

IN THE MATTER OF THE INQUIRIES ACT 2005
AND IN THE MATTER OF THE INQUIRY RULES 2006

THE GRENFELL TOWER INQUIRY

**OPENING STATEMENT ON BEHALF OF
THE DEPARTMENT FOR LEVELLING UP, HOUSING AND COMMUNITIES
PHASE 2, MODULE 6 PART 2**

INTRODUCTION

1. The Department acknowledges its responsibilities for past failures and is therefore implementing changes to make buildings safer now and in the future. It remains dedicated to supporting the Inquiry.
2. The Department notes that Module 6 Part 2 will examine Issues 3(f), 4(e), 4A(c), 5(c), 7 and 10 of the Inquiry's List of Issues and will be divided into three broad areas: fire risk assessment, testing and certification, and government. These submissions focus on government, and in particular those issues identified by the Inquiry in recent correspondence:
 - a) the development and interpretation of the relevant Building Regulations and associated guidance;
 - b) government policy on relevant aspects of fire safety and the evidential or other basis for such policies;
 - c) reviews of and amendments to the Building Regulations and associated guidance, including consultations;
 - d) fire safety research commissioned by the Department and other relevant organisations, the conclusions drawn therein and any action taken by government in relation to such research; and
 - e) government handling of issues raised in relation to fire safety by external individuals and organisations (including coroners).

3. The submissions also address the Government's role in relation to the testing and certification regime.

SUMMARY OF THE DEPARTMENT'S POSITION

4. During this module of the Inquiry, the Department will continue to reflect on what went wrong in the years and months before the Grenfell Tower tragedy and, rightly, to be held to account for its failings. Over the past 54 months the Department has listened to the community and recognises their anger, upset and disappointment. They rightly feel let down by a system in which the Government – along with other actors – played a key part.
5. The Department accepts responsibility for its failures of the past, whilst acknowledging that this can neither change what happened nor compensate for the immeasurable loss and grief suffered. Those who were lost, and those who lost loved ones, on that terrible night in June 2017 and in the following months are at the forefront of the Department's thoughts as it recognises what went wrong and continues its work to ensure nothing like this can ever happen again.
6. The public, residents and government trusted that those constructing and approving high-rise blocks, and supplying the products used in them, were following the law and doing the right thing. The Department greatly regrets that it took the Grenfell Tower tragedy to lay bare that this trust was both misplaced and abused. Residents rightly expected that their safety was the priority and that the Department was ensuring this was the case; it failed in that task.
7. Reflecting on its role in the issues to be examined in this module, the Department continues to learn the lessons of the past and has conscientiously explored where its actions contributed to an overarching building safety system that has subsequently been shown to be unfit for purpose with catastrophic consequences. Our work over the past few years has found that the Department did not have a good understanding of how the regulatory system was working in practice, nor of how well it was being enforced. There was insufficient oversight of the system by the Government, and the right assurances were not sought. Had the Building Regulations, British Standards and statutory guidance been followed and enforced with reasonable diligence, a large-scale cladding fire could not have happened. The Department should have done more to take on board the learning and recommendations triggered by other fires, including the tragic events at Lakanal House,

including exploring whether the system was working as intended. Similarly, correspondence from the All-Party Parliamentary Group on Fire Safety should have been addressed in a timelier manner, with more done to probe the issues raised by them.

8. Individually these errors and missed opportunities from the Department and across industry may not have caused the fire at Grenfell Tower, but cumulatively they created an environment in which such a tragedy was possible.
9. The Department has listened carefully to the evidence heard so far by the Inquiry, and has accepted the criticisms made by, and the recommendations of the Hackitt Review. Since the tragedy, the Department has worked tirelessly to put major reforms in place which will protect those living in tower blocks in the future.
10. In the immediate aftermath of the fire the Department established the Building Safety Programme directorate – an integrated team of policy, strategy and technical experts working together to ensure that wider priorities are correctly identified and escalated.
11. Since that time, the Department has taken the following steps:
 - a) The draft Building Safety Bill published on 20 July 2020 and the Fire Safety Act 2021 will bring about the biggest improvements in building safety for a generation, including the creation of a new Building Safety Regulator, led by the new Chief Inspector of Buildings as part of the Health and Safety Executive, to oversee the safe design, construction and occupation of higher-risk buildings, and a new system of oversight over, and regulation of building control bodies and professionals.
 - b) Tougher construction products regulations to ensure that all construction products will be covered by the regulatory regime, that all manufacturers will be required to ensure that their products are safe before putting them on the market, and that products designated as “safety-critical” will be subject to additional requirements.
 - c) A new National Regulator for Construction Products will be established within the Office of Product Safety and Standards and will be given powers to carry out market surveillance, to share information with other regulators, including the Building Safety Regulator and local Trading Standards, to remove any products from the market that present a significant safety risk, and prosecute and fine any company that breaks the rules and compromises public safety.

- d) The development, through the British Standards Institute (“BSI”), of a suite of national competence standards for individuals working on higher-risk buildings, to support the work of the industry-led Competence Steering Group and take forward some of the recommendations in its final report, *Setting the Bar*, published in October 2020.
- e) A ban on combustible materials in external walls of new high-rise homes and funding to remove dangerous cladding from existing high-rise residential buildings.
- f) A new code of practice, through the BSI, for assessors when examining external walls and cladding. The code of practice is intended to help professionals provide consistent, risk-based and proportionate advice on whether remediation of the external walls is necessary and give building owners clarity on the fire risk of the construction of external walls. The draft was issued for public consultation by BSI in April and is expected to be published in due course.
- g) An independent review to identify systemic issues with how construction products are tested and certified and make recommendations about how the system can be strengthened to inspire confidence that construction products are safe and perform as labelled and marketed.
- h) A programme to encourage the industry to lead and deliver culture change, including the Industry Safety Steering Group chaired by Dame Judith Hackitt, and to challenge the industry to make improvements ahead of new building safety legislation. The programme is supporting the work of the industry-led Competence Steering Group to develop recommendations for a new system of competence across the industry, and in addition supporting industry initiatives such as the Building a Safer Future Charter and the Code for Construction Product Information.

12. The Department believes that this reformed regulatory scheme will put professionalism and integrity at the heart of the system.

THE REGULATORY SYSTEM

The Department’s role

13. Since 1951, central government responsibility for housing and the Building Regulations has been held by the Ministry of Housing and Local Government (“MHLG”) (1951-1970), the Department of the Environment (“DOE”) (1970-1997), the Department for the Environment, Transport and the Regions (“DETR”) (1997-2001), and the Department for Transport, Local Government and the Regions (“DLTR”) (2001-2002), before in May 2002 moving to the Office of the Deputy Prime Minister (“OPDM”), which at the same time became a standalone department. From 2002, the Department was responsible for regional and urban policy, local government, fire policy, planning, leasehold reform and housing. It was renamed the Department for Communities and Local Government (“DCLG”) in 2006, before becoming the Ministry of Housing, Communities and Local Government (“MHCLG”) in 2018 and then, on 15 September 2021, the Department for Levelling Up, Housing and Communities (“DLUHC”).
14. In 2001, responsibility for the fire and rescue services moved from the Home Office to the Department. The Department retained responsibility for fire and rescue services until January 2016, when it was transferred back to the Home Office.
15. Until June 2017, when the fire occurred, the Department had the following duties relating to building safety:
 - a) Responsibility for legislation prescribing the requirements for building work, in particular: the Building Act 1984, Building Regulations 2010 (as amended), Building (Approved Inspectors etc) Regulations 2010 (as amended) and Building (Local Authority Charges) Regulations 2010;
 - b) Responsibility for statutory guidance in the form of Approved Documents; and
 - c) Responsibility for the legislative framework for assessing the risk of hazards in residential housing. This is also known as the Housing Health and Safety Rating System (“HHSRS”).

The regulatory model

16. The first set of national building standards was introduced in the Building Regulations 1965, made under the Public Health Act 1961. Until 1985, detailed and lengthy technical requirements were contained in the Regulations themselves; for example, the Building Regulations 1976 extended to almost 300 pages of text and tables.

17. The Building Act 1984 represented a move to a new “outcomes-based” regulatory model in which Building Regulations would provide high-level, functional requirements, supplemented by non-binding Approved Documents which would provide “*practical guidance with respect to the requirements of any provision of the building regulations*”¹. This corresponded to the broad acceptance by government and industry around that time that regulatory systems should move away from trying to cover all eventualities, because legislation could never achieve this and would always be out of date. Importantly, it also put emphasis on professionals in industry using their knowledge and expertise. *The Cullen Report*, following the public inquiry into the Piper Alpha disaster², supported and reinforced the move towards outcomes-based systems.
18. Accordingly, the Building Regulations 1985, which were only 25 pages long, contained functional requirements of substantially reduced complexity, with additional non-prescriptive technical guidance on how the functional requirements could be met in common circumstances contained in Approved Documents. Whilst the Building Regulations have increased in length over the following decades – the pre-amendment 2010 Building Regulations were 55 pages long – the legislative model has remained the same ever since.
19. The Department believes that the outcomes-based model remains the best way of regulating building safety and the new system proposed by the Building Safety Bill seeks to improve implementation of a similarly outcomes-based regulatory model. The various features of, and policy reasons for, outcomes-based and rules-based regulatory systems are explained and further developed in *BEIS Research Paper Number 8: Goals-based and Rules-based Approaches to Regulation*³.
20. In a complex, infinitely varied and evolving environment, the outcomes-based model provides necessary flexibility to industry, regulators and enforcers in achieving compliance with the stipulated standards. It has been strongly supported by Dame Judith Hackitt in her final report where she said that the regulatory system “*must be truly outcomes-based*”⁴. She

¹ s.6(1) Building Act 1984

² <https://www.hse.gov.uk/offshore/piper-alpha-public-inquiry-volume1.pdf> - see for example the conclusions in Chapter 21 that many regulations are unduly restrictive in that they impose ‘solutions’ rather than ‘objectives’ and are out of date in relation to technological advances, and that guidance notes should give non-mandatory advice.

