaster for the Scottish property portfolio because, all of a sudden, there will be no buildings in Scotland that can physically pass the EWS1 process.

Gary Strong: That is an important point. We made changes to the EWS1 form when PAS 9980 was launched. We are now on version 3 of the form, which heavily references PAS 9980. That would be a real concern for us.

The Convener: Thank you. Miles Briggs will ask the final questions.

Miles Briggs: Good morning, everyone. Thank you for your input so far.

Are local authorities' building standards departments suitably resourced to deal with the increased amount of work associated with cladding remediation and the new requirements on developers that are not part of the responsible developers scheme?

Alan McAulay: Local authority verifiers recognise that the building warrant approval process is the last stage before warrantable cladding remediation work can commence on site, so we appreciate the need for an efficient assessment process.

Overall, LABSS is comfortable that local authorities will be able to manage the building warrant application processes that come from cladding remediation sufficiently. However, if the trigger height were to be lowered below 11m, which would bring in more buildings, that would need more discussion.

It is clear from the spending information that we have received to date from the cladding remediation team that a relatively small number of authorities are affected. Those are the larger city authorities, which, in general, are used to dealing with complex and sensitive applications, as are many other authorities.

However, our ability to provide reassurance that the building warrant assessment process is effective relies on a range of co-operation with other stakeholders. We would want to be involved in the pre-application discussion stage so that verifiers are set up and are aware of the building warrant applications that might be coming down the line in the assessment process. We would also want to make sure that warrant applications are

competent and complete to allow a full assessment to be undertaken. Again, we would want any design team to respond to any issues that we raise as part of our warrant assessment.

We have already engaged with colleagues in Glasgow City Council to understand the process that they have gone through on remediation projects to date, and we will use that learning to work with verifiers on any applications that are on the horizon. LABSS will support verifiers, as will I in my role in the building standards hub. If we have to work collaboratively to make sure that we progress the warrant applications as quickly as possible, we will do so.

We are looking at different considerations with regard to people's competence to undertake an SBA and the PAS risk assessment process, and their competence to assess any building warrant application against the requirements of the technical handbooks. That is what we do day in, day out, and we have extensive experience in that regard. If there are areas of complexity within that that require oversight and co-operation from an authority that has particular expertise, we can call on that and work collaboratively to provide that. We need to work in partnership in that regard, so I hope that LABSS and the hub will be able to work with the Scottish Government's cladding remediation team so that we are aware of the programme that is on the horizon.

My final point is that we need to allow time for the building warrant. That comes at the end of the process, but if we allow a reasonable amount of time for that, I do not see any issues with LABSS and the verifier community dealing with those building warrants when they require to do so.

Kate Swinburne: I appreciate the time, so I will try to be quick.

I want to reflect on the competency point that was made earlier. We know from our experience south of the border that, when applications have been made to a building safety fund, for example, there have not always been checks and balances in place to check that what is being applied for is actually necessary to make the building safe. For example, if a building has combustible cladding, it is not necessarily the case that everything combustible needs to be taken off the walls and replaced with completely non-combustible components. It is important that there is competence throughout the process. The single building assessment and PAS 9980 will be new for professionals in Scotland working as consultants and for local authorities, so ensuring that there are competent people on both sides assessing what work needs to be done is key. We do not want to spend too much or too little.

10:30

Miles Briggs: Is there anything specific that you think should be in the bill that is not in it? We have had quite a wide conversation about the scope of the bill. Specific concerns have been raised with us about electric batteries in cars and bikes in buildings with underground parking. Currently, that is not within the scope of the bill, but the recommendations that we can put to ministers in our report should capture some of that. Is there anything specific that you think we should include?

Phil Diamond: I think that I made this point to the committee previously, but legal title is a problem in a lot of the landmark developments. For example, a small garden area might be assigned to a flat. We need to think ahead about that type of situation, because people probably do not have the legal right to go into somebody's garden and erect scaffolding for a cladding remediation scheme. I did not see a mechanism for that in the bill. That would be a blocker downstream.

The Convener: Does anybody have anything else that might have been overlooked?

Jocelyne Fleming: The way that we have looked at this is to start small and develop. My colleagues in the CIOB have raised concerns about non-residential buildings in the English context. The legislation is a first step, and there will be a natural evolution and progress under it. Other things that we have raised elsewhere will come up down the line. We see the bill as a start. We need to move on from there, and get on with what we need to get on with while considering some of the things that we might need to start to address over time.

Miles Briggs: In England, hotels and care homes have been included. The bill does not currently include them. Should they be included?

Phil Diamond: The problem in Scotland is not only a developer problem; there are also issues with contractors, housing associations and even the Scottish Government. As far as I am aware, until recently, they were still applying combustible cladding to the outside of buildings under housing energy efficiency programme schemes and eco-schemes, for example. It worries me that the bill is quite narrowly focused on that individual part, because we know fine that the problem goes way beyond just the developers.

Jocelyne Fleming: In the English context, we have argued for the inclusion of buildings such as those that you have mentioned. I am conscious that section 26 of the bill limits the extension of the SBA to buildings that are not or are not intended to be used as dwellings. We have advocated for that inclusion elsewhere, and that needs to be looked at.

Gary Strong: The highest risk is the sleeping risk. When people are sleeping in a building for whatever reason, including in hospitals, there is a high risk there. That is why that is defined in England. That is certainly something to look at.

I also want to raise a point about mixed-use buildings. They cause us quite a lot of concern. A shopping centre might have residential flats above it. That causes risk issues. To go back to definitions in the bill, does mixed use mean a residential building sitting above something else? It would certainly help to clarify that type of thing.

