

# Grenfell Tower

## The Role of Civil Servants before the Fire

This paper summarises and draws conclusions from evidence given to the Grenfell Inquiry by ministers and civil servants in the Ministry of Housing, Communities and Local Government (MHCLG).

Officials admitted that they had been warned that the department's policies would likely lead to a large and deadly building fire, and that the warnings had not been heeded. The June 2017 fire at Grenfell Tower then killed 72 people.

This paper has six parts.

1. Introduction
2. The Department's Structure
3. The Department's Problems - the evidence
4. Missed Opportunities - the evidence
5. The Building Regulation Team - A Single Point of Failure?
6. The Senior Civil Service - System Failure?

The author was previously a Senior Civil Servant and regulator, including Principal Private Secretary in what is now the Business Department.

### Part 1. Introduction

Catastrophes are low probability, high consequence events. They are seldom the result of a single failure. They result from the 'lining up' of several latent or **pre-existing conditions** and they are triggered by **an active failure**.<sup>1</sup>

In the case of Grenfell, the pre-existing conditions included cladding the building in flammable material as well as numerous breaches of building control regulation. The active failure was a small kitchen fire in a tower block. The consequences included 72 deaths and subsequent years of worry and financial problems for thousands of others living in other high rise buildings.

Those pre-existing conditions were facilitated by numerous failings on the part of external bodies such as local authority building control, certification bodies, the construction industry and individual companies. Many of these failures are described in detail in Judith Hackitt's *Interim Review of Building Regulations and Fire Safety*. Others are described in the first report of the Grenfell Inquiry.

Those failings were in turn facilitated by numerous failures within MHCLG. Officials did not dispute that:

- Whilst MHCLG recognised that it had policy responsibility for building regulation, it nevertheless did not believe that it was responsible for 'oversight' of the system.
- The department also believed that the introduction of competition, local responsibility and 'approved inspectors' had worked well.
- The department believed that its fire safety policy was working well because the number of deaths was decreasing. It failed to realise that such lagging indicators should not be used to assess the likelihood of catastrophic failure.

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<sup>1</sup> This paragraph is taken from Gill Kernick's book *Catastrophe and Systemic Change*. I strongly recommend the book to anyone involved in any form of health and safety regulation.

- There was intense cross-government pressure to reduce the burden of regulation and avoid new regulation. This was felt much more by officials than ministers. Officials did not therefore seriously consider whether the existing stock of building regulations could be improved.

It is important, as you read the paper, that you decide for yourself what it says about the management of MHCLG and the performance of its senior officials. My own view, for what it is worth, has swung between hyper-critical and sympathetic; the latter acknowledging the staff cuts etc. imposed by ministers. In the end, I think the evidence shows that:

- Senior officials were too desk-bound to realise that their staff were seriously struggling, and that the construction industry was "rotten from top to bottom ... The entire industry has come across as venal, careless and negligent".
- They also don't seem to have found the time, or had the inclination, to consider whether they were right to assume that the department did not have an oversight role in building regulation, nor whether the department was being too complacent about the downward trend in fire deaths.
- Officials' reactions to external expressions of concern about fire risk were far too defensive, including:
  - recommendations made by the coroner investigating a cladding fire at Lakanal House,
  - letters from MPs on the All Party Parliamentary Group on Fire Safety (the APPG),
  - correspondence from industry expert Nick Jenkins expressing 'grave concern' about the use of ACM panelling on high rise buildings, and
  - an alarming letter from the London Fire Commissioner.

Evidence for the above is summarised in part 3 and 4 of this paper.

The Inquiry did not take oral evidence from any Director General or Director so much of this paper focuses on the performance of two middle-ranking officials in the building regulation team. One of them said he thought that he had been "a single point of failure". This is explored in Part 5.

But catastrophes seldom if ever result from a single failure. Their causes are more likely found in whole systems. Part 6 accordingly explores the role of the Senior Civil Service as stewards of the system of which the building regulation team was a part and seeks to draw some conclusions concerning the effectiveness of the department's senior team.

## **Part 2. The Ministry of Housing, Communities & Local Government**

This is a list of those ministers and officials who (before the fire) were responsible for Building Regulation policy, and the implementation of that policy, in order of seniority.

### **Politicians**

Secretary of State	Eric Pickles
Minister of State	Gavin Barwell (from 2016 only)

### **Senior Civil Service**

Permanent Secretary:	Melanie Dawes
Directors General:	None gave oral evidence
Directors:	Steve Quartermain (from 2016 only - did not give oral evidence)
Deputy Director:	Bob Ledsoe

### **Other Civil Servants**

Grade 6 - Richard Harral - Head of Technical Policy - Qualified Architect  
Grade 7 - Brian Martin - fire prevention/building regulations expert

Most of the rest of this paper is comprised of evidence given by the above to the Grenfell Tower Inquiry, with occasional explanatory or other comment.

## **Part 3 Evidence Given to the Grenfell Inquiry**

### **3.1 The department had 20 top priorities. Building regulation was not one of them.**

There were a number of factors which combined to demoralise, frustrate and exhaust staff in the building regulations team. One was that building regulation was very low priority.

The Permanent Secretary held regular meetings to talk about the department's top 20 priorities (such as housebuilding, Housing and Planning Act, and 'Pay to Stay') but building regulations were never one of those. Life safety issues were not even a high priority for the building regulations team:

"There were two main policy influences on the Department's work on building regulations: deregulation and energy efficiency".

20 priorities strike me as far too many. This large number of priorities, monitored closely by the Secretary of State and Permanent Secretary, would command the full attention of all ministers and senior officials whilst implying that everything else (including building regulation) was relatively unimportant. None of them would be likely to say, before returning to their groaning in-trays:- "Before we finish, let's spend a few minutes discussing building regulations and that letter from the coroner/David Amess and the APPG".

This was reflected in the way that incoming Ministers were briefed:

*Gavin Barwell*

"I remember it specifically as being one of the last introductory briefings I had. The order of these briefings was determined by my private office; my sense was that it reflected the Department's view of the urgency of the issues different teams were dealing with."

*Melanie Dawes*

The Permanent Secretary remembered talking to Steve Quartermain's predecessor about how to scale back the work on building regulations and doing it with fewer people.

*Richard Harral*

"Q. I think we'd started to form a view -- and, again, there's a subsequent discussion that would suggest this may be true -- that the prioritisation policies in the department were just consistently working against us. We were always at the back of the queue for briefings. When the administrations changed, we were always -- you know, lower priority by far for submissions getting up to ministers"

### **3.2 There were insufficient staff and staff were stressed and exhausted.**

*Gavin Barwell*

Q. Just explain to us ... why was it decided to prioritise the housing white paper and not be progressing this building regulations review work in parallel ?

A. My memory was that the department simply didn't have the capacity to do both of those things at the same time. The housing white paper ... was an enormous piece of work. The department had reduced quite a bit in terms of its headcount during the preceding few years, and I think the combination of those two things meant that there wasn't the capacity, probably at ministerial level but certainly at official level , to try and do both those things at the same time.

*Bob Ledsome*

"[I] was aware that both Mr Harral and Mr Martin were very frustrated with lack of progress, and I know, Mr Martin being Mr Martin, he would not have been slow in making that known to Mr Harral and, indeed, to me, and he probably would have put it in quite forthright terms".

Officials "were under intense pressure. I'm not saying that the Building Regulations team suffered disproportionately worse than other parts of the department. I don't think we did if you just purely look at the numbers and reductions. I think the real problem that we had is our vulnerability on the technical side to, as it were, natural wastage. So people would resign, people would retire ... and I remember the difficulties and the challenges and the grief that we had, trying to recruit replacements was a real, you know -- well, you'll have seen from the evidence how difficult that would have been. I'd actually forgotten that we'd got so far as to get someone who would have done a really good job possibly working with Mr Martin so far as an appointment had been made, but we -- he quite rightly just got fed up with the length of time it took to get through, as much as anything, the security clearance, which was just a function of the fact that we moved into the same premises as the Home Office".