³ https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/714185/regulation-goals-rules-based-approaches.pdf

⁴ *Final Report*,

noted that the alternative – a prescriptive, rules-based approach – would be an inappropriate model for regulating the design and construction of complex buildings, especially in an environment where building technology and practice continue to evolve, and would prevent those undertaking building work from taking responsibility for their actions.

The regulatory scheme

21. The regulatory scheme involves legal requirements, as contained in the Building Regulations, which are subject to Parliamentary approval⁵, accompanied by guidance contained in Approved Documents. The Approved Documents are not legally binding: there is no requirement to follow the guidance contained in them, and no sanction for failing to do so. The only legal requirement is to meet the functional requirements contained in the Building Regulations themselves. The functional requirements contained within the Building Regulations may, as a matter of principle, be met through solutions not described in the Approved Documents; and, correspondingly, the guidance contained in the Approved Documents is not freestanding but must be read in conjunction with, and having regard to the Building Regulations and the actual legal requirements contained therein. The Building Act 1984 provides that a breach of the Building Regulations is, in general terms, a criminal offence (punishable by an unlimited fine)⁶ and may give rise to civil liability⁷. Non-compliance with Approved Documents may be a relevant factor in establishing civil or criminal liability⁸.

Approved Document B

22. Approved Document B (“ADB”) is a document which sets out possible routes to compliance with Part B (Fire Safety) of the Building Regulations in common situations. Fire protection of buildings (and the design of buildings generally) is a complex subject,

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/707785/Building_a_Safer_Future_-_web.pdf, p.6.

See also the interim report at:

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/668831/Independent_Review_of_Building_Regulations_and_Fire_Safety_web_accessible.pdf

And government’s response at:

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/741455/Response_to_sc_report_on_Independent_Review_of_Building_Regulations_and_Fire_Safety_Cm9706.pdf *Final Report*, p.6

⁵ s.1 Building Act 1984, subject to the negative resolution procedure

⁶ s.35 Building Act 1984

⁷ s.38 Building Act 1984

⁸ s.7 Building Act 1984

and ADB is a technical document intended for the benefit of competent professionals⁹. As explained above, the statutory requirements are set out in the Regulations themselves.

23. While the Department published a revised edition of ADB in 2019, which clarified the guidance and made it more accessible, the Department's view is that the meaning of the Regulations, and of ADB read together with the Regulations, was sufficiently clear at the time of the refurbishment of Grenfell Tower such that no competent professional acting in good faith should have misunderstood or misapplied the statutory requirements. A competent professional would have taken appropriate advice in case of uncertainty, not least where the issue involved fire safety.
24. As technical guidance documents, the Approved Documents are subject to periodic review and are always open to improvement. In 2018 the Department published an open call for evidence that sought views on the current provisions in ADB and where they need to be updated. From 25 November 2017, the responses received were reviewed in a series of Building Regulations Advisory Committee ("BRAC") working group meetings to discuss the simplification of ADB with experts from industry and academia. The findings set the agenda for the current technical review of ADB which is under way and the findings of this Inquiry will be considered as part of this work.

Report of Dame Judith Hackitt

25. Though strongly supportive of the outcomes-based regulatory model, Dame Judith Hackitt found that the current regulatory system was not fit for purpose¹⁰ and recommended that government create a more effective regulatory and accountability framework to provide greater oversight of the building industry. She highlighted that the regulatory framework covering the life cycle of higher risk residential buildings was too complex, involving a number of different regulators and pieces of legislation¹¹ and that the system of enforcement was patchy. In addition, she emphasised the need for a "*proactive, coherent and*

⁹ As was made explicit under the heading "user requirements" in the 2019 edition of ADB: "*The approved documents provide technical guidance. Users of the approved documents should have adequate knowledge and skills to understand and apply the guidance correctly to the building work being undertaken.*"

¹⁰ *Interim Report*, p.5

¹¹ *Final Report*, p.22

*powerful system of regulatory oversight*¹². The interim and final reports note that some of the key issues underpinning this failure are:

- a) Ignorance – regulations and guidance were not always read and understood by the necessary people;
- b) Indifference – due to a motivation to do things as quickly and cheaply as possible, safety was not always treated as a priority and some made attempts to game the system;
- c) Lack of clarity on roles and responsibilities, exacerbated by a level of fragmentation within the industry. This led to reduced ownership and accountability; and
- d) Lack of regulatory oversight and enforcement tools with ineffective penalties and sanctions¹³.

Compliance and enforcement

- 26. As explained above, the Secretary of State’s statutory role and responsibility is and was to set building standards, which is done by making the Building Regulations, and to provide practical guidance in the form of Approved Documents should he choose to do so.
- 27. The Department had no direct role in monitoring or enforcing compliance with the Building Regulations, which the Building Act 1984 provides is the responsibility of local authorities. The operative legislation states that building control bodies at the local level are responsible for ensuring that work in their local area complies with the Regulations; and that statutory system therefore depends on effective local enforcement. Local authorities have powers to require offending work to be pulled down or removed, or altered so as to comply with the Regulations¹⁴.
- 28. Under this legislative system, the Department did not have responsibility for supervising the performance of compliance and enforcement functions (or “policing the police”) at the local level.

¹² Ibid, p.37

¹³ Ibid, p.5

¹⁴ s.36 Building Act 1984

29. The Building Act 1984 permits the person undertaking the building work to elect that the work be checked either by local authority building control or a private sector Approved Inspector. Approved Inspectors were first introduced in 1985, with the National House Building Council (“NHBC”) the first Approved Inspector. Between 1985 and 2013, changes to the Building Regulations allowed Approved Inspectors to work on a broader range of buildings, and they are now able to work on all building types. These changes were intended to drive efficiency by introducing an element of competition into the building control market and were informed by a general push towards less centralised and more efficient decision making. This was part of a wider policy shift, where governments sought to reduce the role of central government. From the 1980s onwards there was a drive to introduce increasingly streamlined and less bureaucratic decision-making.
30. Prior to the Grenfell Tower tragedy, the Department did not have a good understanding of how the regulatory system was working, including at the enforcement level. Departmental officials fulfilled their responsibilities in accordance with the legislative scheme. Their role did not include offering a view on whether individual buildings were compliant – this was the role of local building control bodies – and the Department did not expect its officials to act as stewards of the system. The mistaken assumption underlying the Department’s position was that compliance was being monitored by qualified experts at the local level and that non-compliance with the Regulations would be identified by building control inspectors. The Department did not identify any need for it to superintend the inspectors.
31. It is now evident that this system of local enforcement has failed to ensure that building safety standards are always met, especially in more complex residential buildings – such as high-rise blocks of flats – which demand greater technical competence and more intensive oversight corresponding to the level of risk.
32. The Department accepts that it failed to recognise the risk that those responsible for complying with and enforcing the Building Regulations would not diligently fulfil their respective responsibilities and the potential consequences should that risk eventuate. The Department further accepts that, having failed to recognise this risk, it then failed to add a further layer of assurance to the system. Had there been a functional enforcement system with efficient assurance built in, non-compliance to the extent that gave rise to the Grenfell Tower tragedy may not have been possible.

33. The Department has given anxious consideration to the question of whether it should have identified the failure in the design of the regulatory system (most particularly, the enforcement system) and taken steps to remedy it before the tragedy of Grenfell Tower.
34. The Department accepts that, as the government department which sponsors the building safety system, it should have had a clear process in place to collate and aggregate the information it did receive and that obtained individually by local authorities to develop its understanding of systemic compliance and enforcement risks. Had that risk been identified and properly quantified, it would have been the role of the Department to propose appropriate legislative change before Parliament, whether (for example) in the form of increased penalties for non-compliance or in a system of centralised oversight of the compliance and enforcement system. Building safety is too important to leave its enforcement to local authorities without central oversight, given the risk and consequences of a systemic failure which increased with the introduction and expansion of competition in the building control market.
35. The Department recognises that it did not identify widespread non-compliance or understand how the regulatory system was performing in practice. It was dependent on a legal framework that placed all the compliance obligations on the person conducting building works, on industry understanding the outcomes required and taking the steps necessary to deliver those outcomes, and on local regulatory oversight through a semi-privatised and relatively light-touch system of building control. It is now entirely clear that the overall regulatory regime failed with catastrophic consequences.
36. The Hackitt Review recommended the establishment of a new body to oversee building safety in high-rise residential buildings across their life cycle. The Department has accepted this recommendation, which it believes will help to remedy the systemic issue referred to above. The Secretary of State has now laid the Building Safety Bill before Parliament in order to pass this into law¹⁵. The Building Safety Bill proposes a new system of oversight of the performance and standards of all building control bodies by the new Building Safety Regulator.

DEVELOPMENT OF THE BUILDING REGULATIONS AND APPROVED DOCUMENT B

¹⁵ <https://bills.parliament.uk/bills/3021>

Building Regulations

37. Without engaging in an exhaustive analysis of the developing requirements of the Building Regulations 2010, the Department observes that regulation 7(1)¹⁶ (*“Materials and workmanship”*) provides:

“Building work shall be carried out–

(a) with adequate and proper materials which–

(i) are appropriate for the circumstances in which they are used,

(ii) are adequately mixed or prepared, and

(iii) are applied, used or fixed so as adequately to perform the function for which they are designed; and

(b) in a workmanlike manner.”