The Convener: It is helpful to get that perspective.

I thank the witnesses very much. We have had a really productive and constructive conversation, and there has been quite a lot of insight from your expertise in various areas.

I now suspend the meeting to allow for a change of witnesses.

10:34

Meeting suspended.

10:48

On resuming—

The Convener: On our second panel today, we are joined in the room by John Marr, principal in devolved government and social housing at UK Finance; and John Sinclair, convener of the property law committee at the Law Society of Scotland. We are joined online by Calum McQueen, technical surveying manager at e.surv chartered surveyors. We are hoping that we will also be joined online by Mervyn Skeet, director of general insurance policy at the Association of British Insurers, and we are doing everything that we can to make sure that he will be able to join us.

I welcome our witnesses to the meeting. We will turn to questions from members. Please indicate to me if you would like to respond to a member's question. Calum McQueen, as you are participating remotely, please type R in the chat function if you want to respond. There is no need to manually turn on your microphones as we will automatically do that for you, so it is one less thing for you to have to think about.

I will start with a couple of broader questions before we get into detail on some aspects of the bill. My first question is about your organisations' consultation and engagement on the bill. The Scottish Government did not publicly consult on the proposals for the bill, but I would be interested to hear whether your organisations had any opportunities to input into its development. If so,

how effective was the engagement in improving the bill?

John Marr (UK Finance): Good morning. Thank you for inviting me to the meeting. Clearly, the bill was introduced in sharp order, with limited opportunities to comment publicly and provide views on its proposals.

We recognise that there is a need to move at pace in progressing cladding remediation north of the border. In many respects, it could be said that it is right that the legislation is proceeding through an accelerated route. Notwithstanding that, UK Finance has had considerable involvement and engagement with officials over a number of years on cladding and building safety issues. We were at the table of the ministerial working group on mortgage lending and cladding, which reported in 2021, and we have continued to be at the table since then as the group has evolved to become what is now the cladding stakeholder group. Involvement with officials is always welcome, in that it informs the development of issues such as these. However, there has been a rather short period of consultation on the bill. It would have been beneficial for that to have been longer, but we recognise the challenges in introducing the bill quickly.

The Convener: Before we move on, I welcome Mervyn Skeet to the meeting. It is good to see you. I have opened with a few questions about consultation on the bill. Did your organisation have the opportunity to engage with the bill and, if so, has the engagement been effective in improving the bill? I will not put you on the spot by going to you next, so I will go to John Sinclair.

John Sinclair (Law Society of Scotland): I would almost entirely reflect John Marr's comments, so I will keep it brief. We welcome our involvement in the ministerial working group. As I understand it, our engagement on the bill and the cladding assurance register has been primarily limited to our response to the consultation.

The Convener: Calum, what about e.surv?

Calum McQueen (e.surv Ltd): We were not consulted prior to the bill coming out, but we have commented on the bill through the consultation process.

The Convener: Mervyn, has the Association of British Insurers been engaged?

Mervyn Skeet (Association of British Insurers): Yes. I hope that you can hear me now.

The Convener: Yes, absolutely.

Mervyn Skeet: My colleague Alastair Ross has been representing the ABI on the cladding stakeholder group and we have responded to the consultation on the bill.

The Convener: Has your engagement helped to improve the bill?

Mervyn Skeet: There has been good engagement, but I think that there is still some work to be done. I am sure that we will get to that as we move through the questions.

The Convener: My next question is about the scope of the bill. Should the focus of the bill be solely on cladding remediation, or should it extend to cover all fire safety issues, or even all significant building safety matters?

Calum McQueen: I am primarily involved with cladding issues—those are really important. It is not my decision what the scope of the bill should be, but widening its scope would perhaps complicate matters. The Scottish response to the cladding issue has been quite slow so far. Perhaps a more focused response would be better, rather than widening the bill out.

Mervyn Skeet: We think that the scope of the bill should be wider than pure cladding and that it should focus on all fire safety issues, which is what is driving the insurance premiums.

The Convener: Are wider safety issues affecting insurance premiums?

Mervyn Skeet: Yes, insurance is looking at the whole building and the potential loss of the whole building. If there are other fire safety issues in the building, not just cladding, that will impact on how insurers will look at the loss of the building—or the loss of parts of it, if it is damaged.

The Convener: Concerns have been expressed—in the previous session and by other panels—about the urgency of the situation, which is part of the reason why the Government has not taken the time to consult. I would be interested to hear your thoughts on how we could balance the urgency to move forward on remediating cladding with the need to broaden the scope from an insurance perspective.

Mervyn Skeet: Obviously, cladding is an important part of the concerns and issues here. We should not prevent cladding from being removed while we are waiting for other stuff to be done. At the same time, if we want to see insurance premiums being reduced, we need to focus on all fire safety issues to ensure that the building is safe from that perspective.

The Convener: Okay. Does anybody in the room want to comment on scope?

John Marr: Clearly, in residential blocks, cladding issues are perhaps the most visible manifestation of the wider malaise around building safety. In that single respect, it can be argued that the focus is rightly on cladding. However, as Mervyn Skeet and witnesses at your session

earlier this morning have mentioned, there can be quite significant and costly building safety defects deeper into a building—specifically, things about compartmentation, and other issues such as defective doors to apartments and the like.

It can be very difficult to part-fix a building. Quite often, as fire engineers and others will comment, it is when you start to strip away the cladding that you realise that there are significant and high-risk issues elsewhere. It would be, to an extent, perhaps irresponsible not to address those issues when they have become visible. It is a challenge. Clearly, resources are limited and the process has to start somewhere. In that respect, I can understand why the focus is on cladding remediation. However, that does not mean that all the other issues that can affect life risk should be avoided or dealt with later down the line.