*Richard Harral*

I decided to leave the civil service [in 2017] because it was making me ill. ... I was ill twice in 2016, largely stress-related and exhaustion-related problems. I had got to a point where I had to recognise that I couldn't achieve what I wanted to achieve, and that the anxiety and frustration of not being able to actually move things forward was essentially -- I remember very clearly realising it was going to kill me if I stayed.

Q. Is it right that ... the official with the most detailed technical knowledge in relation to technical fire safety aspects of the Building Regulations and guidance was Brian Martin? And he had a particular focus on the Building Regulations relating to fire safety and the guidance in Approved Document B?

A. ... I guess that was the main part of his work, but he was also deployed, because we had a very limited resource base, to undertake other part reviews, other reviews of approved documents, and to -- he had responsibility for part E, which is to do with noise and prevention of the passage of sound in buildings , and then ultimately as well part Q {security in dwellings} , and this was a process that was ongoing with all of the grade 7 leads; they were going from being single subject specialists to having multiple responsibilities for different parts of the regulation.

I also recall at the time that Mr Martin was taking short periods of leave at short notice, and I believe that he was dissatisfied to the point where he was looking for alternative employment.

I think, in retrospect, we should have absolutely had a tracker on [the Lakanal House recommendations] and we should have had much better programme management, but we didn't have anyone to do it. ... We should have, I think, been much clearer [about the resource constraints] but [the] delays around this time were pretty much unprecedented.

[Minister] James Wharton has said that at some stage he raised the issue of the speed of the review ... I'm sorry, but I just don't recall the meeting. I had been carrying a large proportion of my previous job as we tried to recruit to backfill my post, and I think I'm extraordinarily fatigued during this period, I had been working ... six or seven days a week for that entire period, and I think that -- I have struggled with my memory in this period, because I think it's just exhaustion, frankly .

So three weeks before the result of the general election or some time in May, so it's a couple of months later, Bob Ledsome sat me down and told me that the majority ... of the funding that had been allocated to *the Investigation of Real Fires contract* and *a flexible analytical support contract* that we had procured, which was frankly our only way to properly resource the work we needed to do, were being reallocated to fill a black hole in the planning budget. ... And that left me -- again, I was furious for many reasons about that.

"The [Senior Technical] roles were impossible to recruit into. You couldn't find or attract candidates who had the right skills to come into government ... We couldn't attract people with the right skillsets and depth or breadth of knowledge at the salary levels being offered. The other issue is that it is a big jump to go from working in the construction industry to working in a policy department in central government, and people need really quite serious incentives ... I don't think people saw what was going on in government as really an opportunity to further their careers.

*Brian Martin*

"[I] might have been in the job for too long. I was looking for another job. I was fed up."

### **3.3 Problems in and around Ministers' Offices**

A great deal of the Inquiry's oral evidence focussed on the extent to which delays in revising building regulation guidance, and implementing the Lakanal House Coroner's recommendations, were indirectly caused by:

- officials' reluctance to tell Ministers that staff cuts were seriously impacting work programs,
- delays in Ministers' and Spads' offices - and officials' reluctance to complain about them, and
- Ministers delegating decision making to Policy and Special Advisers.

One of the most memorable documents submitted to the Inquiry was email sent in October 2016 from Gavin Barwell's office to Bob Ledsome:

"We are looking to compile a list of things that have been stuck in Private Office for more than a month."

#### **Comment**

No properly resourced and managed Private Office should ever need to send such an email. Most obviously, MPs and the public are entitled to timely replies to their letters, and officials are entitled to timely responses to their submissions. Turn round times of a few days are acceptable. A month is

absolutely unacceptable. And, anyway, how could it be that the Private Secretaries had lost track of significant volumes of correspondence, even if they had been passed to Special Advisers for comment?

I was also struck by Gavin Barwell's admission that he knew that there were problems with the department's system for handling correspondence.

Obviously, very tragically, David [Amess, APPG Chair] is no longer with us. But one of the things that I think is probably worth saying just to help the Chair and the panel in appreciating this APPG correspondence ... there were clearly problems with the department's system for handling correspondence. I think the APPG writes to me a total of seven times, and I only ever see three of those letters. So four of them just go missing. So there's a sort of issue there. In my experience, many MPs knew that government correspondence took time, at best, and could sometimes just disappear. So if it's useful context to you, it was quite common that an MP would approach me in the division lobbies when we were voting in the evening and say to me, "I've written this letter to your department, just in case it gets lost or buried in the official system, I want to give you a paper copy, I'm really worried about this, I want you to personally see it"

It is again hard to understand why and how the department's senior officials were not aware of these problems or, if they were aware of them, why they did nothing to tackle them.

*Gavin Barwell*

Despite his concern about correspondence handling (see above), the minister told the Inquiry that the accusations of delays in and around ministers' offices, struck him as 'absurd'.

So first of all, if you're saying that the reports were given to the department in March 2015 and it took until 14 December 2015 for a sub to come up to ministers, that's not good enough. Q. Yes. A. And if it took four years for them then to be released, that is absurd. All I can say to you -- and I can only comment on the material that the department has provided with me about my time as a minister -- there were some research reports that came to me for approval, and I was a bit slow in approving them. I think, from memory, "a bit slow" means four or five weeks. I remember -- and I think Steve Quartermain refers to this in his written evidence that he's given to you -- that he came and had a word with me and said, "You've got some BRE research reports in that in-tray and I need them cleared", and I dealt with them straight away when he spoke to me about it. And that kind of conversation between me and Steve, as I was alluding to on the planning earlier, was a fairly regular one. He helped me manage this huge in-tray I had by telling me, "These are the things that we need you to focus on first".

So if -- where I thought you were going with this question was to say to me, "These research reports came in and you sat on them for a while before you approved them", which -- to which I would have to say, "Guilty as charged", but I know nothing about these at all. I've never seen this email before and, to the best of my knowledge, there were no reports that I didn't eventually clear when Steve -- because Steve and I had these regular triage conversations. So I can only assume that the phrase "stuck in private office" does not refer solely to my private office, and that they were stuck somewhere else in the system.

But officials who reported to Steve Quartermain said that they had been "furious": and "very frustrated, verging on angry" with delays in ministers' and/or Special Advisers' offices. More than one official said that five months of delay was "down to decisions made in Mr Barwell's private office":-

*Bob Ledsome*

I would not have said, "We need to get this out next week, minister", because it would not be my place to say that. ... Q. No, but accounting for differences in expression ... can you explain why

you didn't bring that point home clearly to the minister? A. No, I cannot, and obviously with hindsight it was an omission.

Now, Richard Harral says in his statement that you never received a response from Gavin Barwell to the submission document. Is that right? A. Yes, that's correct. Q. Let's look at ... an email of 18 April 2017....[to a Spad, not copied to officials] "Gavin was content with the recommendations in this sub, particularly interested in the work in parts B and M. Any thought Tim, Nick? [signed by Private Secretary]." ... can you explain why this message was not [copied to officials, including Mr Harral]? A. Sorry. ... I don't know.

We knew perfectly well that there was a commitment to a part B review. ... Do we try and develop a new plan to actually try and move some stuff more quickly? ... I know Mr Martin in particular was ... getting very frustrated about this, that he was having to deliver holding lines to his stakeholders because he couldn't say, "The government is definitely going to do X, Y and Z", because there hadn't been announcements to that effect .