38. This is in identical terms to the pre-amendment version of regulation 7 as in force at the time of the fire, but represents a development on regulation 7 in the 1985 Regulations, which provided only that:

“Any building work shall be carried out with proper materials and in a workmanlike manner.”

39. Requirement B4 (*“External Fire Spread”*) of Schedule 1 to the Building Regulations provides:

(1) “The external walls of the building shall adequately resist the spread of fire over the walls and from one building to another, having regard to the height, use and position of the building.

(2) The roof of the building shall adequately resist the spread of fire over the roof and from one building to another, having regard to the use and position of the building.”

40. This is in materially similar terms to requirement B4 of Schedule 1 to the 1985 Regulations.

41. Though the application of judgement inheres in any outcomes-based model, these high-level provisions are clear in their terms, and have been in place for some time. In particular, requirement B4 is amply clear to permit the Inquiry to have found, as it did in its Phase 1

¹⁶ Regulation 7 was substantially amended in relation to England by the Building (Amendment) Regulations 2018, with effect from 21st December 2018; and in relation to Wales by the Building (Amendment) (Wales) Regulations 2019, with effect from 13th January 2020.

report, that it is “*self-evident*” that the external walls of Grenfell Tower failed to comply with it¹⁷.

Approved Document B

42. The Approved Documents provide practical guidance on potential ways to achieve compliance with the requirements of the Building Regulations 2010 in common building situations. Approved Documents are not designed to provide guidance for every scenario and as such state that “*compliance with the guidance set out in the approved documents does not provide a guarantee of compliance with the requirements of the regulations*”¹⁸. Fire protection of buildings (and the design of buildings generally) is a complex subject, and ADB is a technical document intended for the benefit of competent professionals. As was made explicit under the heading “*user requirements*” in the 2019 edition of ADB: “*The approved documents provide technical guidance. Users of the approved documents should have adequate knowledge and skills to understand and apply the guidance correctly to the building work being undertaken*”¹⁹.
43. The Department periodically reviews and amends ADB. Prior to the Grenfell Tower tragedy, new editions of ADB were published in 1992, 2000, and 2006, with further amendments being made in 1992, 2000, 2002, 2007, 2010 and 2013.
44. The 1985 edition of ADB stated that “*external walls should be constructed of materials of limited combustibility if the building is more than 15m in height [...] or has more than 3 storeys*”²⁰. It added that cladding should be of “Class 0” fire rating where the building is over 15 metres in height.
45. 1992 – First edition: stated that insulation material used in external wall constructions should be of limited combustibility in buildings over 15 metres in height. Paragraph 12.7 states “*the external envelope of a building should not provide a medium for fire spread if it is likely to be a risk to health or safety. The use of combustible materials for cladding framework, or of combustible thermal insulation as an overcladding or in ventilated cavities, may present such a risk in tall buildings.*” Following the 1991 fire at Knowsley Heights, where the fire had started at ground-floor level and spread vertically up the face of the building within a cavity behind rainscreen

¹⁷ <https://assets.grenfelltowerinquiry.org.uk/GTT%20-%20Phase%201%20full%20report%20-%20volume%204.pdf> at para 26.6

¹⁸ See for example Approved Document B (Fire safety), 2019 edition

¹⁹ Ibid.

²⁰ Approved Document B (Fire safety), 1985 edition

cladding, this edition of ADB strengthened provisions aimed at mitigating external fire spread.

46. 1992 – Second edition: these amendments stated that insulation material included in external wall construction should now be of limited combustibility in buildings over 20 metres in height²¹. This updated the previous 15 metre threshold, which was been carried over from the Building Regulations 1972 and had not been updated since.
47. 2000 – New edition: reduced the height requirement for the use of limited combustibility materials from 20 metres to 18 metres; noted that an alternative to meeting the specifications laid out was completing a full-scale fire test (BRE Fire Note 9)²². Respondents to the Department of the Environment, Transport and the Regional Affairs (DETR) consultation on the amendments to ADB had flagged that 20 metres was “*now beyond the reach of current brigade equipment & practice*”²³. In response, and having received guidance from Chief and Assistant Chief Fire Officers Association, the Department changed the threshold to 18 metres.²⁴ The 2000 edition also stated that an alternative route to compliance than that set out in ADB was passing the full-scale fire test set out in BRE’s Fire Note 9, which had been published in 1999. The 1999 House of Commons Select Committee on Environment, Transport and Regional Affairs investigation into the Knowsley Heights fire and another cladding fire which had occurred at Garnock Court in 1999 had suggested that small-scale fire tests were inadequate to evaluate the safety of external cladding. In response to this finding, the full-scale test method contained in Fire Note 9 was developed and later published as BS-8414, however a route to compliance based on small-scale fire tests remained.
48. 2002 – Amendments to ADB²⁵: the 2000 amendments were limited to a small number of corrections and clarifications. To comply with European Union law, the amendments made in 2002 were intended to facilitate harmonisation and the use of new European Standards and test methods²⁶.

²¹ Approved Document B (Fire safety), 1992 edition incorporating 1992 amendments

²² Approved Document B (Fire safety), 2000 edition

²³ {gren001:00395600}

²⁴ {gren001:00395600}

²⁵ Approved Document B (Fire safety), 2000 edition incorporating 2000 and 2002 amendments

²⁶ {gren001:0006286}

49. 2006 – New edition: ADB was split into two volumes, the first covering “*dwellinghouses*” and the second “*buildings other than dwellinghouses*”. As ADB was one of the longer Approved Documents, and audiences for the two documents were often different, the Department considered that this would improve the accessibility of ADB; moreover, stakeholders consulted were largely in favour of this change²⁷. ADB specified that “*any insulation product or filler material*” used in the external wall construction should be of limited combustibility in buildings over 18 metres in height²⁸. This wording was added to bring elements of the cladding system which were not insulation but could nonetheless provide a medium for fire spread into the requirement for limited combustibility²⁹.
50. 2010 – Amendments to ADB: these were limited to discrete issues, specifically updating a number of references to European standards, mainly reflecting regulation number changes³⁰. There were no amendments to the substantive requirements in Schedule 1.
51. 2013 – Revisions to ADB: these were limited to providing further technical guidance on how to meet fire safety requirements on light diffusers and wall linings³¹.
52. Following the inquest into the Lakanal House fire, the Department planned a wider review initially scheduled to be completed in 2016/17. That review was put on hold in the wake of the Grenfell Tower tragedy, before its resumption in 2018/19, following which the Department published a new version in 2019. It did so for two main reasons. First, to further improve the clarity of the document, and thereby to reduce the possibility of gaming, in light of the evidence of widespread non-compliance within the industry; and, secondly, in order to bring it in line with a new style guide for Approved Documents. In addition, and importantly, in 2018 the Department introduced a ban on the use of combustible materials in some higher-risk situations, in order to minimise the potential for misapplication of the Regulations.

HISTORIC FIRE SAFETY RESEARCH

²⁷ {gren001:00413974}

²⁸ {gren001:01697733}

²⁹ Approved Document B (Fire safety) – volume 1: dwellinghouses, 2006 edition

³⁰ Approved Document B (Fire safety) – volume 1: dwellinghouses, 2006 edition incorporating 2007 and 2010 amendments

³¹ Approved Document B (Fire safety) – volume 1: dwellinghouses, 2006 edition incorporating 2007, 2010 and 2013 amendments

53. Following these submissions, the Department will file a table of fire safety research commissioned by the Government between December 1999 and the Grenfell Tower tragedy. The table sets out the fire safety research commissioned by the Department and its predecessors, the conclusions drawn therein and any action taken by the Department and its predecessors as a result. The Department notes that this was a substantial body of research work, some of it spanning several years, and of a technically complex and detailed character. It tends to indicate that Departmental officials were giving conscientious thought to fire safety issues over the span of this period. However, the research that was commissioned was based on the assumption that the system was working as intended and, consistent with the Department's role as set for itself and by Parliament at the time, research was not commissioned to determine whether there was widespread non-compliance across industry.

FIRE SAFETY POLICY WITHIN THE BUILDING REGULATIONS AND THE EVIDENTIAL BASIS

Combustible materials

54. Prior to the Building (Amendment) Regulations 2018, while the long-standing B4 requirement in practice should have restricted the use of combustible materials, there was no explicit or specific prohibition on their use. This is because, as explained above, the Building Regulations properly adopted an outcomes-based model.
55. Functional requirements of the Regulations require the external walls to adequately resist the spread of fire; and the materials used to be adequate and proper, appropriate for the circumstances of their use, and installed so as to perform adequately in accordance with their design. The Department's view was and remains that the use of PE-core ACM cladding in a tall building is most unlikely in practice ever to comply with the functional requirements of the Regulations, and that this would be clear to any reasonably competent industry professional.
56. However, it has become only too clear that the use of PE-core ACM cladding was widespread on tall buildings, in breach of the functional requirements, and as a result of widespread fraudulent practice in the construction products industry and incompetence or gaming in the construction and building control industries. As a consequence, and in conjunction with reform of the system of compliance and enforcement, the Secretary of

State made the Building (Amendment) Regulations 2018, prohibiting the use of PE-core ACM and other combustible materials on the external walls of new buildings over 18 metres containing flats, hospitals, residential care premises, dormitories and student accommodation. The Government updated ADB and Approved Document 7 to reflect this ban.

57. This prohibition does not signal a general move away from outcomes-based regulation, but it is an acknowledgement that the high level of risk and degree of public concern relating to PE-core ACM materials justifies a very specific and tightly-defined rule.