John Sinclair: The property law committee has no specific view on that point, but we had comments in relation to the bill as a whole and its integration with the wider legal framework. If the scope of the bill is to be expanded to include non-cladding fire safety issues, it will exacerbate the consequences of the bill being dropped into a wider legal framework without also reflecting on the changes that should perhaps be made in relation to prescription and further allocation of liability between any parties who had an involvement in the construction of the building, which will then operate differently. In the context of subsequent alterations and maintenance to the building, we have no specific view on that point, but we would comment on some of the complexities that may flow from it.

The Convener: The bill is narrowly focused because it is trying to navigate the legal context that it will sit within. You are saying that, if we widen it, there will be many other aspects that would need to be considered, which could start to take more time, whereas there is a need to get on with the job.

John Sinclair: Yes. Another way of putting it is that the cladding remediation is enforced and driven by the responsible developer scheme, which is imposing a liability on the developer entities.

One of the concerns is whether that is a voluntary assumption of risk; in which case, if there are other parties who should bear responsibility or liability for the work that was carried out, how does that liability properly flow through, taking into consideration things such as prescription and the fact that they may be deemed to have voluntarily assumed a risk?

Those are ancillary issues, but if the bill is to be expanded, it would be good for them to be considered at the same time.

11:00

The Convener: That is helpful, given that we are making legislation. Mark Griffin is joining us online.

Mark Griffin (Central Scotland) (Lab): Good morning. We have heard from witnesses concerns that certain key terms in the bill are not as clearly defined as they could be. People have talked about the meaning of “development”, “premises” and “risk to human life”. We heard contrasting evidence during the previous evidence session. Do witnesses have any concerns about the terms that are used in the bill? Do those definitions need further clarity in the bill?

The Convener: Perhaps we will start with John Sinclair. You knew that I was going to come to you first.

John Sinclair: The short answer is yes, we have concerns. To pick four or five, the term “development” is used. It is defined for the purposes of section 24, but section 25, which is to do with the SBA definition, refers to a building that has been

“constructed, or otherwise undergone development”.

I fully appreciate the need to have a wide net and a wording that has the flexibility to cope with a wide range of circumstances, but it does leave open considerable questions. For example, if you had a mixed-use building built in 1980, you would start off saying that it falls outwith the scope of a single building assessment, being pre-1992. However, if the shop had had planning permission granted for alterations to a shopfront that constituted development in, say, 2000, would that bring an otherwise 1980 building into the scope of an SBA? If it did, if someone was looking at that particular building in 2026, how easy would it be for them to assess whether that building in fact fell within the ambit of an SBA?

The Convener: I can immediately see the thorniness of all that, and “development” is just one word.

John Sinclair: Yes; and I apologise. As lawyers, we will come up with all the negatives, despite the fact that this is an important bill that is doing something that needs to be done.

The Convener: No apology is needed. We need to get this right and have that clarity of understanding so that everybody is moving in the right direction.

John Sinclair: We also thought that the meaning of “risk to human life” would benefit from being more fully defined. Section 25 refers to the remediation standards to be set by the Scottish ministers. That is also a sort of open-ended and uncertain concept; will it be limited purely to “risk

to human life”, or will the Scottish ministers take other considerations into account?

The previous evidence session mentioned difficulties with premises, and we can see that clarity around that issue would be welcome, particularly in the situation where you have a block of flats within a wider scheme where there is a relatively complicated matrix of individual ownership of gardens, ownership among the block of adjacent parking or wider ownership among the proprietors of the development of other areas.

The final thing to mention, although I suspect that it may come up later on, is that there is reference to the “single-building assessment”, then the “single-building assessment report” and then works

“identified in a single-building assessment report.”

When we look at how that might operate in practice, particularly in relation to the timing of appeals, we are unclear as to how much detail of the works would require to be contained within the single building assessment report. Our understanding would be that the single building assessment would identify that works were required and a set of decisions would be made about what those works would be. Between that point and carrying out any works, you would then have the generation of a very detailed set of specifications and a reference to the building warrant. The bill refers to the works being

“identified in a single-building assessment report”,

but we cannot see clarity on what level of detail will be required.

The Convener: It is important to tease that out more. Is there anything else?

John Sinclair: I will stop there and hand over to others to comment.

The Convener: Does anybody else have any comments on the key terms in the bill?

John Marr: It is excellent to have a legal view on all those issues. In fact, what John Sinclair was describing perhaps highlights the need for a lot of the definitions to be worked on in great detail and reflected, perhaps not in the bill but in secondary legislation, as might be required.

In the earlier session this morning, some of the fire professionals commented that there are four different definitions of height, which, just on one measure alone, indicates how challenging it is to arrive at a particular definition for the purposes of the bill.

Other than that, there are definitely priority areas where it would be useful to have early clarity on what we are talking about. Right at the top of the agenda, there is a critical need for clarity on

what the SBA is and the remediation standards, because those issues factor in significantly to where we all go from here, and certainly where developers go in preparing to fix buildings for which they are responsible.

Another interesting point that was reflected earlier was on interpretation of terms. Where terms are loosely or broadly framed, there is increasing scope for legal and other arguments about what they actually mean. Therefore, defining them closely will be a priority task, but whether they need to be defined in the bill is another issue.

Calum McQueen: I agree with John Marr on the definition of height—I do not think that we will ever come to a single definition of the height of a building. There are differences north and south of the border in building regulations, so that will be a constant issue.