In fact, it's right that the research wasn't published before the Grenfell Tower fire. ... it was certainly not something that we felt comfortable with, and, you know, it is very unusual for research -- you know, any research to take that long to be -- go through a publication process.

Q. What had gone so wrong? A. Well, I think you've mentioned the various number of communications that we had with ministers' offices and private -- and SPADs offices to try and get those through the system. .... It was a source of considerable frustration to Mr Martin and Mr Harral. It placed Mr Martin in quite a difficult position, I know, because, ... the fire safety world is quite a small world, and so people knew about the fact that this research was under way, so I know that he was placed in some very difficult situations where people were saying, "What's going on?", you know, "What does it say?", and he was not able to provide clear answers because he basically didn't have the authority so to do without the research being in the public domain.

#### *Richard Harral*

... I was told that the minister wouldn't be looking at anything other than the highest priority submissions until the housing and planning White Paper was published. That was originally scheduled to be published in late October/early November, and so you go: right , okay, that's another three/four weeks, we will live with that if that's the decision. But, actually, it wasn't until the middle of February that it was then published, and it was a constant process in that period of, "It will be next week, another week", you know, so you're constantly saying, "Well, okay, we can wait another week, it will take us much longer to try and look at doing this another way". So what I'm trying to say is that at least probably five months of the delay is down to decisions made in Mr Barwell's private office . .... And it would not be appropriate to actually start -- it wouldn't just not be appropriate, it would be quite destructive to our relationship with that private office if we start pointing fingers and saying, "This is delayed because ..."

... [We] could not [even] formally establish a working group until we had clearance from Ministers on the scope of work to be undertaken. ...

Q. Now, did you ever raise those frustrations with senior members of the department, including Bob Ledsome?

A. Yeah, I talked to Bob about this. I was getting -- you know, I had a really frustrated , verging on angry team who, from the point that the election was called in 2015, had been wanting to get back on with what they considered to be their primary role, which was updating and reviewing the approved documents. We had for pretty much the entire period between 2010 and 2015 -- I

mean, that's not exclusively true, we were still working on zero carbon policy, but we'd gone through two cycles of deregulatory activity that took us away from that process, and I think the backlog of work that needed to be done is part of the reason that the programme management and the communication with ministers is actually problematic.

Q. Right, yes. Do you know whether the team ever made clear the sense of frustration to ministers?

A. You would absolutely not be allowed to do that. ... A senior civil servant might be able to raise concerns, but they would probably go through the line. They would go deputy director, director, director general, and if the director general agreed, they would go and talk to the minister.

Mr Martin was very passionate and committed to [his work]. I think he was just going through a period where the lack of progress was getting him down, frankly, in terms of getting the discussion document and an industry working group in place, and this is an exchange about, you know, whether he does actually want to take a break ... but we would need him to actually head the technical review and then sense-check all of those changes. ... If we go to Mr Martin's response, ... "Hi Richard "It's more like 16 years but I'm not counting. "I'm procrastinating because I'm not able to do the job the way I want to. "I suspect I need to lock myself away for a week and JFDI!" Q. Did you understand him to mean "Just [beep] do it"? A. Yes, I think that is what it means.

Q. Let's pick it up again . This is an email from you to all MHCLG special advisers, this is 27 July 2016, copying Bob Ledsome and others in. You say: "I recognise that there will a [ sic ] great deal going on in Spads office at the moment but I wanted to ask whether there is any possibility of confirming clearance to publish Building Regulations research reports that we have previously discussed (see e-mail trail below)? "Some of these reports are attracting political interest (electrical safety in particular), others raise important technical questions where we need to be discussing solutions with Industry ... "Some of these reports have been awaiting publication for 18 months. Jacob cleared them for publication shortly before the referendum etc. "We do not believe the publication of any of these reports is likely to be of importance/interest outside specific trade sectors , and ... overall are low risk . They are very important to our work, however! "Is there any way we can agree an August publication date (preferably in one group)? Happy to come and speak/discuss with new Spads if that would be of benefit ."

SIR MARTIN MOORE-BICK: Can you just help me as a matter of curiosity , as much as anything, why do Spads have any role in approving the publication of material? A. It was -- ah, so it was to identify any political sensitivities in research. ... It's to identify anything that's politically misaligned in the reports before they're released.

### **3.4 No Oversight Role?**

The department was clearly responsible for building regulation and building fire safety policy. It is therefore hard to understand how it nevertheless felt that it had no 'oversight role'.

*Gavin Barwell*

Back in 2017, the minister certainly thought that the department had an oversight role.

"So my assumption, and it's clear from the department's opening statement that this was a false assumption, but my assumption was that the department regarded itself as responsible for the integrity of the system."

But he now realised that officials thought otherwise.



Q. Can you help us understand, looking back, how that might have come about?

A. I can't explain that to you, but I think I can just offer one comment, which may be helpful, which is: I think it's really important that responsibility for that failure doesn't just sit with the members of [the building regulations] team. ... There must be something wrong in the structure of the department that that failing wasn't identified, and ministers, including myself, have to take some responsibility that we didn't pick up that that wasn't happening. So I think, you know, it's not for me to tell the Inquiry what its conclusions would be, but I feel very strongly that even if there were mistakes in that team, it would be wrong, for relatively junior civil servants, to say: well, the whole blame sits there. That doesn't feel fair to me.

*Melanie Dawes*

"[The ] Department had not 'for decades' thought that it had an oversight role in building regulation".

"... my overall impression here ... is that the department just didn't see that it had a role of oversight of that system. It saw that its role was one of writing the rules, and it understood that there was a role for local government ... by way of approvals and enforcement, but everything else in the middle that you do when you're performing regulatory oversight, and that I do today through Ofcom, wasn't, I believe, understood by the department as something that needed to be done or as something that needed to be done by the department."

"I don't think the civil service as a whole had an understanding of that history. I personally think that some of the failings in the department were not unique to the department. The department's culture was actually very committed, it was very collaborative, more so than most, and I think that, looking back, and particularly from the perspective I have now of running a regulator, an understanding of how to run regulatory oversight is not really very good in most Whitehall departments. It's not something that senior civil servants spend their careers on, it's not something that ministers particularly think about, and that history is not learnt from, explained, taught in a systematic way."

Q. Do you think one of the explanations for why it wasn't more at the forefront was because it was seen as very technical and complex? Do you think that in itself meant that it ended up standing apart from perhaps the mainstream in terms of what people were aware of?

A. Yes. I think that, to be honest, these systems of regulatory oversight don't sit very well in government departments, whose main focus is to serve the democratically elected government of the day. And that focus is correct. I mean, it's extremely important, particularly for very policy-focused departments like MHCLG. And I think that sits quite awkwardly with the sort of long-term, risk-based oversight that you need to oversee a regulatory system, particularly one that's about public safety.

And I can say a bit more about that if it's helpful, but I do think one of the aspects of that is skills. So it's partly that those skills are not as necessary for the ministerial work that you do and, therefore, they are sometimes undervalued, and I think the team probably did feel a bit undervalued. I think also it's quite hard to attract those skills into a government department, and it's much easier to attract them and value them and reward them in a regulator, where it's a dedicated and, you know, proud and central part of what those regulators do. So I think the skills bit is one piece of it, but it is, for me, part of a wider whole about the nature of the work of a government department and what is and is not easy to do alongside that.