Sprinklers

58. Since 2006, the Building Regulations (Part B – Fire Safety) had provided that the dwellings in new blocks of flats with storeys over 30 metres in height should be fitted with sprinklers. More generally, the Department’s policy at the date of the fire was informed by the view that, although sprinklers may be beneficial, they were unlikely to be proportionate in the majority of cases and that promotion of smoke alarms and safe behaviour would often be a more proportionate response. This view had been informed through research conducted at different points including:

- a) *Effectiveness of Sprinklers in Residential Homes, May 2001-June 2004*: Research to inform a review of ADB concluded that sprinklers may provide overall benefit for residential care homes and tall blocks of flats (above 10 storeys) but not other dwellings.
- b) *Future Changes to Building Regulations – Next Steps, December 2010*: This concluded that there was no new evidence that “*would justify revisiting the requirement for sprinkler protection.*”
- c) Building Research Establishment (“BRE”) research in 2012-2015 to inform the review of ADB looking at sprinkler provision in all types of buildings over 30 metres.

59. Following the respective inquests, the Department considered the evidence in relation to both the Shirley Towers and Lakanal House fires and determined that there was no new evidence to review the existing policy on retro-fitting sprinklers. It was considered that if the normal fire precautions in a building were provided and properly maintained then it

was unlikely that additional regulation could be justified on life-safety grounds, though the Department wrote to all social housing providers drawing their attention to the Coroner's recommendation and the need to consider it on a case-by-case basis.

60. Following the Grenfell Tower tragedy, the Department reviewed and consulted on its position on sprinklers. In May 2020, the guidance in ADB was amended to state that sprinklers should be fitted throughout new blocks of flats above 11 metres or those undergoing certain building work. In announcing these changes, the Housing Secretary referred to this as a *“critical part of our commitment to delivering the biggest changes to building safety for a generation.”* This change reflected the clear evidence from the consultation that installing sprinklers in blocks of flats has *“benefits to life safety and in reducing the degree of damage”*³² and the strong support from industry for the proposed reduction in height threshold.
61. The Department's position on sprinklers for existing buildings remains that they should be provided on the basis of need, i.e. through a risk assessment. The Local Government Association guidance³³ is clear that, as part of the required risk assessment, housing providers should assess the risk in their individual buildings in order to consider whether to retro-fit sprinklers.
62. This approach is supported by the Hackitt Review. The Review highlights the importance of ensuring that risk management systems are *“sufficiently flexible to allow those undertaking building work to take a case-by-case approach to delivering safe buildings”*³⁴, and also recognises that it is not always possible to retro-fit new solutions within existing buildings. Instead, an outcomes-based approach to implementing fire safety measures will ensure that *“preventative and mitigation measures are considered as a whole”*³⁵.

REGULATION OF CONSTRUCTION PRODUCTS

63. Regulation 7 of the Building Regulations requires work to be *“carried out [...] with adequate and proper materials which [...] are appropriate for the circumstances in which they are used [and] are applied, used or fixed so as adequately to perform the function for which they are designed.”*

³²https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/887224/Government_Response_-_Sprinklers_and_other_fire_safety_measures_in_high-rise_blocks_of_flats_2020.pdf, p.11

³³ <https://www.gov.uk/government/publications/fire-safety-in-purpose-built-blocks-of-flats>

³⁴ *Final Report*, p.26

³⁵ *Ibid*, pp.24-25

64. The Approved Documents contain general guidance on the performance expected of materials as a means to demonstrate compliance with the Building Regulations, together with practical guidance on how to achieve compliance in some common situations. The Approved Documents do so by reference to minimum classifications achieved by standardised test methods. These tests and classifications are covered by British, European and international standards, in addition to third party schemes. All of these standards and schemes are independent of government.
65. Those undertaking building work can establish the performance of a product for their building in several ways, for example by checking the relevant classifications on a manufacturer's product data sheet, a declaration of performance provided to comply with the Construction Products Regulation 2011 as retained in UK law, or through third party certification. Compliance can therefore be considered by checking the product's stated performance with the minimum classification set in the Approved Documents.
66. The Construction Products Regulations set out requirements for manufacturers of construction products to test, provide a declaration of performance, and put in place factory production control processes and appropriate assessment and verification of performance, to ensure that products consistently meet the claimed performance. Manufacturers are required to correct, withdraw and recall products that do not comply, and local Trading Standards bodies have powers under the Construction Products Regulations to enforce these requirements. These requirements are only mandatory for construction products where there is an existing designated standard (previously a harmonised EU standard prior to 31 December 2020). Where products are not covered by a harmonised standard, manufacturers can use voluntary certification to support product performance claims. At the time of Grenfell Tower's refurbishment, no harmonised EU standard was in place for ACM cladding or fire doors, for example, so these products fell outside the scope of the Construction Products Regulations. While fire doors are now covered by a designated standard, there is still no standard in place for ACM cladding. The Department will address this by adding products that can have a significant impact on safety, like ACM cladding, to the new, safety critical list and introducing a requirement for products to be safe, with manufacturers required to carry out a risk assessment of the reasonable uses of their products.
67. In addition to the role of local Trading Standards bodies, relevant law enforcement bodies such as local police forces and the Serious Fraud Office are responsible for investigating

and prosecuting fraudulent and otherwise unlawful practices within the construction products industry. The Department did not play any role in ensuring compliance with the construction products testing regime.

68. It is evident that there were extensive issues in the regulation of construction products. As set out in the Department's closing submissions for Modules 1 and 2, evidence heard by the Inquiry suggests that at least two companies involved in the manufacture of products for use on Grenfell Tower actively misled clients, certification bodies, and testing companies.

69. The Hackitt Review observed, in relation to the construction products testing and certification regime, that “[t]he system that covers products testing, labelling and marketing is at least as complicated as the entire regulatory system”, and that “significant further work is needed [...] to create a comprehensive regime that ensures that all products used in construction are properly tested and certified”³⁶. Its recommendations included:

- a) A more effective testing regime with clearer labelling and product traceability;
- b) A periodic review process of test methods and the range of standards; and
- c) More effective market surveillance operating at a national level.

70. The Department accepted all of the recommendations and has set up an independent review of the testing and certification system.

RESPONSE TO ISSUES ARISING AND RELEVANT HISTORICAL RECOMMENDATIONS

71. Since the Grenfell Tower tragedy, it has become increasingly clear that the use of combustible cladding in ways which were non-compliant with the Building Regulations was widespread in the construction industry. This has caused the Department to consider why it was not previously aware of this issue, and to rethink the systems in place to engage with industry to identify issues arising, and to respond to recommendations on fire safety in buildings.

³⁶ *Final Report*, p.92

72. As set out in the following sections, the Department accepts that in engaging with industry and responding to recommendations on fire safety, it failed to identify the issue of widespread non-compliance with Building Regulations that gave rise to the tragedy at Grenfell Tower because:
- a) In the absence of clear evidence of a systemic issue, the Department operated under the mistaken assumption that the system was working as it was designed to and that isolated incidents were not indicative of a widespread issue.
 - b) Effective governance and risk management systems that would have allowed isolated incidents and reports to be linked were not in place.
 - c) Following the fire at Lakanal House and the Coroner's Inquest in 2013, the Department fulfilled its statutory duty to respond to the recommendations made but did not take the opportunity to go beyond this and consider whether the system was performing as it should.
 - d) A lack of engagement with, and scrutiny of industry.
73. In the years leading up to the fire, the Department engaged with the construction industry in a number of ways. In addition to consultation and monitoring, officials in the Department were expected to engage with the construction industry in order to pick up industry trends and concerns. Engagement was sometimes informal and on an ad hoc basis. When the Department received occasional indications of possible non-compliance, officials would respond on a case-by-case basis in line with Departmental processes.
74. From this engagement, the Department did not identify any systemic failure in the regulatory scheme or in its enforcement. In the absence of a system of oversight, it did not take steps beyond notifying the responsible bodies of reported concerns. The Department recognises that it could have gone beyond its statutory remit and sought assurance that the relevant bodies were taking appropriate steps in relation to the issues raised by the Department and, if so, what if anything had been uncovered as a result. Had this been done, it is possible that widespread non-compliance and, relatedly, a systemic problem with the compliance and enforcement regime may have been identified.
75. Periodic reports of problems were also received from other sources. After the Lakanal House Coroner's letter in the spring of 2013 (considered in more detail below), the All-

Party Parliamentary Group on Fire Safety and Rescue (“the APPG”) wrote to Ministers and pressed for updates on the ADB review (which was due to be completed by 2016/17), the retro-fitting of sprinklers, and the use of combustible materials in buildings.

76. APPG correspondence was considered by the relevant Departmental officials, who drafted responses for the appropriate Minister to review and send. The Department regrets the tone and timeliness of its responses. However, the issues being raised by the APPG were general in nature and not always well evidenced. They were not mirrored in correspondence from other stakeholders, such as building control bodies, nor were they raised with the Department by the Housing, Communities and Local Government Select Committee. As a result, the Department did not view the issues being raised as indicating a wider cause for concern about the Regulations, compliance and enforcement.
77. In addition to the APPG, concerns about ADB were raised on a number of other occasions by different organisations and individuals following the Lakanal House fire. By way of example:
- (a) At a meeting of the London Fire Brigade (“the LFB”) in April 2010, at which DLUHC officials were present, attention was drawn to the number of fires over the previous two years exhibiting unusual fire spread due to breaches of the Building Regulations.
 - (b) In 2012, the London Fire Commissioner recommended that the guidance in relation to B4 could be made clearer³⁷. This was further discussed between Departmental officials and Andy Jack of the LFB at some point in 2013-2015. The LFB’s view was that ADB offered significantly less guidance on the requirement for fire resistance across the face of a building than it did on the requirement to resist the spread of fire from one building to another.
 - (c) In 2013, the Housing Standards Review suggested a wide-ranging review of the structure and composition of the Building Regulations and Approved Documents³⁸.
 - (d) Officials from BRE and NHBC contacted the Department in 2013 and 2015 respectively with reference to ambiguity regarding the classification of materials in

³⁷ {gren001:00052511}

³⁸ https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/230264/4_-_Housing_Standards_Review_-_Challenge_Panel_Report.pdf

paragraph 12.6 and 12.7 of ADB³⁹. In 2016, an employee from Booth Muirie also flagged ambiguity in ADB regarding the classification of materials⁴⁰. This issue was again discussed in 2016 at a FIRE meeting, with the minutes noting that “*it was accepted that clause 12.7 [of ADB] was poorly written and open to interpretation*”⁴¹.