On where the bar is set for remediation, my understanding is that the Scottish Government wants to remediate the buildings to the current building regulations standard whereas, south of the border, the decision is about whether a building is safe or not, and it is usually left up to the fire engineer or building surveyor to make that decision. That is an issue. There has been concern among lenders, who have felt that a building may be considered safe but that, if a single building assessment is carried out, additional work may be required because the standard is higher than was previously assessed.

The Convener: That is interesting. I think that the point about four definitions of height, which was made by the previous panel, applied to England. I do not know what the situation is in Scotland, but clearly there are differences north and south of the border, as Calum McQueen said.

Pam Gosal has a couple of questions.

Pam Gosal: Good morning, panel. Last week, witnesses expressed the need to rapidly get to a place where everyone agrees, including banks and insurers. However, we have heard concerns that, because all the work in a building will need to be completed before it can be included on the cladding assurance register, there is a risk that more substantial cladding remediation works may be completed, but a building will still not be declared safe if other works remain outstanding. Would completion of the substantial remediation works be enough for insurers to be comfortable with insuring a building?

I put the question to Mervyn Skeet first.

Mervyn Skeet: Can you repeat the last bit of the question? I am sorry—I heard most of it, but not the last bit.

Pam Gosal: Would completion of the substantial remediation works be enough for insurers to be comfortable ensuring a building?

Mervyn Skeet: Insurers are insuring buildings now. However, from an insurance perspective, there is a difference between life safety and building resilience. Obviously, life safety is very important and it is important that people can get out of the building. That is pretty much the standard that is in PAS 9980.

In order for premiums to come down substantially, we are looking for an enhanced PAS 9980 in which the resilience of the building is also considered. We look at the potential loss to the insurance company of insuring that building should there be a fire or other peril. That maximum loss goes up significantly if the whole building is at risk, rather than individual units within the building.

Insurers are insuring those buildings now, but to get prices for the cost of insurance down, we are focused on enhanced standards for building resilience.

Pam Gosal: Does anyone else have a comment?

John Marr: I will go back to the cladding assurance register. We have been clear that we would like to see buildings entered on the register at an earlier point in the remediation process, rather than at the conclusion. Having that up-front transparency and visibility that a building has been assessed, and that works are being programmed and will be carried out and paid for, will help the market to transact those properties sooner rather than later.

If we go through a two or three-year—or however long it takes—remediation process in relation to a building and wait for all that time before saying to the market that it has been fixed and is fine, the residents in that building will probably struggle to buy, sell or remortgage their home throughout that whole time.

Early entry in the register would be a benefit to the market. It would provide transparency and visibility—as I said—and give assurance that, although the work will not be completed straight away, it is programmed and will be done and we know how it will be paid for. That will help to free things up.

Calum McQueen: I echo John Marr's comments. A building should be put on the register when it has been identified as one that will be fixed. Lenders will consider that information and certainly consider lending on the building.

If we wait until the building is fixed, that goes back to the situation in England prior to the Building Safety Act 2022, when buildings that were identified as needing work would not be lent on

until the work was completed and signed off. By contrast, lenders now lend on buildings that require work, once it has been identified who will pay for those works. That is an opportunity to open up the market for those properties in Scotland.

John Marr: I will make a further point on that. This is all about evidence that costed and funded remediation plans are in place and that a building will be fixed.

That evidence, in the form of an early entry on the register, will enable RICS—who are in the public gallery and were here in the earlier session—to update its cladding valuation framework, because the register entry is evidence that valuers will be able to take into account to inform their valuation decisions. Those decisions, in turn, will inform a lender's decision to lend.

John Sinclair: The Law Society of Scotland's position is the same. If information is generated, it should be available on the register. For many people, buying a flat will be the single biggest financial commitment that they make in their lives, and their being able to make that decision on a fully informed basis is very important. If information has been generated, it should therefore be on the register.

If possible, for ease of operation of the market, we would also like to see a register of buildings that have been assessed as outwith the scope of an SBA. Otherwise, every time that we look at a building that is potentially within scope, every purchase will need to go through the same process. For example, there was reference to uncertainty about the meaning of height. It would be beneficial for the market if buildings could be declared SBA irrelevant.

11:15

The Convener: Can you say more about that?

John Sinclair: If, every time that a flat in a building is sold, someone applies the same criteria, they should, theoretically, get the same result each time. However, if there is dubiety or there is a qualitative element about the measurement of height—which there should not be—it would be better for that decision to be made once and recorded so that that process does not need to be gone through for every sale of a flat in a building.

Mervyn Skeet: I will come in, to complete the set. I would also support everything being put on the register as soon as possible. That would allow insurers to look at the remediation that has been carried out and take into account the work that has been done up front. The more transparency that we can have and the better the access to the work

and its scope and what is on the register, the better for insurance premiums.

Pam Gosal: A previous witness, in their written submission, raised concerns about the appropriate balance of responsibility for funding remediation work. The Law Society of Scotland expressed concerns that the bill will place commercial pressure on developers to fund remedial works without building a coherent legal framework for distributing costs between all relevant parties. Can you expand on that and say what sort of implications the bill would have for developers and the remediation programme more broadly to proceed without a coherent legal framework?

John Sinclair: If there was a failure in construction or design that resulted in a cladding being inadequate at the time that it was installed, the chances are that the developer would have a remedy against either the contractor who constructed the building or the consultant who specified the materials or monitored or supervised that.

The concern is that the remedies and rights that the developer would have had, had the failure come to light earlier, would probably have expired or would be unenforceable due to, for example, prescription. You are addressing one very particular focused route of liability and, in some ways, potentially creating a new liability or new obligations but without addressing the downstream liabilities that might otherwise have existed. That is one example.