*Richard Harral*

"It is important to recall that compliance with the functional requirements of the Regulations is to be achieved by the person undertaking the construction (the design team, architect, builder, etc.) and it is signed off by the relevant Building Control Body. How the industry secures compliance with the functional requirements is a matter for the industry. [The department] has no role – it, in fact, has less than no role, in some respects, in the actual direct regulation of the market, all of those responsibilities are fully devolved to building control bodies. But responsibility for compliance rests with the persons undertaking the work. If you go back to the Hansard for the 1984 Building Act, 10 it is worth noting, I believe, that it is very clear that the design of the whole system is intended to deliver a system with the minimum possible of government intervention in actually delivering compliance in the marketplace. ... Our job was to update the approved documents in line with government policy.

... The lack of insight, market surveillance, key performance indicators, however you may wish to put it, the lack of evidence base as to whether the system was performing was almost kind of hardwired into the system, in that we didn't have direct market insight to know what was going on, we were always, as I said, reliant on disclosure in some form. So I think that the point that the system was becoming obsolete is probably absolutely right.

Q. ' [As an example] we can see from Mr Evans' email that Kingspan were claiming that their product was suitable for use over 18 metres ... despite the information in the same email that testing to date does not bear this out; yes? Q. What was done by the department to address that? Did you contact or did anyone else on the team contact Kingspan about that claim? A. No, we didn't. Q. Did you carry out or cause to have carried out any checks or queries made within the industry about the product literature for Kingspan or the way in which they were marketing their K15 product for use at height? A. No, we did not. Q. Did you contact or instruct your team to contact Trading Standards so that that authority could investigate the claims being made by Kingspan? A. No. Q. Did you contact the Advertising Standards Authority for the same reason? A. No. Q. Why didn't you take any of those steps? A. I think this problem found us unequipped to deal with it, to be honest.

This was an area that the department was never happy with us getting involved on other cases, so there was a sense that we might be kind of beyond the edge of what we were allowed to do, certainly in my mind. But I just think we were just totally unequipped to have the right tools and approach to deal with this in a different way. Q. Right. But isn't there quite a big difference between taking direct action yourself or enforcement action and notifying other important organisations that you were aware of this, given the potential life safety implications of having a combustible insulation material being used at height? A. Ah, look, I -- this is clearly ... an issue on which I have great regret. I did not have any experience of that kind of activity. And this is a weak excuse, but I had no training to act as a regulator, I had no experience acting as a regulator, and what I understood we could or should do was very limited. I'd become, certainly personally, and I think -- perhaps others in the division had a very constrained mindset about what it was that we could do. So at the time, as I said, we felt we had gone as far as we could and we had adequate reassurances with a backstop that if the testing results indicated problems, then we could revert to looking at what further might be done.

*Brian Martin*

Q. Can you explain why it took the Grenfell Tower fire in which 71 people were killed on the night for the hazards posed by [aluminium composite material (ACM)] cladding to be fully appreciated?"

A. "I think it's the progressive decay in the construction industry, progressive decay that went alongside it in the building control world, the impact of government policy on regulation and the

resources available to try and address these risks. [There were] opportunities I missed to try and address this and that's something I regret in a way I find difficult to describe".

### **3.5 The department believed that the introduction of competition, local responsibility and 'approved inspectors' had worked well.**

It is difficult to understand how the department was not aware of, and appalled by, the behaviour of the construction industry, the uselessness of its certification and regulatory bodies, and the inadequacy of its own policies. As little as six months after the fire, Judith Hackitt felt able to report as follows in her *Interim Review of Building Regulations and Fire Safety*:

'As the review has progressed, it has become clear that the whole system of regulation, covering what is written down and the way in which it is enacted in practice, is not fit for purpose, leaving room for those who want to take shortcuts to do so. I have been shocked by some of the practices I have heard about and I am convinced of the need for [new systems] which will encourage everyone to do the right thing and will hold to account those who try to cut corners.'

And *Inside Housing's* Peter Apps commented as follows, after the Inquiry had started examining industry witnesses:

"It is basically impossible to have watched the Inquiry and not feel that the construction industry is rotten from top to bottom ... The entire industry has come across as venal, careless and negligent."

*Gavin Barwell*

"The briefing that I was given initially by Bob Ledsoe about the Building Regulations ... gave an impression that the system was working far better than we now know it actually was."

"[I] have reviewed all of the documents that the department supplied to me, and I can only really see one concern that was clearly expressed to me, which was a concern that competition in building control between local authority building control officers, and approved inspectors, that there was a concern that maybe that was leading to some worries about compliance. ... it didn't seem like an urgent concern, but it clearly was something officials were worried about."

*Brian Martin*

"The mantra of the department was very much about localism ... industry and local bodies [should] lead on these issues with minimum government intervention ... we were less people, less resources and less money ... Getting other organisations to do this kind of thing is exactly what they wanted us to do." He was not encouraged to think that he was "the custodian of public safety".

#### **Comment**

The department's failure to be aware of the many problems in the construction industry suggests that no official senior to Brian Martin had established any sort of network in the industry. Almost all their communications appear to have been with each other leaving Brian Martin as their sole source of information.

### **3.6 The Department believed that its fire safety policy was working well because the number of deaths was decreasing. It failed to realise that such lagging indicators should not be used to assess the likelihood of catastrophic failure.**

The department was pleased that there had been a significant reduction fall in deaths from fire. Gavin Barwell was briefed that "We have seen real improvements in fire safety, for example ... In 1979, 865 people in the UK died from fires in dwellings, 30 years later this number had fallen to 353."

The department did not believe that this was as a result of improvements in building regulation. Indeed, there had been none. The improvement was mainly attributable to factors such as increasing smoke alarm use and lifestyle changes such as the fall in smoking and chip pan use. Officials nevertheless felt that the improvement made it very difficult to justify changing any fire safety rules.

However ... Sam Webb, an architect who has campaigned for tighter rules on fire safety in tower blocks since the Ronan Point disaster in 1968, said that he had met Brian Martin at an event in the Houses of Parliament in February 2016. He claimed that he told Mr Martin that if Approved Document B was not reviewed, then another fire like the 2009 Lakanal House blaze was "inevitable" and risked multiplying the six fatalities in that fire by a multiple of "10 or 12". "Brian Martin's reply to me was: 'where's the evidence, show me the bodies'".

Mr Martin said that he recalled the conversation with Mr Webb but that he would not have used this phrase. His comments were a reference to the lack of demonstrable evidence for tighter fire safety rules in a context of falling fire deaths. "What I was trying to explain to him is, it would be difficult to justify raising standards given that what we're actually experiencing was a regular reduction in the number of fire deaths," he said.

"I mean, government policy had progressively hardened over quite an extensive period... I think the prime minister described people like me as an enemy of enterprise. Safety campaigners like Mr Webb have a view on how the world should be, but the government was in a very different place at the time."

#### **Comment - Lagging Indicators**

You should never use lagging indicators (such as 'there have been no deaths') to assess the risk of catastrophic failure. Here is another quote from Gill Kernick's book:

'Practising chronic unease - imagining and mitigating against the worst thing that can happen - and planning how you would respond to it - is key to preventing lower-probability events. If I asked anybody the worst thing that could happen in a high-rise residential building, I'd expect 'the building becoming engulfed in fire, and escape routes being compromised' to be somewhere near the top of the list. People would say this even without the knowledge of events at Grenfell or any technical understanding of risk.

But it can in practice be very difficult to persuade budget holders to fund mitigation expenditure when there is no prior evidence of harm. Anyone who has tried to get a local authority to install a pedestrian crossing before someone gets killed will understand this very well.

Gavin Barwell was asked about this issue:

Q. At the time, were you aware that reliance on statistics can be dangerously misleading as a predictor of catastrophic failure ? A. When you say was I aware of that, if you'd said that to me in

a meeting, I would have probably reflected on it and thought that there could be some truth in that, but was it something I was aware of consciously, no.

