# CLOSING STATEMENT

## LABC Phase 2, Module 6 Closing Submissions

**Introduction**

1. LABC wishes to begin this statement by, once again, expressing its sincere condolences and apologies to the families of those who perished in the Grenfell fire, to the survivors of this tragedy and to others affected by it.

2. Unlike in previous modules, representatives of LABC did provide written and oral evidence to Module 6 of the Inquiry. That evidence demonstrates, and acknowledges, that LABC failed to meet the standards it expects of itself and missed opportunities to take more prompt action to remedy shortcomings with certificates issued by it.

3. Some of the evidence from other parties has been self-serving and unimpressive. It is likely to have caused distress and anguish to the bereaved families, survivors and residents of Grenfell Tower.

4. LABC is co-operating, has co-operated and will continue to co-operate to the fullest extent with this Inquiry. Unlike some Core Participants, it has not engaged in protracted correspondence with the Inquiry in an attempt to limit the nature and volume of disclosure. LABC firmly believes that the true facts must be established, those who are responsible for this disaster are held accountable and that lessons are learned.

**Structure of Closing Statement**

5. The structure of these closing remarks will focus on the following topics:-

Part 1 – LABC's role – what it is
Part 2 – LABC's role - what it is not
Part 3 – Government - Missed Opportunities
Part 4 – Growing Industry Awareness
Part 5 – Deficiencies in LABC Certification and their Significance
Part 6 – LABC - Missed Opportunities
Part 7 – Observations on the Evidence of LABC Employees and Former Employees

Part 8 – LABC Improvements.

**Part 1 - LABC's Role – what it is**

6. Local Authority Building Control (LABC) is anxious not to regurgitate the contents of its written and oral Closing Statements to Module 2[1]. However, given the repeated attempts by others to misrepresent LABC's role it is necessary, briefly, to remind all concerned what LABC is (which is addressed in this part) and what it is not (which is addressed in part 2).

7. LABC was incorporated on 9 August 2005 and began operations on 1 October 2005. LABC was established to integrate the business of two existing organisations whose assets were transferred to LABC.

8. LABC was established with the support of the Local Government Association. LABC was originally created to provide marketing and business development support for public service building control, to create a 'brand' that was recognisable to building control users (homeowners, architects, contractors etc) and to draw together the 350+ local authority teams across England and Wales into a virtual single 'entity'. LABC helped to provide a conduit for technical consistency and to administer the various schemes, such as the Type Approval Scheme, that were already established within the membership.

9. LABC is a not for profit company, limited by guarantee, owned by its members, who comprise all the local authority Building Control teams in England and Wales.

10. As previously noted, LABC operated a registration scheme for products/systems/house types on behalf of all local authorities (previously called 'Type Approvals' and later restructured and rebranded in 2010 as 'Registered Details') underpinned by the LANTAC agreement[2]. The purpose of the agreement was to provide a form of central

[1] {LABC0019740}
[2] LANTAC is the Local Authority National Type Approval Confederation. The LANTAC agreement is an indemnity agreement between all local authorities in England & Wales which underpinned all Type Approvals and later Registered Details

register of certified products and systems recording the credentials of such products and systems and their compliance criteria with the Building Regulations.

11. Thus, if a product had passed certain British Standards tests, that would be recorded; similarly if a UKAS accredited agency had certified certain attributes of a product, that would be recorded.

12. LABC technical personnel have typically been drawn from local authority backgrounds[3]; they were not drawn from the world of business and commerce. From 2005 to 2017, the majority of LABC staff were non-technical, indeed up to 2021, the ratio of non-technical to technical staff has been around 10:1. In 2009 LABC had 8 employees. It was exercising an administrative and business development function.

13. Naively, but perhaps understandably and not unreasonably, LABC relied on an applicant's truthfulness when considering applications for Type Approval and later Registered Detail. It was not alone in so doing. It relied on the accuracy of third party test reports. It was not alone in this respect either. Of course, the question of whether a product would be certified was not determined by LABC itself. This technical determination would be made by one of its membership Local Authority Building Control teams. As LABC has previously explained[4], the scheme also included a peer review process which was conducted by its membership who would also rely on the integrity of the applicant and the accuracy of material submitted in support.

**Part 3 – LABC's Role - what it is not**

14. LABC has previously raised a number of concerns about the way in which its role and function has been portrayed through questioning in the Inquiry. That culminated in a letter from LABC's solicitors to the Inquiry detailing those concerns. LABC considers that those matters need to be addressed in these submissions. Indeed, it was invited to do so by STI in its letter to LABC's solicitors dated 28 February 2022.