I am happy to provide fuller written information, because there are details that are somewhat beyond me but which it would be good for us to express. However, those veer more into litigation territory than property law territory.

The Convener: That would be very welcome.

Marie McNair: Mervyn Skeet, we understand that, in England, mortgage lenders have established a portal of properties that have completed EWS1 forms and that that tool has led to a more efficient process. Can you see the register operating in a similar manner in Scotland or would a similar portal be beneficial here?

Mervyn Skeet: Is that a question for me as an insurance representative? I am just double-checking.

Marie McNair: The question is about the fact that, in England, mortgage lenders have established a portal of properties, so I would say that it was your question.

Mervyn Skeet: The EWS1 form is designed for property evaluation and does not have a major effect on insurance. I am not sure of the point of your question. I am not understanding how insurance would play a role in that.

The Convener: Okay, perhaps we will go to John Marr on that one.

John Marr: I think that what you are referring to is a portal set up by the Fire Industry Association to host completed EWS1 forms. A number of the larger mortgage lenders provided some funding to help set that up. Essentially, it comes back to there being a publicly accessible place—a repository, portal, website, register or whatever it is called—that can provide information to the market to enable buyers, sellers, valuers, lenders, estate agents, conveyancers and anyone who is involved in the home buying and selling process to check that a building has been completed in terms of its remediation work, or that works are programmed and will be paid for and completed in a reasonable timeframe. It is about having that online resource that anyone in the home buying and selling process can check.

Marie McNair: Would we benefit from that in Scotland?

John Marr: I can see that the proposed cladding assurance register could effectively provide that resource. In that respect, the proposal is positive, subject to what I was saying earlier about it being more beneficial to register a building sooner rather than later in the process.

Marie McNair: Cheers. My apologies, Mervyn, for getting mixed up with regard to your role in that.

Mervyn Skeet: No problem at all.

The Convener: I want to ask John Marr and Mervyn Skeet a bit more about the cladding assurance register. You might have touched on this, but I want to bottom it out a bit. How confident are you that the mortgage lenders—in your case, John—will accept the building's entry on the cladding assurance register as proof that a property is free from significant fire safety defects? Will borrowers and residents be able to access financial products at a general market rate?

John Marr: There are a number of issues in that question. One of them, which was touched on in the earlier session, is what the purpose of the register is and when the information might be accessed. If a building has just gone through an SBA and is entered on the register, the work to remediate it will not have taken place and probably will not take place for some years into the future—two or three years, or however long it takes. Therefore, from looking at the register at that initial point, it would not be possible to conclude that the building was safe because the work would not have been done. However, from looking at the register again at the end of the remediation process, it would be possible to draw a reasonable conclusion that the building was safe.

In terms of mortgage lending and insurance decisions, on which Mervyn Skeet will come in, it again comes back to evidence, as I mentioned earlier. It also feeds into the valuation piece, because it is about providing reliable, coherent information to valuers, lenders and insurers, in a timely way, which will enable them to make their own professional judgment in terms of the risk that they might be looking at. Obviously, that would be an insurance risk from the perspective of Mervyn Skeet and his members. From a mortgage lender's perspective, the risk would be about their prospective borrower being able to afford the mortgage, or there might be risks associated with a negative impact on the valuation of the property.

Again, it is about what the register is for, what it is intended to do, and about when people access the information on it, because, as I say, if you look at it at the beginning of the process and at the end of the process, you will get a different answer in terms of whether or not a building is safe.

The Convener: So the register is not a point in time; it has an inherent process within it.

John Marr: The issue touches on the point that the committee has been considering about whether there is something more beyond the end point of completion of remediation works. It is about looking at a building throughout its life. Cladding remediation might be one point or one period of time in a building's life but, beyond remediation, the building will continue to be used, maintained and adapted. It might be useful to consider—this is certainly something that the committee has considered—the register as a dynamic living thing rather than purely as static and defined only in terms of cladding remediation work.

The Convener: Mervyn, would you like to come in with the insurance perspective?

Mervyn Skeet: I concur with much of what John Marr said. A living document would be very good to ensure that it remains accurate and factual as to the state of a building at any given point in time. The document needs to be regularly updated, and there will be a different assessment, depending on whether a building has been remediated.

It is also really important that there is enough scrutiny and oversight by the regulator of the risk assessments that are done to ensure that they actually are done to the correct standard, and therefore that the register reflects the true position of the building.

Most of what John Marr said makes sense to us, too. The register needs to be kept updated at all times, and it will depend on where we are in the remediation cycle as to how buildings are looked at on the register.

The Convener: I think that there is more to that issue, but I will move on so that we get to some of the other questions that we want to ask.

Willie Coffey: I will combine two questions that I had into one. I want you to help me understand the issues relating to the role of the PAS 9980 quality standard and the EWS1 process in strengthening the single building assessment. On the previous panel, Gary Strong, who is still sitting behind you in the public gallery, said, I think, that if the single building assessment is robust enough, we will not need EWS1—the SBA will replace it. However, Phil Diamond reminded us that the EWS1 process has loads of small print and has to be preceded by a PAS 9980 assessment. Therefore, if we lose EWS1, we may lose the quality standard assurance framework that is given to us by PAS 9980. I hope that I have articulated that accurately.

Where do we stand on the single building assessment? John Sinclair said that the SBA needs to be clarified in certain places, and John Marr said that perhaps that is for secondary legislation. How can the quality standard and the EWS1 process assist us to get the single building assessment correct and in the shape that it needs to be in?

John Marr: It is all a bit of an alphabet soup: there is EWS, SBA and SAN—the Scottish advice note.