### **3.7 There was intense cross-government pressure to reduce the burden of regulation and avoid new regulation. Officials were therefore very unlikely to spend any time considering whether building regulations could be improved other than in minor ways.**

Ministers were not particularly focussed on deregulation and found it difficult to understand officials' concerns. The difference in attitude was probably because every department had a better regulation team responsible for carrying out initial *One In, One, Two or Three Out* calculations. They will therefore have discouraged their departmental colleagues from contemplating new regulations as they would have found it difficult to identify existing regulations which could be ditched.

*Gavin Barwell*

"So if the officials are saying that they felt under extreme pressure from me to pursue this deregulatory agenda in the ten months or so when I'm a minister, I'm at a loss to understand how that can be the case, and I would observe to you that if you called up the white paper, which had a number of proposals to strengthen the Building Regulations in relation to broadband provision, in relation to the accessibility of buildings, in relation to the energy performance of buildings, it definitely also had a reference to deregulation, but it caveated it clearly with the phrase "while maintaining standards". So I would like to think that if officials were asked about what they got from myself and from the Secretary of State, certainly there would still be some reference to deregulation, but caveated, and there were definitely areas where we were prepared to proceed with new proposals."

*Melanie Dawes*

"Q. Did you know in 2016 that the better regulation unit within [your department] effectively told officials within the Building Regulations division not to propose any new regulation? Were you ever made aware of that? A. No, I wasn't aware of that.

Were you aware that officials felt that they were working in a policy environment where regulatory intervention was a last resort? A. I can't really comment on what they thought. I mean, I can -- I absolutely hear that that's what they thought. I don't think that other officials at a more senior level thought that regulation was a last resort. However, in the climate at the time, you would have had to have had a very good reason for new regulations or for putting in place the kind of system of regulatory oversight that has been put in since 2017, or is being put in now through the Hackitt Review and the new Act. That would not have been something that was very well received, I think, in 2015/2016.

Q. No. Do you think anything short of the Grenfell Tower fire would have prompted that kind of action? A. Well, I mean, I find it just horrific to think that we had to experience such a terrible loss of life and such an appalling catastrophe for the community and the families in order to understand quite what was going on, but my honest answer to the question is that I think that even if those issues had been -- the issues that the team were beginning to be aware of around cladding, even if somebody had come in and said, "We're not exerting oversight, we need to do that" -- and I did do that on some other areas of the department's work, actually -- even if we'd done that, I think that by the time you got to 2015, the non-compliance in the industry was so entrenched, and that combined with the very strong focus on red tape and all the history of that

over the previous few years, would have made it very, very, very difficult to get anything changed. So I find it horrific to think that it took the fire, but I honestly am not sure that it would have happened otherwise.

*Richard Harral*

"The Coalition Government, and the subsequent Governments from May 2015 onwards adopted a far more vigorous approach to deregulation with increased scrutiny of regulatory proposals through a range of policies" ... So that impact was absolutely evident, and discussions with ministers reinforced that.

Q. Right. Give us a flavour of what those discussions were that reinforced it?

A. Well, there was just the general sense that regulation was bad, and even where there were proposals to do something that was regulatory in terms of introducing something that was attractive to ministers, or something they might want to do, when they recognised that it was regulation, they would pull back from that generally because that was not the way that they preferred to drive change. ... I remember one discussion with Nick Boles as the planning minister on space standards where precisely that discussion happened. He was quite enthusiastic about space standards, but then I recall he said, "But that's regulation, we shouldn't be doing that". There were regular challenges from the better regulation unit within the department in particular. I remember clearly at the end of 2016 being told by an official from the better regulation unit not to consider proposing regulation ... because the department was struggling with its regulatory budgets, so effectively told, "Don't propose any new regulation".

*Brian Martin*

"We wanted regulations to avoid economic damage. The PM thought '[I was] an enemy of enterprise'.

Following the Lakeland House fire, coroner Frances Kirkham made several recommendations that could, if accepted and implemented, have led to the Grenfell fire causing many fewer (if any) casualties. One was that the department should encourage the retro fitting of sprinkler systems in high rise residential buildings. Brian Martin explained that, if the department had clearly told local authorities to fit sprinklers, it would have been required to provide 'new burdens' funding - and they were not prepared to do so.

### **3.8 Were Building Regulations Caught by the Deregulation Initiatives?**

The Inquiry spent a lot of time examining a difference of view between ministers, senior officials and junior officials concerning whether efforts should have been made to exempt building regulations from the 'one in, one out' to 'one in, three out' rules.

However ... the issue seems somewhat theoretical. As noted above (in Part 3.7) MHCLG ministers did not pay much attention to deregulation initiatives. And, anyway, no-one was likely to press the case for improved building regulation because no-one was taking seriously any of the warnings summarised in Part 4 of this paper.

Bearing that in mind, here is what the Inquiry was told.

*Eric Pickles*

Eric Pickles was a senior minister in a government that was proud of its anti-red tape agenda. He was inevitably asked about this but was prickly and defensive. He even told the Inquiry's senior counsel to

“use his time wisely” as he (Lord Pickles) had an extremely busy day and did not wish to spend too much time answering questions.

The Secretary of State told the Inquiry that the fire safety elements of building regulations were exempt from deregulation initiatives but it appears there was no contemporaneous evidence that this was the case. Indeed, Pickles himself had written to the PM promising to save businesses £25m a year by cutting such regulations, and this had been confirmed when a junior minister subsequently signed off a policy impact assessment which expressly said that fire safety rules were in the scope of the 'one in, two out, regulations. When asked to account for these discrepancies, Pickles blamed senior officials for not passing on his views.

He eventually lost his composure when it was suggested that he was "seeking to underplay [the government's] deregulatory agenda which [had] led to a complete absence of proper checks and balances so far as concerns life safety". His answer, whilst banging the table:- "I have to say, without getting too emotional, I swore on the bloody Bible - I swore on the Bible, I'm a Christian. I wouldn't come here to try to remove responsibility. These things are important to me.

*Melanie Dawes*

The Permanent Secretary (no doubt with the benefit of hindsight) argued that senior officials might have tried to exempt Building Regulation from the deregulation initiatives. But she admitted that they would most likely not have succeeded.

Q. Were you aware that officials felt that they were working in a policy environment where regulatory intervention was a last resort? A. I can't really comment on what they thought. I mean, I can -- I absolutely hear that that's what they thought. I don't think that other officials at a more senior level thought that regulation was a last resort. However, in the climate at the time, you would have had to have had a very good reason for new regulations or for putting in place the kind of system of regulatory oversight that has been put in since 2017, or is being put in now through the Hackitt Review and the new Act. That would not have been something that was very well received, I think, in 2015/2016. ... by the time you got to 2015, the non-compliance in the industry was so entrenched, and that combined with the very strong focus on red tape and all the history of that over the previous few years, would have made it very, very, very difficult to get anything changed. So I find it horrific to think that it took the fire, but I honestly am not sure that it would have happened otherwise.

Ms Dawes nevertheless, and perhaps unfairly, criticised the Building Regulations team for not pressing for their work to be exempt from deregulation.

Q. Does it surprise you that officials within the Building Regulations division also didn't take advice on whether, if clarification of the Building Regulations was all that was involved, those deregulatory policies were engaged? A. Yes, I would have thought that was one of the first questions: does this work engage the Red Tape Challenge?