- (e) The Fire Sector Federation published a brochure, *Why does Approved Document B need to be reviewed?* on 13 June 2017. This was seen by Departmental officials and raised to Deputy Director level⁴²; however, the Grenfell Tower tragedy occurred in the early hours of the next day, before any further consideration could be given to the issues raised therein.

78. The Department sincerely regrets that it missed these opportunities to identify the risk of systemic failure, which, as explained in more detail below, it considers to have been the result of inadequate governance and risk-management processes.

Response to historical recommendations

79. From 1999 to 2017, a number of recommendations were addressed to the Department and its predecessors in response to historic fires that are relevant to the issues being considered by this Inquiry⁴³. The action taken in response to those recommendations is detailed below.

1999 Report of the House of Commons Select Committee on Environment, Transport and Regional Affairs – Potential Risk of Fire Spread in Buildings via External Cladding Systems

80. In 1999, the House of Commons Select Committee on Environment, Transport and Regional Affairs examined issues relating to external cladding fires on high-rise buildings at Knowsley Heights and Garnock Court. In their report, they highlighted the inadequacy of small-scale fire tests to evaluate the safety of external cladding. To address this, the Committee made three recommendations for the Department of Environment, Transport and Regional Affairs who had responsibility for those issues at that time⁴⁴:

³⁹ {gren001:00455352}; {gren001:00538542}

⁴⁰ Witness Statement of Brian Martin at para 136

⁴¹ {gren001:00428548}

⁴² {gren001:00738938}; {gren001:00738936}

⁴³ Additional recommendations were made that concern policy areas that have sat with the Home Office since 2016. They will address these recommendations in their submissions to the Inquiry.

⁴⁴ <https://publications.parliament.uk/pa/cm199900/cmselect/cmenvtra/109/10907.htm>

- a) ADB to replace its current standards relating to the fire safety of external cladding systems with those set in a previous version. In response, BRE was commissioned to revise the guidance document, *BR 135 Fire performance of External Thermal Insulation for Walls of Multi-Storey Buildings*. The revised document provided updated guidance and a method of classifying fire performance for cladding systems based on BS-8414-2 system tests. In addition, ADB was updated in 2006 to include the BS-8414-1 full-scale fire test as the standard for external cladding.
- b) Local Authorities and social landlords to be instructed to ascertain how many multi-storey buildings use external cladding systems and how many of those in use do not comply with current Regulations. In response, BRE was commissioned to ascertain how many multi-storey buildings used external cladding. In July 2000, they provided DETR with the report *Review of fire performance of external cladding systems and revision of BR135 – survey summary and options* [DHLUC/1]⁴⁵. In an attempt to identify any trends in the specification and use of cladding systems in the refurbishment of housing stock, BRE sent cladding surveys to 45 specifiers, suppliers and local authorities. While only 17 responses were received, BRE concluded that “*they provide[d] sufficient data to form a consistent view of the types of external cladding used in the public housing sector*”⁴⁶ and that the majority of systems used were render, with rainscreen cladding systems only accounting for around 12%⁴⁷. This survey work steered the cladding designs that were tested in the experimental program that followed to improve BR 135. In August 2000, DETR published guidance on *Collecting, managing and using housing stock information*⁴⁸. This guidance was aimed at local authorities and social landlords, and was based on the research from BRE and research commissioned from Hacas Consulting.
- c) ADB to make clear that any addition to the outside of the building is subject to the Building Regulations. Following a review of the Building Regulations and ADB, the Department did not make amendments to the Approved Document as it considered that it was already clear that additions to the outside of a building were subject to Building Regulations.

⁴⁵ {gren001:02039306}

⁴⁶ Ibid, p.14

⁴⁷ Ibid.

⁴⁸ https://nanopdf.com/download/collecting-managing-and-using-housing-stock-information_pdf

2001 House of Commons Transport, Local Government and Regional Affairs Select Committee's Report on Tall Buildings

81. Following the attack on the World Trade Centre, the House of Commons Transport, Local Government and Regional Affairs Select Committee held an inquiry into tall buildings in 2001. Although its primary purpose was not related to building or fire safety, these issues were considered. The Committee concluded⁴⁹ that tall buildings are not inherently unsafe places to live or work, but that there were areas in which further regulation could further promote safety. Of the four recommendations the Committee made relating to safety in tall buildings, only one concerned Building Regulations: that a requirement for tall and large buildings to be fully evacuated within a set time period should be included in the Building Regulations.

82. The Department rejected this recommendation as it was felt that having a set time for evacuation was not the best way to protect people, and work to reform fire safety was ongoing at the time of the Committee's report. Such a requirement would not be practical to implement and too blunt of a performance metric that, not accounting for a range of factors including occupant characteristics, structural fire protection etc, would likely not meet the intended aim. However, the Department committed to carrying out scoping work to determine what research was required to support and improve the Regulations.

2004 House of Commons Office of the Deputy Prime Minister (ODPM) Housing, Planning, Local Government and the Regions Committee's Report on the Fire Service

83. In January 2004, the ODPM Select Committee published its report on the Fire Service⁵⁰. Its recommendations mainly concerned operational firefighting, but two related to the Building Regulations:

- a) The Committee recommended that Government introduce a requirement for sprinklers in all new-build schools, houses of multiple occupation, and the domestic properties of vulnerable groups. The ODPM, in its response to the report, agreed to consider the role that sprinklers could play. The response noted recent research which had reported "*it may be cost effective to require the installation of sprinkler systems in those new and altered dwellings where the occupants are considered to be the*

⁴⁹ <https://publications.parliament.uk/pa/cm200102/cmselect/cmtlgr/482/482.pdf>

⁵⁰ <https://publications.parliament.uk/pa/cm200304/cmselect/cmodpm/43/43.pdf>

most vulnerable to fire” and had indicated that the use of sprinklers was probably viable in care homes and high-rise residential buildings above 10 storeys⁵¹. Consequently, the edition of ADB published in 2006 provided that dwellings in new blocks of flats over 30 metres in height should be fitted with sprinklers. This was the most significant change to the Building Regulations since 1991.

- b) The Committee recommended that the requirement for smoke alarms to be hard-wired “*be extended to include all existing tenanted properties, housing of multiple occupation and housing for vulnerable members of society*”. In response, the ODPM determined that the decision whether to provide hard-wired smoke alarms in all tenanted properties, houses in multiple occupation, and housing for vulnerable members of society should be taken by local authorities on a case-by-case basis as informed by risk assessments.

84. In November 2020, the Department undertook consultation to seek views on extending the regulations concerning domestic smoke and carbon monoxide alarms. This included a proposal to amend the Smoke and Carbon Monoxide Alarm (England) Regulations 2015 to require social landlords to ensure at least one smoke alarm is installed on each storey of the premises on which there is a room used wholly or partly as living accommodation⁵². The consultation made clear that there was no proposal to prescribe the type of smoke alarms to be installed as landlords are best placed to decide on the most suitable device according to household needs and circumstances and the range of products on the market. The government response to this consultation is pending publication.

2007 Harrow Court Fire Coroner’s Report and Recommendations

85. On 2 February 2005, a fire broke out at Harrow Court, a 17-storey residential tower block in Stevenage, Hertfordshire. Three people died, including two fire fighters. On 8 March 2007, the Coroner recommended that the Department withdraw 18.12 of ADB, which had relaxed fire safety requirements relating to the interior layout of high-rise buildings.

86. The Department’s response stated that ADB had been revised since the fire to include a range of new measures intended to improve the standards of fire safety in new buildings.

⁵¹ {gren001:00428454/11}

⁵² <https://www.gov.uk/government/consultations/domestic-smoke-and-carbon-monoxide-alarms/domestic-smoke-and-carbon-monoxide-alarms-proposals-to-extend-regulations>

Several of these changes specifically related to high rise blocks, including improved guidance on smoke control systems and the provisions of sprinkler systems. The guidance in 18.12 of ADB was considered as part of the review but it was not considered necessary to withdraw it. However, more detailed guidance on the layout of fire-fighting shafts in high rise flats was provided.

87. In January 2008, the Coroner sent a follow-up letter requesting updates on the fire safety work the Department was undertaking. The letter suggested that the Department's work on procedures for tackling high rise fires was not "*so far forward as [the Department] suggest[s]*"⁵³.

88. In April 2008, Sir Ken Knight responded to this follow-up letter on behalf of the Department in which he noted the updates to ADB and other new guidance.

2009 Sir Ken Knight's Interim Report into the fire at Lakanal House

89. On 6 July 2009, the Secretary of State commissioned Sir Ken Knight, the Department's Chief Fire and Rescue Adviser, to undertake an "*immediate review of circumstances surrounding the fire [at Lakanal House] to provide an independent overview of the investigations relating to the fire and to report back on emerging findings urgently within four weeks*"⁵⁴. The scope of the review was not intended to prejudice the ongoing full investigations and resulting judicial processes. The report made the following recommendations relevant to the Department:

- a) To consider undertaking a review to ensure there is consistency of guidance to residents of high-rise blocks in terms of what action should be taken when there is a fire. The Department subsequently commissioned the Local Government Association ("the LGA") to produce guidance on fire safety in high-rise blocks to be shared with tenants nationally. This was published in 2011 as the guidance *Fire Safety in Purpose-Built Blocks of Flats*.
- b) To consider undertaking further research into the cause of fire spread at Lakanal House if this was not revealed by the investigations already in progress. In 2010, the Department commissioned BRE to conduct research on external fire spread to inform the revision of BR 187. This reported in 2011 and BR 187 was revised.