As Gary Strong mentioned in the earlier session, EWS1 was developed in late 2019. We are now some years down the line from that. It has been updated a couple of times in its life, but it was always envisaged as a temporary intervention—in essence, it is a valuation tool to enable valuers to provide a reliable and certain market value on properties that are affected by building safety issues. As discussions have proceeded on the SBA, we have always been clear in our discussions with officials that it would be appropriate for EWS1 to fall away in time, once the SBA is fully up and running, scoped and defined.

Obviously, in the interim, we have had the development of PAS 9980, which, as the committee heard in the earlier session, is a highly regarded and thoroughly adopted methodology for undertaking fire risk assessments of external wall systems.

11:30

On that basis, there is no reason why PAS should not be reflected in the SBA process. It is already recognised, understood and embedded in the market, and practitioners are becoming familiar with it and skilled in using it. For the SBA, there is something already on the shelf, so there is

no need to go back and reinvent the wheel. If the SBA was developed in a way that aligned with PAS, that would be a positive step forward.

On your other point, the EWS form was updated in one of its most recent iterations so that it aligns with PAS. It can now work with PAS. The SBA is not quite there at the moment, but work could be done to enable it to align. We would then have a common methodology and approach.

Willie Coffey: They are complementary, not conflicting, standards; they all seek the same outcome. Is that right?

John Marr: The EWS form has been adapted to align with and reflect PAS, but there is still a journey to go on in relation to the SBA.

Willie Coffey: Are there any other views on the “alphabet soup”, as John Marr described it, that would provide some clarity to aid the committee’s understanding of the issue?

John Sinclair: The Law Society cannot comment on the technical standards, but purchasers are currently buying flats on the strength of an EWS1 form. There would be a significant dent to confidence in the market and in the process of purchasing if, having bought on the strength of an EWS1 form, the buyer then faced selling with an SBA that said that works were required. There would be an expectation that the two would be aligned. If they were not, there would be consequences for confidence in the operation of the market.

Calum McQueen: I will make a couple of points. It is important to remember that the EWS1 form is a lending document. We are concerned about building safety; we all want buildings to be safe. The EWS1 form confirms whether remediation works are required, which is very important for lenders. If the EWS1 form was removed, we would go back to a situation in which lenders and surveyors had to try to interpret single building assessments, fire risk assessments or PAS 9980 assessments before deciding whether a building required work. We do not want to go back to that. The great thing about the EWS1 form is that it is binary—it says, “Yes, work is required,” or, “No, work is not required.” Purely from the point of view of lenders and valuation, any replacement would need to replicate the situation in which people know whether money will be required to fix a building.

My second comment is that the issue with the Fire Industry Association register of EWS1 forms was that it was not compulsory, so the register did not hold all the forms that were created.

Mervyn Skeet: PAS 9980 is a highly regarded and helpful standard. At the risk of people saying the same thing over and over again, I note that it is

important for life safety but it does not go as far as providing property resilience. Although PAS 9980 has made a big difference in allowing us to move forward in the right direction, we are still thinking about how we could further enhance it in order to get insurance premiums down.

Willie Coffey: That is very helpful.

The Convener: Mervyn, what are your thoughts on enhancing PAS 9980? What do we need to do?

Mervyn Skeet: As I mentioned briefly earlier, we are focusing on property resilience in addition to life safety. The key concern for insurers is that everyone gets out safely, which is very important for everybody, but the potential cost to the insurer of the building being destroyed is much higher now than we previously thought. Therefore, we are looking to get standards that focus on property resilience, and that takes into account all of the fire safety issues that we have talked about. It is not just about removing the cladding, although that is very important—if you leave cladding or combustible insulation in there and you have not dealt with the fire breaks, that is still a problem for fire safety.

There are a lot of issues around fire safety. If we remediate one and others are still there, there is still a chance that the building will be totally destroyed in a catastrophic fire. The concern is to address all the issues.

The Convener: That is helpful. We come back to the scope of the bill. We heard from the previous panel that we need to move forward but that we need to be aware that more legislation might need to be introduced to handle those other pieces or to deal with the whole building.

Miles Briggs: I will touch on professional indemnity insurance. Witnesses have told our committee that the cost and the availability of professional indemnity insurance for industry professionals involved in that work continue to be a significant issue. Why does that continue to be the case? How can it be resolved?

Mervyn Skeet: Certainly, PII has been affected by the Grenfell tragedy and the loss of confidence in previous building regulations. Our understanding, from talking to our members, is that PII cover remains available for people to purchase. In particular, we understand that qualified fire safety engineers are able to purchase that cover and carry out cladding inspection work. It is still available to purchase, and we understand that people are buying it, but it has been impacted by the loss of confidence due to previous regulation issues.

Miles Briggs: Given the workforce that will emerge, are there specific products that have been developed in Scotland around this?

Mervyn Skeet: I am not aware of any specific products at this point in time. What we are seeing in England is that, if there are fire risk assessors doing this work, there is cover that can be purchased. There is no reason why that cover should not be available in Scotland as well.

Miles Briggs: Thank you.

Stephanie Callaghan: Some of this has been touched on, but clarity is always good. In their written evidence, ABI and UK Finance asked that the bill focus not just on the preservation of life but on the protection of property. Mervyn, you have just spoken about property resilience to prevent total loss. Are there other justifications for that change, or is it about the potential cost for insurers only? What are the implications for the cost of and timescales for remediation work?

Mervyn Skeet: From an insurance perspective, it is about insurance costs. If the expected loss to an insurer is higher, the premiums will be higher. The feeling at the moment is that, without building resilience standards, the potential loss—the expected loss of the building, if it is subject to a catastrophic fire—is high, and therefore premiums are higher. It is very much linked to the cost of insurance premiums.