Q. Were you aware that officials were working on the basis that any change to the guidance they were giving about the Building Regulations needed to be the subject of a regulatory impact assessment because there would be a potential cost to industry of simply reading new guidance? A. No, and I'm very surprised by that ... I wasn't aware of it until you mentioned it to me just now. ... I would have expected it to be the first thing that Bob Ledsome and Stephen Aldridge, the director responsible for analysis, would have talked about. And if Bob had had a concern that he wasn't being listened to, I would have expected Sally Randall to be a very sympathetic ear and one who was very well placed to be able to resolve any problems. I just find it quite difficult to know why they didn't have those conversations. But, as I say, this is the first time I was aware of that. ... I would definitely have felt able to push back with 17 ministers in my own

department and elsewhere, and I would have been ready to talk to the Cabinet Secretary, Jeremy Heywood, if I felt that I had concerns as well. I did that on a number of occasions. I was doing it all the time, actually .

### **Comment**

Melanie Dawes had clearly (and admittedly) not discussed this issue before giving oral evidence - and more junior staff were quite clear that she was wrong. A high proportion of regulations impact on health and safety, and such regulations have never been exempted from deregulation initiatives. This is not to say that the addition or amendment of important individual regulations would have been ruled out if senior officials had intervened, but there would have had to be a very strong case.

*Bob Ledsome*

Q. Did you or anybody else in your department ever consider trying to apply for an exemption for Building Regulations?" A. No ... Frankly, I don't think we would have got one, and, frankly, there is a judgement which you make in this state as to whether -- is it a fight worth having?'

*Richard Harral*

A. I think probably 70% of the Building Regulations relate to life safety , but – and that's true ... across a large swathe of the government's stock of regulation as well , they relate to safety or health and safety, and I think there was a kind of understanding that part of the reason for introducing these measures was to... curtail or ensure that there was a robust case for expanding these types of regulations.

Q. If you were just clarifying or simplifying , was it your understanding that these policies would bite on that? A. Yes, because when you issued an updated approved document, there was a cost to industry in familiarising itself with the revised document, and that was captured by the impact assessment process. Q. Gosh. So simply that, simply the cost associated with looking at a revised , simplified approved document -- A. Yeah. Q. -- that was deemed to be a cost to industry? A. Yes. Q. Even though the substantive requirements had not changed? A. Sorry, I should correct myself. It might be regarded as a benefit to industry if the savings from the clarification were greater than the cost of the time taken to familiarise yourself , but it would be subject to impact assessment work on that basis. Part K of the Building Regulations was subject to a simplification exercise in 2010 to 2012, which was very much along these lines: the guidance was not in itself changed but it was still subject to impact assessment requirements.

## **Part 4 - Missed Opportunities**

There were a number of missed opportunities to recognise that the system was dangerously flawed. The evidence for four of the most important of these is summarised below.

As an aside, I would like to think that any civil servant who thought that lives were at risk would have a moral and professional responsibility to alert their line managers and ministers unless and until they were told that ministers felt that the risk was politically acceptable. Such concerns should always be put in writing, mainly to ensure that their concerns are taken seriously - but also because, if they foresaw doom, and doom occurs they can say "I told you so". But ...

Despite the warnings summarised below, Richard Harral and Brian Martin did not realise that lives were at risk, whilst their bosses were not in the slightest bit interested in the fire safety aspects of building regulation.



## 4.1 The department failed to respond effectively to recommendations made by the Coroner investigating a cladding fire at Lakanal House

Following the Lakanal House fire, coroner Frances Kirkham made several recommendations that could, if accepted and implemented, have led to the Grenfell fire causing many fewer (if any) casualties.

*Gavin Barwell*

Q. Can we agree now that you should have been given at least some information about the Lakanal fire and the coroner's recommendations at this introductory briefing? A. So the straight answer to your question is yes, [and] there are two flaws in what I'm then told:

I'm told the wrong deadline (2020) ... March 2017 was [in fact] the deadline, as I understand it, Secretary of State Pickles had given -- [and I had not] understood that this was a safety critical issue, because clearly had I known those things, my behaviour would have been completely different to what it was.

*Bob Ledsome*

"I mean, I've thought long and hard about this. It wouldn't have been a straightforward job just to have done a change to section B4. We would have still had to go through all of that process which we talked about earlier in terms of, you know, justifying costs and benefits and all of that stuff. So it would not have been a five-minute job.

We were focused on ... the overall programme of work. Looking at it now, yes, perhaps we should have said -- taken a harder look at this and been bolder about saying: well, actually, can we do something more quickly with this, even if it means, for example, that all the other things that we've got on our plate or priorities we have to say, "Sorry, we've got to put those down the track". And clearly we did not put that -- those options to ministers and perhaps we should. Q. Given that this was life safety, I think the question really is: why was that exercise not the matter of utmost priority? A. Well, it's very difficult for me to say. We thought we were doing the right thing in the way that we were trying to approach this recommendation. I accept all that you say about it.

Q. Does it come to this: that there was a tension between the coroner's expectations of clarity and simplicity so as to allow a wide readership to access the approved documents on the one hand, and [making sure that] you then do not lose the substance of what's needed in a particularly technical area. I mean, the other aspect to this, of course, is that industry bodies themselves may produce their own guidance in terms of, you know, how their membership, for example, may need to comply with guidance -- with requirements. So there is that aspect to it as well.

We would [not want] a drip-feed of changes and everyone is having to get used to another change to the approved document, so that's why we felt it was the best approach, was to conduct this as a single, formal review, which indeed is what was the original intention of the Future of Building Control review proposals in 2008. So that would be a way of trying to minimise that transitional and familiarisation upheaval that I would be talking about. ... Q. Even though that wasn't something that the coroner had asked you to do? A. It was not something that the coroner had asked us to do, no, but we had other things that we felt or we were looking -- we were starting to think needed to be done with Approved Document B.

## 4.2 The department failed to take seriously, and respond appropriately to, a number of letters from MPs on the All Party Parliamentary Group on Fire Safety

Gavin Barwell

The minister explained that he had accepted officials' advice to delay meeting the APPG until after the Housing White Paper had been published (a) because he expected that to happen quite soon (It was in fact delayed by several months) and (b) he had not read - and maybe had not even seen - the APPG's correspondence with his predecessor.

... at this point I was anticipating meeting them fairly soon and, therefore, that I could discuss that with them in person. In hindsight, your point is very well made, and now, having read the previous correspondence, one of the things that struck me when I saw it is that the warnings to James in some of the early letters are much more punchy, if I can put it that way, much more stark is probably a better word

Officials agreed that the fault lay much more with them than with Mr Barwell.

Bob Ledsome

[A timeline and commentary prepared a few days after the fire says this] :“The lack of urgency [in handling the correspondence from the APPG is] striking . Most telling is David Amess letter of 10/09/15 which explicitly states the APPG felt AD B issues ‘had significant life safety implications ’ and are ‘of sufficient priority to be dealt with immediately’ and the Minister is said to have not been willing to bring work forward. James Wharton’s [23 Oct 2017] letter is clear a detailed work plan had not been agreed at that point. So we look like we have done all but nothing in the first 2.5 years.” Do you accept that you had done nothing in the first two and a half years in spite of these warnings? A. No, I do not accept that. I do not know, for example, if [the author of the timeline] was aware of the research work, I do not know if he was aware of the commissioning of the usability study, et cetera.