⁵³ {gren001:01334063}

⁵⁴<https://webarchive.nationalarchives.gov.uk/ukgwa/20120919132719/http://www.communities.gov.uk/documents/fire/pdf/1307046.pdf>, p.5

- c) To consider reminding specifiers, installers and contractors of the need to use the available guidance and technical information when undertaking works when measures that form part of passive fire protection are removed, altered or replaced, to ensure that products used in fire safety protection meet industry standards and are installed by suitably competent persons who fully understand the significance of the fire safety measures being installed. A matter of general competence in those undertaking building work, the Department commissioned research into *Construction Details – Roof voids, cavity barriers and fire/smoke dampers* which had a focus on passive fire protection. This was completed in March 2015 and in a response a draft report on fire safety measures, covering passive fire protection, aimed at designers, specifiers, inspectors, installers, approvers, and risk assessors, was received at the end of October 2021.
- d) To consider, as an interim measure, installation of smoke detectors in all existing high-rise social housing blocks. The Department considered the possibility of introducing a legislative requirement for this, but determined that requiring householders by law to protect themselves in their own home would be a disproportionate step and one which would be impracticable to enforce. The Department instead focused on encouraging the public to install smoke alarms through its national fire safety advertising campaign, “*Fire Kills*”.
- e) Consideration should be given at the time of major refurbishments to active fire protection measures, including hard-wired alarms at each level within a dwelling linked to an alarm receiving centre, to allow for calls to fire and rescue services. The Department considered this suggestion, noting “*further research required on cost/benefit of automated fire alarm systems if to be mandatory*”⁵⁵. However, the recommendation was not researched further.
- f) Consideration should be given to active fire protection measures so that early detection warning of fire allows occupants to leave the building safely. The report noted “*significant evidence*” of the effectiveness of sprinklers in controlling the spread of fire but added “*it is not considered practical or economically viable*” to require retrofitting of sprinklers and this should be considered by landlords and informed by fire risk assessments. In February 2010, a submission was sent to the Minister,

⁵⁵ {gren001:01346625}

Shahid Malik, seeking approval for the publication of the analysis for a requirement to have sprinkler provision in new build housing, which concluded that such a requirement would be disproportionate.

- g) Operational guidance should be reviewed, and additional research should be considered to inform the review. By June 2010, Sir Ken Knight had reviewed current FRS guidance on high-rise firefighting on behalf of the Department and found it to be suitable.
- h) To consider conducting a review of the Regulatory Reform (Fire Safety) Order 2005 (“the Fire Safety Order”) with a view to increasing the quality of fire risk assessments. In August 2009, the Department wrote to all registered landlords with further advice on the scope of the risk assessments that may be necessary to ensure an adequate level of fire protection as required by the Fire Safety Order. In October 2009, Sir Ken Knight wrote to all Chief Fire Officers asking a number of questions designed to understand the extent to which Fire & Rescue Authorities audited high rise premises and the quality of the risk assessments that had been carried out. Key stakeholders agreed in December 2009 to establish an industry-led “competency council” in order to produce an industry-agreed set of competencies for fire risk assessors. The group, which included Departmental officials, first met in June 2010, chaired by the Fire Sector Federation (“the FSF”). In 2013, the FSF published the competency criteria for fire risk assessors.
- i) To consider conducting a review of the criteria within the HHSRS to ensure inclusion of safety critical fire safety measures, and to ensure appropriate weighting of fire safety measures within the Decent Homes Programme. In December 2009, the Housing Minister, John Healey, announced a full assessment of the Decent Homes Programme.
- j) To consider reviewing the relationship between the Decent Homes Programme and HHSRS to ensure the requirements under the Fire Safety Order on carrying out suitable fire risk assessments were consistent and referring to 2008 LACORS guidance. As at 10 September 2009, housing and fire policy officials were working together to determine whether there were any significant gaps in the legislation, and whether further clarification of the guidance would be helpful. In July 2010, a submission proposed developing specific guidance on fire safety in purpose-built

blocks of flats to meet this need. The Department commissioned the LGA to produce this guidance; it was ultimately published in July 2011.

- k) To consider reminding local housing authorities of their fire safety responsibilities in the common parts of a building, including suitable illumination and emergency lighting and signage to assist evacuation. As explained above, *Fire Safety in Purpose-Built Blocks of Flats* was published in 2011 and set out the requirements of the responsible person in relation to illumination, emergency lighting and signage.
- l) To consider including the fire safety features required in common areas of high-rise block of flats in the outcomes of the Reform of Council Housing Finance consultation. The Government's response to this consultation set out proposals for maintaining the Decent Homes programme and including other improvement works outside dwellings, such as common parts, and proposed that provision for funding such works as part of the self-financing arrangements⁵⁶.

2013 Shirley Towers Fire Coroner's Report and Recommendations

90. On 6 April 2010, a fire broke out in a high-rise block in Southampton. Two firefighters tragically died in the blaze. The Coroner's letter dated 24 April 2013 made detailed and wide-ranging recommendations covering search procedures, training on containing and extinguishing fires, and measures to reduce risks of fallen cables and fire resistant cable supports. Insofar as presently falls within the Department's policy areas, the Coroner recommended that social housing providers should be encouraged to consider retro-fitting sprinklers in all buildings over 30 meters in height. By the end of April 2013, the Department had written to all social housing providers accordingly.
91. The Coroner also recommended amendment to the Building Regulations to ensure that all cables be supported by fire-resistant cable support, which could be achieved by amendment to BS7671 (2008) Institute of Electrical Engineers Wiring Regulations. This same recommendation was also made by the Hampshire Fire and Rescue Service in their report on Shirley Towers. The Department took this up with the relevant standards bodies, and the standard was amended in January 2015.

Response to Lakanal House Recommendations

⁵⁶ {gren001:00126250}

92. On 28 March 2013, following the Inquest into the fire at Lakanal House in 2009, the Coroner, HHJ Frances Kirkham CBE wrote a Rule 43 letter to the Department which made four recommendations⁵⁷. The first two recommendations concerned matters relating to fire safety, firefighting and the Fire Safety Order, areas for which the Home Office is now responsible and which are accordingly not addressed here.
93. The third recommendation required the Department to encourage providers of high-rise residential buildings to install sprinklers. This recommendation, which specifically related to the retro-fitting of sprinklers in existing buildings, had previously been made by the Coroner at the 2013 Inquest into the fire at Shirley Towers. In April 2013, Departmental officials wrote to all social housing providers, drawing their attention to this recommendation⁵⁸.
94. The fourth recommendation concerned ADB, the guidance on Part B of the Building Regulations which covers fire safety matters in and around buildings. The Coroner stated that the guidance *“is a most difficult document to use. Further, it is necessary to refer to additional documents in order to find an answer to relatively straightforward questions concerning the fire protection properties of materials to be incorporated into the fabric of a building”*⁵⁹. She recommended that the Department review ADB to ensure that it:
- a) provides clear guidance in relation to requirement B4 of the Building Regulations, with particular regard to the spread of fire over the external envelope of the building and the circumstances in which attention should be paid to whether proposed work might reduce existing fire protection;
 - b) is expressed in words and adopts a format which are intelligible to the wide range of people and bodies engaged in construction, maintenance and refurbishment of buildings, and not just to professionals who may already have a depth of knowledge of building regulations and building control matters;
 - c) provides guidance which is of assistance to those involved in maintenance or refurbishment of older housing stock, and not only those engaged in design and construction of new buildings.

⁵⁷ {gren001:00004534}

⁵⁸ {gren001:00071132}

⁵⁹ {gren001:00004534}

95. The Department's response to the Coroner's letter was drafted by officials and approved by and sent under cover of the Secretary of State. The Department is of the view that its response to Recommendation 4 was not well structured and is unclear and difficult to follow when read against the text of the recommendations.
96. The version of ADB relevant to the Lakanal House inquest was published in 2000. A new edition of ADB, which had been published in 2006, included a number of changes to the guidance concerning external envelopes and external spread of fire, including routes to compliance. Officials agreed that further general improvements could be made to the clarity and presentation of ADB, and the document had already been earmarked for redrafting in accordance with the Department's new style guide, but they did not agree that in its 2006 iteration it was so inaccessible that a competent professional, for whom the document was produced, would not be able to understand the guidance it provided. This led officials to conclude that there was nothing about Recommendation 4 that was safety critical. Given that the work required to implement the agreed changes would take time and require significant consultation, the decision was taken to roll this clarification exercise into an ongoing wider review of ADB (explained below) with a proposed timeline of 2016/17 for completion.
97. The advice that was sent to Ministers, and the Secretary of State's subsequent response to the Coroner, failed to articulate clearly that the work was not considered to be safety critical, or to explain how and why this view had been reached. Without this information, the response to the Coroner was ambiguous as to whether the recommendation was accepted, in full, as safety critical; and this may have been the reason why, in turn, the Coroner did not challenge or seek to correct any misunderstanding in the Department's response.
98. As the work was not considered to be safety critical, it was not accorded the priority it should have had within the Department. Although the work was consistently progressed it became subject to delays. Over time, the link between this work and the Lakanal House Coroner's recommendations was lost and consequently the work was not a ministerial priority.
99. Had more effective Departmental oversight and governance structures been in place at the time, the risks of the review not taking place with reasonable urgency are likely to have been better identified and managed. The Department should have done more to make sure

that the team from 2013-2017 had the right structure, and sufficient support, to progress the work on ADB more quickly. The size and structure of the Building Safety Programme today is reflective of the significance now rightly accorded to this work.