From an insurance perspective, it is about making sure that the building is protected in the various ways that I have already mentioned, such as with insulation, fire breaks, cladding and so on, so that the building is not completely destroyed or severely damaged. There are other elements to that as well. If a building is damaged, not only do you have the cost of the building itself but people will need to be rehoused. It takes longer to rebuild a whole building than it does to repair the damage to individual units within a building. That is the key issue there.

On the second part of your question as to whether introducing that change would slow things down, we have said already that PAS 9980 has moved in the right direction and is a good basis on which to move forward. However, over time, we will need to think about how we enhance PAS 9980 so that we can deal with building resilience. Ultimately, that is what will bring down the premiums.

At this point, I will note that we should not expect insurance premiums to go down to pre-Grenfell levels. A lot of things have happened since then, not least inflation. I am focusing on the impact on premiums because of the expected loss being higher, but I want to make sure that people are aware that insurance premiums would have gone up in that period in any case due to inflation.

Stephanie Callaghan: Do you have anything to add to that, John Marr? Do any of the other panel

members have different views? If you do, I would be interested to hear them.

John Marr: I will pick up Mervyn Skeet's points about rising insurance costs. How does that issue play out for mortgage lenders? It is a requirement of all mortgages that the building is insured for all the standard perils, including fire and destruction. If the cost of that insurance continues to be high, that will affect the affordability of a mortgage for a borrower and it will affect the loan to value—LTV—that a lender might be prepared to offer a customer on that property.

It is really from that perspective that mortgage lenders are interested in insurance costs. However, we recognise that if, as a result of a significant fire, the building is destroyed, that essentially means that the lender's physical security for the loan is lost. That is why we have buildings insurance in place.

Essentially, high insurance costs in terms of premia or excesses will impact borrower affordability or the LTV that they are able to get.

Stephanie Callaghan: Do you have any concerns about the costs and timescales for remediation work?

John Marr: Clearly, everyone wants the problems to be fixed sooner rather than later. There will be factors at play in the market—the labour industry, access to materials and professional services—that will impact the overall timescale for delivery of typical remediation programmes, and we will have to live with that. If things can be accelerated and brought forward, costs might come down sooner. However, we just do not know how long it will take for each building to go through its remediation journey.

The Convener: I think that you have a couple more questions to ask, Stephanie.

Stephanie Callaghan: I have only one more question, actually, convener.

In its written evidence, the Law Society was keen for greater detail to be included in the bill on the responsible developers scheme and on the cladding assurance register. Do you want to say a bit more on that? Do you have any comments on risks? Are there any recommendations that you would like the committee to make to the Government, for example?

John Sinclair: On the responsible developers scheme, our comment relates to a point of principle, which is that the bill does not contain a lot of detail. For example, the nature of the connection is open-ended and is left to, I think, secondary legislation. The question was, "Do you think that the RDS will work?" The answer to that is that it is hard to say without that detail.

We have no specific recommendations for revisions to the bill. We were making a general comment that it is difficult to assess how the scheme will work in the absence of detail. We have already expressed our view that, the more information that is contained in the cladding register at as early a point in time as possible, the better, to ensure that everyone in the market has the same information. We would also be keen to have a register of cleared buildings that fell outwith the scope of the SBA, to avoid the inefficiency of the same question being asked, investigated and answered on multiple occasions while the same answers should be reached each time.

11:45

Stephanie Callaghan: Do you have any reflections on some of the comments that were made by the earlier panel on having flexibility and using secondary legislation rather than having to go back and change primary legislation?

John Sinclair: I am conscious that, on a number of points in our consultation response, we were keen to see more detail. That is a natural position of people who will be asked, "What does this bill mean? How does it operate?" It is not possible to answer a large number of questions without that detail.

We also recognise, however, that there is a need for flexibility. The difficulty that all of us witnesses have, and that Holyrood has, is how to balance the need for flexibility against certainty against consistency against speed of legislation. That is why I am very glad that I am in this seat, rather than the other seats in this committee room.

Stephanie Callaghan: I think that you sum it up very well, John.

The Convener: John Marr wants to come in on that point.

John Marr: It is just to agree with John Sinclair on that: it is essentially a question of balance. I would also reflect on the experience that some witnesses in the previous evidence session this morning commented on regarding the Building Safety Act 2022 in England, which is a mammoth piece of legislation of immense complexity. There is a great deal of detail in that primary legislation, and the experience has been that aspects of it have been problematic and have required subsequent reworking. That underlines the need to get the balance right as far as possible, as John Sinclair says. There is clearly scope for things to be further delayed if any legislation that is passed by the Parliament here has to come back for reworking, rather than provisions being taken through the secondary legislation route.

The Convener: Thanks for that perspective.

I have one final question. Do you think that there is a sufficient number of qualified fire engineers, surveyors, other building industry professionals and contractors in Scotland to undertake single building assessments and cladding remediation within a reasonable timescale? If not, how might any shortfall be tackled? I would be interested to hear your perspective on that.

John Marr: I would just reflect the views of fire professionals and other witnesses in the earlier evidence session. They indicated that, given the number of buildings that may require work, there could be a shortfall in professionals north of the border. Beyond that, however, I could not really comment. That is not a space that UK Finance operates in, but our concern would be that there should be enough people to do the jobs. If there are not, that is a concern, which raises the prospect of further delays in buildings being fixed and the people who live in them being able to get on with their lives, to buy and sell, to remortgage and to move on.

John Sinclair: I agree with what John Marr has said, and I would highlight that the value and quality of the register will be underpinned by the confidence that the public have in it. That will depend on having a high degree of confidence in the people who are preparing the single building assessment and in the process for signing off on completion of works. The availability of the right quality of people with the right competences for preparing the single building assessment is critical.