Q. Let’s look at a letter from Sir David Amess to James Wharton, 1 December 2015, [in it] he refers to an informal lunch where there was a constructive exchange of views between yourself [Ledsome] and those present, and then in the next paragraph he says this:

*“Over the past two years of correspondence between your predecessor, Stephen Williams, and myself, the Group has felt continuous frustration over dismissive responses to its well-founded and justifiable concerns; whereas yesterday we did find a more considerate tone to the discussions , which was welcomed by all.*

*“I am sure you received a strong clear message from yesterday’s meeting that the existing Guidance in Approved Document B to the Building Regulations last updated in 2006, is badly in need of revision , or as the Group suggested, replacing it with something else that is all encompassing, given that the original ‘Building Regulations’ were introduced in the 1960s, having developed from a series of Bye-Laws based upon national models, with regional variations . The origins of some of these requirements can be traced back to the redevelopment of London following the Great Fire in 1666.” ...*

*“Today’s buildings have a much higher content of readily available combustible material. Examples are timber and polystyrene mixes in structure, cladding and insulation , with internal fire protection usually afforded by layers of plasterboard and use of fire stopping padding. A plasterboard compartment is often incomplete above false ceilings , and becomes imperfect over*

*time, through DIY and wear and tear. This fire hazard results in many fires because adequate recommendations to developers simply do not exist. There is little or no requirement to mitigate external fire spread.*

Additional points were made that in facing an ageing population, with more emphasis on living at home, the documents need reviewing, as the single family dwelling becomes the sheltered Home of the future. The risk profile is changing and therefore the control measures need to keep pace.

A. I also feel personally that I should have had a better grip on the handling of the APPG correspondence, because clearly there were – we didn't handle that as well as we could ... It was probably just, in effect, treated as a normal piece of correspondence, and it shouldn't have been.

Q. Do you accept that there was an utter failure of engagement with the concerns that the APPG was raising? A. I've accepted that, with hindsight, we could have offered the minister the opportunity to make a fuller response to specific comments made in the APPG letters.

We discussed the devolved system, I think, when I gave evidence last week. We were operating in that devolved system. Personally, we felt our hands were pretty tied in how we could deal with building control bodies. Could we have pushed the boundaries further? I think the answer to that must be yes. Why didn't we push the boundaries further? I think it was just the mindset, frankly, that we were in, which was not as challenging, perhaps, as it could and, indeed, should have been on some occasions. ... I would not refer to it as complacency. What I would say is that we placed a reliance on a system operating in the way the system was meant to operate, as set out and enshrined in the parent legislation, and, I mean, clearly -- I mean, you know, we only have to read the first page of Dame Judith Hackitt's report to realise that that assumption was badly misplaced, and I regret that we -- it took that report to really uncover that and provide the impetus for the very important reforms which are currently going through the House.

#### **4.3. The department failed to appreciate the importance and urgency of concerns about the use of ACM panelling on high rise buildings.**

The problem here was that Brian Martin did not realise the ambiguity of the phrase 'filler material', ... nor that highly flammable ACM panelling was frequently used on high rise buildings.

There were a number of attempts to bring the problem to his attention. The strongest and best evidenced attempt was by industry expert Nick Jenkins who had expressed 'grave concern' and said that 'there are many such buildings and the number is growing'. Mr Martin thought that was hyperbole.

Mr Martin knew that ACM was dangerous but this "shouldn't be a problem in the UK" because he thought that official guidance prohibited its use. He had previously been asked to publish a 'frequently asked question' making this clear. He didn't do so, nor did he produce a new guidance document. *"It was impossible to get anything done at that point in government. It was ridiculous."*

*Bob Ledsome*

Q. Now, let's look at Mr Jenkins' next attempt. He says:

*"Hi Brian, "Many thanks for your prompt response. In light of the fires that have taken hold of a number of buildings clad in ACM panels in recent years I also think that the core of ACM panels should most definitely be considered as a 'filler'. Some ACM cores meet the rules of ADB however the ones commonly used in the UK at present don't. To the best of my knowledge there have been no full scale 8414 tests carried out to date of any wall constructions featuring any type*

*of ACM panel. I am aware that two manufacturers of ACM have plans to have such tests carried out. This however unfortunately means that no existing buildings in the UK over 18m tall that feature ACM panels currently meet the B4 requirements.*

*There are many such buildings and their numbers are growing. Whilst I appreciate it is for the designer and building control body to consider if requirement B4 has been met, I do think the current situation is of grave concern. Surely this justifies the requirement for a less ambiguous statement of the rules? With the above in mind do you think it would be worth setting up a meeting with the relevant bodies and experts represented to review the current presentation of the rules?"*

Q. Now, I mean, this was, I think you must accept, a very large red alert situation , with a life safety matter that needed urgent attention. A. I would accept it was a serious matter, yes. Q. That needed urgent attention. A. That needed urgent consideration, yes. Q. Are you absolutely sure that you knew nothing at all about it? A. Well, I mean, I presume you will draw my attention to any emails which suggested that Mr Martin or anyone else had drawn it to my attention. I cannot recall it being discussed with me. I can't say that my recollection would be 100% accurate on that point, but I cannot recall it being discussed. And, as I say, if there are emails or it's obvious that I have been copied into emails, then clearly I would accept that. ...

Q. I don't think there are any emails, and my question is : can you think of a reason why Mr Martin would have kept this red-hot information, even assuming it was new to him, to himself? ... I mean, are you able to explain why the department didn't take this problem by the scruff of the neck, have a meeting with Nick Jenkins, work out what the real problem was and work out how widespread it was, take the initiative and take matters forward, as opposed to leaving it to Mr Jenkins and industry bodies to talk about? ... clearly it is very regrettable , and I accept that, and accept even if I didn't know at the time then, you know, I need to ask myself why I didn't know at the time and should I have known at the time and why didn't I take it upon myself to have been more challenging on some of these matters..

#### **4.4 The department failed to respond appropriately to a letter from the London Fire Commissioner**

*Gavin Barwell*

The minister was not shown a letter drawing the Commissioner's attention to her concern about the quality of construction in many modern buildings. These greatly increased the risk of fire spread and greatly contributed to the internal spread of fire at Grenfell (see Gill Kernick's [Not Just the Cladding](#) ).

It is fair to say, though, that the letter probably arrived too late for the department to have done anything to avert the Grenfell tragedy - as the minister notes in his evidence..

Yes. So we have a letter dated 3 April [2017] from Dany Cotton, the London Fire Commissioner, to you, and we can see from the first paragraph that she's introducing herself as the London Fire Commissioner, having taken up her appointment in January 2017. She also requests, at paragraph 2, a meeting with you to discuss a number of issues around London's housing stock and the programme for building new properties in the capital ; yes? Is this a letter that you've re-familiarised yourself with recently? A. Yeah. Well, not re-familiarised myself, I never saw it, but I am now familiar with it, yes.

Q. Let's just look at a little bit of what she says. I'm not going to read all of it , but she's basically saying there's a real concern about the quality of construction in schools, hospitals and other

residential buildings , including in blocks of flats . You can see that in the third paragraph. ... she then says this :

*“When compartmentation is missing, or incorrectly installed , it can potentially place residents at significant risk . With the Lakanal House fire in 2009 in which six people died, there were compartmentation breaches which allowed fire and smoke to spread through the building contrary to the functional requirements of the Building Regulations and in direct conflict with the evacuation strategy for the building.*

*We are deeply concerned that since the beginning of 2017, LFB has identified , on average, at least one residential property (or development) in London with significant compartmentation deficiencies per month. These usually come to our attention after a fire , or by a person responsible for the property seeking our advice. It is safe to assume that there are many other cases that do not come to our attention, yet are placing the residents of those properties in significant risk from fire spread within the building.”*

Now, I think you've already told us, but do you ever remember receiving this letter or it being brought to your attention? A. I think I 'm certain that I didn't receive this letter . I think in the pack that I got there is an acknowledgement letter from my private office, so it didn't come to me, and in all of the material that was provided to me to study before this appearance today, I found this the most distressing letter, because ... if the commissioner of the London Fire Brigade writes in these terms, listing multiple problems with the system, I would've taken the meeting as a matter of urgency.