100. Work on the wider review, with which the clarification and simplification work was combined, commenced in 2012. The Department commissioned BRE to undertake a substantial piece of research entitled the *Compartment Sizes, Resistance to Fire and Fire Safety Project*, intended (amongst other things) to support a review of ADB. This project involved seven workstreams: (1) Periods of fire resistance, (2) Maximum fire compartment sizes, (3a) Construction details – roof voids, cavity barriers and fire/smoke dampers, (3b) Construction details – guidance document, (4) Fire protection of basements and basement car parks, (5) Sprinkler provisions, (6) Space separation and (7) Means of escape for disabled people.

101. In July 2014, Ministerial approval was sought to progress a substantial research work-programme for 2014/15 which included an independent review of ADB. This approval was granted by Minister Stephen Williams on 28 July 2014.

102. Between February and March 2015, BRE provided research reports on the seven work streams within the *Compartment Sizes, Resistance to Fire and Fire Safety Project*, as commissioned by the Department in 2012⁶⁰. In June 2015, this research was discussed at a BRAC meeting and the Department identified funding for the proposed review of Part B.

103. In August 2015, the Department commissioned the Royal Institute of British Architects (“RIBA”) to conduct a usability study into Approved Documents B and M. The purpose was to seek industry views on how the Approved Documents should be redrafted, with a view to improving clarity and accessibility. The study found that the Documents were broadly fit for purpose, but made six recommendations⁶¹:

- a) Continue to apply the “new style” to the remaining Approved Documents;
- b) Provide more prescriptive guidance making it clear what will comply;
- c) Enhance the PDFs of the Approved Documents;

⁶⁰ <https://www.gov.uk/government/publications/compartment-size-resistance-to-fire-and-fire-safety-research>

⁶¹ {gren001:00774692}

- d) Develop digital versions of the Approved Documents;
- e) Explore ways of automating compliance checking and linking to Building Information Models; and
- f) Review the purpose groups in ADB.

104. The Department accepted these recommendations and subsequently published the research for the study. The Department intended to produce a revised version of ADB which incorporated these recommendations, and the Department considers that this was the right response.

105. In October 2015, advice was sent to Minister James Wharton recommending a work programme to review and simplify the building control system and technical requirements of the Building Regulations, in addition to outlining the work that was underway on the simplification of Part B. The Minister gave his approval in December 2015.

106. Throughout 2016, a number of scoping papers and discussion documents were prepared to agree the scope of the Building Regulations work with BRAC and Ministers.

107. In early 2017, Departmental officials drafted a new version of ADB and sent both volumes to the Department's publisher for a plain English review in March/April. A further submission was sent to Minister Gavin Barwell in March 2017 asking for approval of the draft discussion document (a form of preliminary consultation document), which included proposals to address technical issues in Part B and simplify the Approved Documents.

108. At the time of the Grenfell Tower tragedy, work on the clarified version of ADB had been substantially completed, but the Secretary of State decided its publication should be put on hold until after the Hackitt Review in case it was determined that the Regulations themselves were not fit for purpose⁶². Following the conclusion of the Hackitt Review, the Department recommenced work on the clarification and simplification exercise. The clarified edition was published in July 2019, with an amended version published in September 2019 to correct an unintended technical change.

⁶² Second Witness Statement of Sajid Javid at para 28

109. The 2019 version of ADB did not introduce any new or amended requirements but did make presentational changes to improve the clarity of the document. These changes included reducing cross-referencing, improving technical illustrations and using plain English as much as possible.

110. Due to the need to undertake significant consultation and engage technical experts, as detailed in the table below, it took approximately eighteen months to complete this work.

February 2018	A working group was established to set the terms of reference for the clarification.
April 2018	The Government published a consultation paper on proposed amendments to statutory guidance on assessments in lieu of ADB, which created new requirements for assessments and also sought to clarify existing guidance in ADB.
May 2018	The Government responded to the final <i>Independent Review of Building Regulations and Fire Safety</i> report reaffirming the intention to clarify Building Regulations fire safety guidance.
July 2018	The Government published a consultation which ran until October 2018. A draft version of a clarified ADB was published for review, alongside some key questions about the structure of the guidance.
October 2018	The consultation received 138 responses and 1400 comments relating to the draft text. Five working groups of industry experts were established to review the comments and responses received. Each of these groups were chaired by a member of BRAC.
November 2019	A technical illustrator was appointed to update over 100 diagrams in ADB.
July 2019	The Government's response to the consultation and the new clarified

	ADB were published.
111. September 2019 v e	An amended version of the clarified ADB was published which addressed an unintended technical change.

n had the work been accepted as safety critical, there was and is no shortcut for making material changes to the Approved Documents. It is important to move promptly, but unintended consequences can follow from insufficiently considered and overly rapid changes to the guidance which will in many cases be more dangerous than making no change at all. Under section 14 of the Building Act 1984, the Secretary of State is required to consult BRAC and other relevant bodies for advice before making any Building Regulations containing substantive requirements. In practice, the Department also undertakes extensive consultation with BRAC and other industry experts when amending Approved Documents.

112. Having given extensive consideration to the response to the Lakanal House Coroner's recommendations issue, the Department's position is that:

- a) The Department's response to the Coroner was inadequate and should have clearly set out whether each recommendation had been accepted, to what extent, and any relevant reasoning.
- b) In particular, the Department should not have worked on the basis that Recommendation 4 related to the 2000 and not the 2006 version of ADB, nor should it have concluded that the exercise to clarify and simplify ADB in its 2006 iteration was not safety critical and therefore not urgent, without making that position clear in its response to the Coroner and thereby affording her an opportunity to comment on a fully informed basis.
- c) Without having made its position clear in its response, the Department should have treated the work to clarify and simplify ADB as an urgent priority and so should not have decided to fold the work into a broader review expected to take at least another three years.
- d) Subsequent delays to the original timetable should have been highlighted to ministers and led to a reconsideration of whether changes to ADB required more urgent progression.

- e) The Department missed the opportunity to look beyond the recommendations made by the Coroner, and to consider how widespread the use of non-compliant materials on high-rise residential buildings was and the associated fire safety risks.

Changes to governance and risk management processes

113. Since the Grenfell Tower tragedy, the Department has strengthened its governance and risk management processes, with the aim of ensuring that critical work is not unduly delayed and that awareness of the risks associated with non-delivery is not lost. Formalised portfolio boards introduced in 2016⁶³ were strengthened from 2018 with the creation of the Central Portfolio Office to provide insight and assurance of delivery to the Executive and Ministerial teams. Current standard practice across the Department is to have boards at a number of levels, starting at programme level, rising to the portfolio board, then the Executive Team, and above that the Departmental Board. The purpose of these boards is to provide scrutiny and assurance, helping to clarify strategic direction and identify and resolve risk. The tiered structure of the boards, combined with the structure of senior leadership, allows for issues to be escalated with greater ease.

114. The Department has similarly overhauled its risk management framework since the Grenfell Tower tragedy. The framework establishes that everybody working for the Department is responsible for identifying risks and reporting and escalating incidents and near misses which might impact on the objectives and activities of the Department. The tool used by the Department to enable this is RADAR, a dedicated risk reporting system that was introduced in 2019 to enhance the adequacy and effectiveness of the framework of governance, risk management and control. Once entered on RADAR, the automated system ensures that risks cannot be ignored. Risks entered on RADAR can be considered by programme boards, escalated for consideration at the relevant Portfolio Board and monthly performance reports are circulated to the Executive Team and those involved in the risk management process.

THE DEPARTMENT'S RESPONSE TO THE GRENFELL TOWER FIRE

115. The Department has listened carefully to the evidence heard so far by the Inquiry, and has accepted the criticisms made by and the recommendations of the

⁶³ The purpose of these boards is to ensure that each Director-General has clear oversight of their entire portfolio, and allow for the identification and escalation of risks on a regular rather than ad hoc basis.

Hackitt Review. The building safety regulatory system was not fit for purpose and within the construction industry there was a race to the bottom, with profits being prioritised over safety. The Department did not interrogate the underlying performance of the system, nor take active steps to assure itself whether the regulatory regime was working as intended.

116. Since the Grenfell Tower tragedy, the Department has made important changes to the way that building safety is handled. The Department has introduced a range of proportionate measures so that people are safe and feel safe in their homes. The Building Safety Bill introduced on 5 July 2021 and the Fire Safety Act 2021 will bring about the biggest improvements in building safety for a generation. These follow and go further than the recommendations made by Dame Judith Hackitt in her final report, ensuring there is greater accountability and responsibility for fire and structural safety issues throughout the lifecycle of buildings in scope of the new regulatory regime for building safety.

Addressing safety risks in existing 'higher risk' residential buildings

117. As explained in paragraphs 54-57 above the Department has introduced a ban on combustible materials in external walls of new high-rise homes.

118. It has also committed to invest £5.1 billion to fully fund the cost of replacing unsafe cladding for leaseholders in higher risk residential buildings (of 18 metres and above in height) in England. A statement by independent experts in July 2021 concluded that there is no evidence of systemic risk of fire in buildings under 18 metres⁶⁴. At the end of September 2021, 94% of all identified high-rise residential and publicly owned buildings in England had either completed or started remediation work to remove and replace unsafe ACM cladding. This corresponds to approximately 16,500 households.