Convener, I would like to return in an indirect way to the previous point about flexibility and speed. An issue in the bill that is of concern to us, and which I think is driven by the need for speed and to proceed as rapidly as possible with works to buildings, is that, under one of the provisions that relate to an appeal against works, if an appeal to the sheriff is not determined within 21 days, that appeal is deemed to be dismissed. Although we understand and appreciate the need for speed and certainty of process, that provision seems to us to be awkward.

The Convener: I am glad that you brought that up, because when I read about that in the papers, I thought that the deadline seemed quite tight. What would be the more usual timeframe for that kind of appeal process in situations that are not so urgent?

John Sinclair: Our concern is not with the timeframe, albeit that an appeal against a proposal for works could be very complicated. Our concern is more to do with the principle that an individual could in effect be deprived of their right to appeal by a delay in the process.

The Convener: Is there another way round that? You might need to write to us about that.

John Sinclair: I do not think that there is another way. It will come down to the court rules and the process of managing the appeal.

The position could be ameliorated, perhaps, if there were greater clarity on the trigger for the appeal and on when the appeal would then occur. From memory, I think that, under the terms of the bill, the notice that would be appealed would be the notice given by the Scottish ministers once the works have been arranged or once individuals have arranged to carry out the works. The issue is understanding what is meant by that. Is it basically that they have a building contract that they have signed? Have they a set of tenders that they are about to put forward? Do they have a rough set of works in which they know what they want to do but they have not specified anything in detail or costed it?

It comes back to the previous point about the process from a single building assessment to the report, to the specification, to the building warrant and then to the contract for the construction of the works. Perhaps greater clarity on the point at which that appeal would be triggered might be one route for reducing the potential for any very-late-stage delay or disruption in the process.

The Convener: That was very helpful.

I will just open it up and ask the panel whether there is, from their perspective, anything else missing from the bill. Does anybody else want to come in on that? If not, I will call Miles Briggs, who has a brief supplementary.

Miles Briggs: I just want to ask about a specific point. At the heart of this lie individual householders and the stress and anxiety that they have felt, but an issue that has been raised with us as we go through the process is what is to be done with orphan buildings and whether the insurance industry is treating them differently. I know that 100-odd buildings here in Scotland are going to be looked at as part of this process, but where is the industry when it comes to finding specific solutions for those other buildings? I will bring in Mervyn Skeet to begin with.

Mervyn Skeet: By “orphan buildings”, I assume that you mean individual buildings that are not linked to any other development. Is that right? I just want to be clear.

Miles Briggs: Yes—or where a developer has ceased to exist.

Mervyn Skeet: Again, I would point out that insurers are providing cover for buildings—they have not not provided cover, as it were. However, the cost is higher where remediation has not happened.

Our members can help owners understand what remediation might be required, but obviously the question, then, is how they fund it. That is a very difficult position to be in. I am not sure that it is for us to help owners with the cost of remediation, but we can certainly discuss with them what might be required to get premiums down, if we are not dealing with developers who currently exist.

Miles Briggs: My specific concern would be that we create a two-tier system in which there are buildings that go on the register, the developer says that it will do the work, everything is agreed and public funds are available, and then there is a group of orphan buildings. All the workforce goes to where the developers are orchestrating the work; and insurance premiums increase for the people in the orphan buildings, whose properties are seen as being in a different category. We need to ensure that we do not leave them for someone else to look at doing that work.

Mervyn Skeet: You will probably know that, in England, there has been some Government funding for some of those buildings. Maybe a way forward in solving some of those issues is to focus Government funding on buildings where the developers are no longer in existence.

Miles Briggs: I suppose that it is also important for the insurance industry to understand the need.

Mervyn Skeet: We should definitely understand the need. There is no desire to treat buildings differently; at the same time, however, we must ensure that remediation plans are in place so that we can move forward with reducing premiums.

Perhaps one thing that I should add and which has not been mentioned at all yet is that we have been developing a reinsurance facility, whose aim is to try to get premiums down. We expect a plan for remediation for buildings placed in that facility; we are very hopeful that it will be announced soon, and it will apply to buildings in Scotland in the same way that it will apply to buildings in England.

Miles Briggs: Thanks. That was helpful.

The Convener: I am sure that that will be heartening news to the people who own the buildings.

John Marr: As Mervyn Skeet has mentioned, public funds are available to support the remediation of so-called orphan buildings in England and Wales. If that is not something that has been considered here in Scotland, MSPs might want to think about directing public funds to those buildings where a developer cannot be identified or held to account.

The Convener: Thank you very much.

That concludes our questions. We have had yet another very helpful panel this morning, and we

are certainly getting a much clearer picture of all the different permutations and of how we can make this a good piece of legislation that will meet people's needs. It is quite challenging, but it has been really good to hear from you.

As previously agreed, we will take the next three items in private. That was the last public item on our agenda, so I now close the public part of the meeting.

11:57

Meeting continued in private until 12:33.

This is the final edition of the *Official Report* of this meeting. It is part of the Scottish Parliament *Official Report* archive and has been sent for legal deposit.

Published in Edinburgh by the Scottish Parliamentary Corporate Body, the Scottish Parliament, Edinburgh, EH99 1SP

All documents are available on
the Scottish Parliament website at:

www.parliament.scot

Information on non-endorsed print suppliers
is available here:

www.parliament.scot/documents

For information on the Scottish Parliament contact
Public Information on:

Telephone: 0131 348 5000

Textphone: 0800 092 7100

Email: sp.info@parliament.scot