Q. Can you explain how this letter never came to your attention? A. Because the election had been called and I was in the constituency, and the private office was only referring the most urgent correspondence to me, and they obviously decided this was a meeting that could be taken immediately after the election . ... It's the only explanation I can offer you.

Q. How can you read this letter and not think that it's raising the most urgent of issues? A. It's the only explanation I can offer to you. Q. Well, it's not a satisfactory one, is it? A. No, it's not. ... in my judgement, it's far and away the most powerful piece of correspondence in the pack, because it's referring to multiple issues, not just in blocks of flats but in other buildings as well . ... it's difficult for me, I can't answer for something that I wasn't consulted on, but I suspect what's happened here is that the private office were aware that my seat was a highly marginal seat and were therefore applying quite a high filter of what they sent to me. ... So I completely agree with you, ... it's both distressing to me that it didn't come a bit earlier and I would have seen it, and also the way it was then handled.

## **Part 5. The Building Regulation Team - A Single Point of Failure?**

Here are some exchanges towards the end of two witnesses' oral evidence.

*Richard Harral*

Mr Harral, we have covered a lot of ground in the last two days, and what I want to ask you is: if you had the chance again, what would you have done differently, if anything?

A. Clearly I deeply regret not escalating or ensuring that concerns around Kingspan K15 were escalated at the time that that came to our attention. It's something that we should have done, I feel , and I have deep regrets about that. I find it very difficult to take in what I've learnt over the past two days, and I don't know how to process those into my experience of the other problems

that we were facing. If I had my time again, I would not be as reticent to load responsibility onto others higher up the chain in terms of the frustrations and concerns, in a general sense, and I regret that.

I regret not being more confident in the importance of what we were doing. I find it very difficult to understand how we've actually come to where we are, in many ways. I -- you know, I can only -- I deeply regret the failings, my failings, that have been exposed by the evidence that we've heard, and I can only apologise to the victims and their families of Grenfell Tower and all who have been affected. I am deeply ashamed of the part that I've played in this absolute tragedy, and I hope that we can learn key lessons about the regulatory culture we have in this country, I hope that we can learn about the need to temper our obsession with innovation and the predominance of economic theory over more pragmatic human concerns, and I hope that we end up with an industry that actually is serving the people it aims to deliver for in a way that keeps them safe. Thank you.

*Brian Martin*

*Inside Housing's* Peter Apps reported as follows:

Asked at the end of his evidence if he would have done anything differently, Mr Martin struggled to restrain sobs as he said: "I find it difficult to express how sorry I am for what's happened to the people of Grenfell Tower.

"Over the last few months, I've been looking through the evidence and the documents and when you line them up in the way that we've done over the last seven days, it became clear to me that there were a number of occasions where I could have, potentially, prevented this happening. I think over time I'd become entrenched in a position where I was focused on what I could do to improve the Approved Documents and didn't realise just how big the problem was.

"What I will say is that the approach that successive governments had to regulation had an impact on the way we worked, the resources that we had available and perhaps the mindset that we'd adopted as a team, and myself in particular.

"I think as a result of that, I ended up being the single point of failure in the department."

But Peter Apps added

I have to say: I categorically disagree that one person could be the 'single point of failure' for all this. There are many, many others who have much to answer for as well.

## **Part 6 The Senior Civil Service - System Failure?**

I agree with Peter Apps. The failures were system-wide.

Brian Martin made serious mistakes but he was a relatively junior specialist. He and his boss, Richard Harral, were working under huge pressure, knew that both ministers and senior staff had very little interest in their work, and knew that their fellow officials would oppose any changes to building regulation.

And yet:-

- The Permanent Secretary and the rest of the Senior Civil Service (SCS) must have been aware, at least in general terms, of the workload and correspondence handling problems revealed by the Inquiry.
- The Secretary of State's Principal Private Secretary and the Permanent Secretary must have been aware of the very long paper-handling delays in and around Private Offices and Special Advisers' (Spads) offices.

But no official, from the Permanent Secretary down, appears to have told ministers that these delays were unacceptable, nor told ministers that these problems were symptomatic of unacceptable wider problems in the department.

Senior officials' own working practices seem also to have been sub-optimal, to put it mildly.

- There was little evidence that the SCS 'walked the corridors' so as to be informed about developing issues.
  - It was perhaps unsurprising that Permanent Secretary Melanie Dawes had never met senior civil servant Bob Ledsome to talk about his work other than in the context of the Red Tape Challenge, and had never met any of his staff. She had been surprised to learn, after the fire, of the deregulatory pressure that his team had felt under. The need to update Building Regulations was never mentioned to her. She was not aware of Lakanal House fire or the Lakanal coroner's recommendations.
  - Her Directors General and Directors were not called to give oral evidence but I saw nothing in their direct reports' evidence to suggest that they had any serious concerns about the pressures on the building regulation team.
- I saw no evidence that any member of the SCS had made any attempt to meet or otherwise communicate with Brian Martin's outside stakeholders such as local authority building control, the certification bodies or building regulation experts in the construction industry.
  - The result was that Brian Martin had become a single point of information. And the industry continued down its unethical and dangerous path.
  - All the warnings about cladding (apart from the coroner's and the APPG's letter to ministers - swiftly delegated for official advice) were addressed to Mr Martin.
- Senior civil servants don't seem to have found the time, or had the inclination, to consider whether they were right to assume that the department did not have an oversight role in building regulation, nor whether the department was being too complacent about the downward trend in fire deaths.
- The SCS seem to have been unwilling (too nervous?) to challenge the delays caused by frequent references to overworked Special Advisers.
- Senior officials in Brian Martin's reporting line should have reacted with real concern to what they heard about Lakanal House - a major news story to anyone living in London - and to the coroner's letter - and to what they were told by MPs in the APPG. (Letters which require a ministerial reply are routinely copied to senior officials.) In the event, though, they showed no interest in learning about the cause of the Lakanal House deaths, or in the concerns of the coroner or our elected representatives.

#### **In short ...**

This is not a picture of a civil service setting out to obstruct ministers' policies. It is at best a picture of excessive willingness to accept staff cuts and other HR policies which left the department, at all levels, incapable of doing its proper job. It is a picture (to quote Nick Hardwick) of 'people who ... can write a good minute which gets the minister out of trouble. Not those who can run things so they don't get into trouble in the first place'.

Permanent Secretaries seem to believe that they have no option but to live with the modern 'streamlined' civil service that they and ministers have created. They do not see themselves as the

stewards of an important part of the constitution. Maybe - as suggested by the IfG's Alex Thomas - this should change? :-

"Their job description means that Permanent Secretaries [themselves on five year contracts] do not focus on long range planning, including for catastrophic risks, to the same extent that they focus on the policies of the day. And it is in their job description that a Cabinet Secretary is limited from stepping in if a Prime Minister over-reaches on propriety or legality issues. This should change. Stewardship is a responsibility all civil servants should be able to exercise with more confidence - but, for now, that is not really how our civil service works."

The Grenfell tragedy is important, therefore, not just because it killed 72 people. It is important because it highlights deficiencies within the highest levels of the civil service.

MHCLG is not an isolated example of a poorly performing department. Similar pressures are almost certainly found in most other departments. MHCLG civil servants responded to current pressures by degrading their working practices until they became unrecognisable to those who worked in government 20 or 30 years ago. It seems likely that their opposite numbers in other large departments are even now working in similar ways.

### **Note**

The evidence (both written and oral) is voluminous, and I have read only some of it. It may also be relevant that my comments and conclusions reference the performance of 'Whitehall' when I last worked there over 20 years ago. I would therefore be glad to be told if I have missed anything important, or drawn unfair or inappropriate conclusions. My email is ukcs68@gmail.com

Martin Stanley  
30 September 2022