119. Overall, the Department is making a total of £5.1bn available to pay for replacing unsafe cladding systems on high-rise residential buildings. The Department announced that it would allocate £1bn for replacing unsafe cladding systems other than Aluminium Composite Material (ACM) on high-rise residential buildings in March 2020. This supplemented a previous allocation of £600m for replacing unsafe ACM cladding systems. In February 2021 the Department then announced a further allocation of £3.5bn in

⁶⁴ <https://www.gov.uk/government/publications/independent-expert-statement-on-building-safety-in-medium-and-lower-rise-block-of-flats/independent-expert-statement-in-building-safety-in-medium-and-lower-rise-blocks-of-flats>

government funding to relieve leaseholders in high-rise residential buildings of the costs of replacing unsafe cladding systems. The Department has so far confirmed that 744 buildings are eligible to receive funding for replacing unsafe non-ACM cladding systems. The estimated costs of replacement works on these buildings are more than £2.5bn.

120. Under the Building Safety Bill the Department is legislating to extend the limitation period to bring a case under the Defective Premises Act 1972 from six to fifteen years, and extending the scope of that legislation to make claims possible in respect of refurbishment work as well as the initial provision of a dwelling. These measures will provide a legal route to redress not currently possible for hundreds of buildings, potentially benefitting thousands of leaseholders.

The Building Safety Regulator

121. Under the Building Safety Bill a new Building Safety Regulator, led by the new Chief Inspector of Buildings, will be established as part of the Health and Safety Executive. The role of the new regulator will be to ensure that residential buildings over 18 metres are safe in terms of both design and construction, and occupancy.

122. The Building Safety Regulator will have three core functions:

- a) Implementing the new, more stringent regulatory regime for higher-risk buildings.
- b) Overseeing the safety and performance of all buildings, including:
 - i. Overseeing the performance of the building control sector; and
 - ii. Understanding and advising on existing and emerging building standards and safety risks including advising on changes to regulations, changes to the scope of the regime and commissioning advice on risks in and standards of buildings.
- c) Assisting and encouraging competence among the built environment industry and registered building inspectors.

123. Dame Judith Hackitt is chairing the board to oversee the setup, transition and running of the new regulator.

124. The Building Safety Regulator will have powers to set rules about what operational standards must be met, and about practices and procedures to be adopted. Local authorities and registered building control approvers will have to adhere to these rules and comply with the requirements in the exercise of their duties and functions. The Building Safety Regulator will be able to revise these rules to reflect best practice requirements as the industry changes.

125. The Building Safety Regulator will be responsible to Ministers and ultimately to Parliament for its performance, as is typical for national regulators. The Bill provides for an additional safeguard going beyond this usual practice. As recommended by Dame Judith Hackitt, the Bill requires a regular independent review of the whole system, and specifically the effectiveness of the Building Safety Regulator. This will provide another source of public oversight over and transparency in relation to how the Building Safety Regulator performs its functions.

Gateways

126. In line with Dame Judith Hackitt’s recommendation that there be a systems approach to risk management for high-rise residential buildings, the Building Safety Regulator must sign off at three key stages of the process – planning approval, start of construction and handover. These are stop/go decision points that must be passed before a development can proceed to the next stage, strengthening oversight of design and construction. As a result, there should never be a repeat of the situation that occurred at Grenfell Tower where no-one was clear of their responsibilities in terms of ensuring the design complied with Building Regulations, and where unsafe designs and materials were approved for use.

Building Control

127. The Building Safety Bill introduces a new system of oversight of local authority building control and building control approvers. The Building Safety Regulator will monitor the performance of building control bodies to identify patterns of regulatory failure and rectify poor performance with a new suite of powers.

128. Competence of building control officers, which was a concern raised by Dame Judith Hackitt, will be assured through the requirement to pass an examination before being allowed to practice and the Local Authority Building Control (“LABC”) will ensure

that surveyors are only assigned to appropriate projects through a competency matrix that will match the skills and knowledge of a surveyor to the project they are assigned.

129. The Regulator will have a new set of enforcement powers it can use against poor performing building control bodies. These include powers to investigate and in the most serious cases the ability to strike off a building control approver from the register. For a failing local authority building control body, the Regulator can recommend to the Secretary of State that the function is transferred to another local authority. This will encourage building control bodies to improve safety and performance of all buildings and drive up continuous improvement and culture change.

130. While the Grenfell Tower refurbishment was overseen by the Royal Borough of Kensington and Chelsea's building control, the Department is also planning actions relating to the role of Approved Inspectors. The Department is proposing to remove the competition between Approved Inspectors and local authorities on high-rise building projects, having concluded that building control approval for higher-risk buildings should be the responsibility of the public sector.

Regulation of construction products

131. The Building Safety Bill includes powers that will extend regulations to all construction products, creating a requirement for products to be safe, in line with existing expectations for consumer products, and to create a safety critical list of construction products, where their failure could cause death or serious injury. Manufacturers of these products will be required to declare their performance and put in place measures to ensure that this performance is consistently met.

132. The Bill also provides for the establishment of a new National Regulator for Construction Products, within the Office of Product Safety and Standards. It will improve regulatory oversight so that people can be confident that construction products, including those used to construct homes, are safe and will perform as they should. The new Regulator will:

- a) Provide market surveillance and oversight, including maintaining a national complaints system and supporting local Trading Standards so that safety concerns can be identified and addressed quickly.

- b) Lead and coordinate the enforcement of the new Construction Products Regulations, including removing products that pose a safety risk from the market and issuing penalties should manufacturers break the rules. Where a criminal offence has been committed in contravention of the new Regulations, offences may be prosecuted and punishable by fines, imprisonment or both.
- c) Provide advice and support to the industry to improve compliance and provide technical advice to government.
- d) Carry out or commission its own product testing to investigate and identify non-compliance.
- e) Establish a robust and coherent approach together with the Building Safety Regulator and Trading Standards to drive change across the sector.

133. To identify any further weaknesses in the system and make recommendations for improvement, the Government has commissioned an independent review of the system for testing and construction products and has appointed Paul Morrell OBE and Anneliese Day QC to lead it. The independent review will undertake a critical assessment of the system for testing and certifying construction products. It will identify systemic issues with how construction products are tested, whether on a stand-alone basis or in assemblies, and how test results are used to manage the safety risks that those products pose, and recommend ways to address those issues. It will examine how the current system can be strengthened, to provide confidence that construction products are safe and perform as labelled and marketed.

Competence of the construction industry

134. As the Department stated in its closing statement for Modules 1 & 2, for the public to regain trust in the industry everyone involved in designing, constructing, managing and maintaining homes, and in manufacturing and marketing construction products, must commit to reversing the shocking culture of indifference to safety that the Inquiry has exposed. The Government is supporting this by radically reforming the regulatory system, so that it pays to do the right thing. This is necessary but it will not be sufficient by itself to change industry behaviour.

135. The Industry Safety Steering Group, chaired by Dame Judith Hackitt, is challenging the industry to make improvements ahead of new building safety legislation, supporting the work of the industry-led Competence Steering Group to develop recommendations for a new system of competence across the industry, and supporting industry initiatives such as:

- a) The Building a Safer Future Charter, which promotes an urgent and positive culture and behaviour change in the built environment sector.
- b) The Code for Construction Product Information, which requires construction products manufacturers to ensure that the information they provide is clear, accurate, up-to-date, accessible and unambiguous.
- c) The BSI's suite of national competence standards for individuals working on higher-risk buildings, to support the work of the industry-led Competence Steering Group and take forward some of the recommendations in its final report *Setting the Bar*, published in October 2020.
- d) A new BSI Code of Practice for assessors when examining external walls and cladding. The code of practice is intended to help professionals provide consistent, risk-based and proportionate advice on whether remediation of the external walls is necessary and give building owners clarity on the fire risk of the construction of external walls. The draft was issued for public consultation by BSI in April and is expected to be published in due course.

136. The industry must take responsibility for confronting poor practice and establishing new, improved norms and a safety culture that will restore and merit public confidence in the industry. This requires strong leadership and improved collaboration, transparency, responsibility, and the building of capacity across the sector to achieve sustained and meaningful change.

CONCLUSION

137. The Department presided over an overarching building safety system that has now been shown to be unfit for purpose with catastrophic consequences. It placed too much reliance on the honesty, competence and engagement of the construction, construction products and building control sectors, and missed a number of opportunities to identify and address the risk that this faith was misplaced, with tragic consequences:

- a) The Department did not have sufficient oversight of the regulatory system, and in particular failed to monitor compliance and enforcement.
- b) The internal governance of the Department meant that risks were not recognised and appropriately managed.
- c) More should have been done to probe the issues raised in correspondence by the APPG on fire safety.
- d) Following the fire at Lakanal House, the Department fulfilled its statutory duty to respond to the Coroner's recommendations but missed the opportunity to go beyond this and consider whether the system as a whole was working as intended.
- e) The Department's response to the Lakanal Coroner was unclear and should have set out whether each recommendation had been accepted, to what extent, and any relevant reasoning, thereby affording the Coroner with a reasonable opportunity to comment on an informed basis.
- f) Having failed to set out its position clearly in its response, the Department should have treated the work to clarify and simplify ADB as an urgent priority and so should not have decided to fold the work into a broader review expected to take at least another three years. Subsequent delays to the original timetable should have prompted further reflection.

138. Cumulatively these failings helped to create an environment in which non-compliance was widespread and such a tragedy was possible. For that it is deeply sorry.

139. As set out above, the Department is committed to preventing a similar tragedy from happening again, and will continue to take action in this respect. Since the Grenfell Tower tragedy, the Government has put in place major reforms. The Department will continue to ensure that the necessary changes to the regulatory system are made to protect the safety of those living in tower blocks, and of the public more generally, and will continue to engage with the Inquiry proactively, openly and fully, throughout this module and beyond.

140. The Department will be paying close attention to the evidence in this module, and looks forward to the Inquiry's conclusions.

18 November 2021