[3] See Lorna Stimpson's Witness statement {LABC0020158/2; Martin Taylor's Witness Statement {LABC0020153/4-5}; David Ewing's Witness Statement {LABC0020139/3}
[4] {LABC0019740/1}

15. In the closing statement to Module 2[5] LABC explained that:-

    a. It is not a testing house which 'tests' product performance (e.g. as against the criteria set out in BR135)[6].
    b. It is not a building control body. This regulatory function is provided by local authorities who make up LABC's membership or Approved Inspectors[7].

16. Thus, LABC does not ultimately determine whether a product can safely be used on a particular development. That is the role of the relevant building control body. LABC did not and does not make decisions about whether the external wall arrangements of buildings with a storey over 18m satisfy the requirements of the Building Regulations. Local authority building control departments are not obliged to accept any guidance or registrations issued by LABC (as has been confirmed by the Inquiry's Building Regulations expert, Beryl Menzies[8]).

17. LABC was not a central player in the cladding industry. See for example:
    a. The Contracts Manager and Site Manager for Rydon both gave evidence that they have never seen an LABC registration certificate[9].
    b. The owner and Site Manager for Harley Facades stating that they have never seen, nor did they ever consult any LABC registration certificate[10].
    c. The Design Manager for Harley Facades confirming that he did not see an LABC certificate nor was he even aware who LABC were[11].
    d. A senior executive at the UK's largest insulation distributors stated that over the course of nine years at SIG, he was not aware of LABC registrations nor were they ever used to sell insulation products[12].
    e. The person responsible for specifying Celotex as the insulation to be used on the Grenfell Tower refurbishment works in 2012 made no mention of LABC in his written or oral evidence[13].

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[5] {LABC0019740}
[6] {LABC0019740/34}
[7] {LABC0019740/4}
[8] {BMER0000004/45}
[9] See Transcript [24/152/2]; [24/155/11]; [27/66/3]
[10] See Transcript [33/87/5-21]; [33/92/20]
[11] See Transcript [36/86/14]; [36/88/21]
[12] See Transcript [85/174/21]
[13] See Transcript [85/174/21] and {MAX00017292}

18. LABC was not beholden to the cladding industry generally or any particular manufacturer or supplier. There was limited financial benefit behind each registration. There was precisely £0 financial benefit for LABC itself arising out of the 2009 Type Approval of Kingspan's K15 product. LABC do not and have never paid bonuses or commissions to staff - see {Day 216/153/24}[14]. Neither LABC nor LABC staff were driven by profit and the need to certify applications for financial gain or to maintain a relationship with any other entity.

19. LABC was not the conduit through which manufacturers gained access to lucrative cladding markets. LABC's Type Approval, and subsequently Registered Detail, were not a golden ticket. Nor were they an automatic passport to the use of such materials on buildings over 18m. It is unfortunate that questions have been put which seek to portray them in such a fashion, and these perceptions have been allowed to persist during this inquiry. Attached to this submission are two annexes:-

    a. Annex A contains examples of the attempted portrayal of LABC certificates as described above.
    b. Annex B contains examples of the actual evidence of industry perceptions of LABC and LABC certificates.

***Contrasting LABC's Role with Other Stakeholders***

20. The role of Central Government in setting regulatory requirements needs no explanation from LABC. The Building Regulations 2010[15] were in force at the time the cladding system was installed on Grenfell Tower. Schedule 1 to the 2010 Regulations set out various requirements including Part B which relates to fire safety

[14] The internal e-mail which gave rise to a suggestion that bonuses were paid was a joke between colleagues {LABC0008243/1}

[15] The Regulations were made by the Secretary of State exercising powers conferred by section 2(2) of the European Communities Act 1972 and the Building Act 1984 (including by sections 1(1), 2A, 3, 5, 8(2) and (6), 34, 35, 47(1) and 126 of, and paragraphs 1, 2, 3, 4, 4A, 7, 8, 9, 10 and 11 of Schedule 1 to, the Building Act 1984

which required that external walls shall adequately resist the spread of fire[16]. LABC had no role in setting the regulatory standard.

21. LABC had no role in the production or content of Approved Document B or BR135 either. As is well understood by the Inquiry Panel:-

    a. Pursuant to Section 6 of the Building Act 1984, the Secretary of State has power to issue practical guidance with respect to the requirements. With respect to compliance with fire safety, the Secretary of State has approved and issued Approved Document B which has been amended and updated from time to time.
    b. External walls should either meet the guidance given in paragraphs 12.6 to 12.9 of the Approved Document or meet the performance criteria given in BRE Report 'Fire Performance of External Thermal Insulation for Walls of Multistorey Buildings' (BR 135). BR135 was first published in 1988 by the Building Research Establishment (BRE). Its third Edition was issued in 2013. A cladding system that meets the criteria in BR135 satisfies the requirements of Approved Document B, and thus meets the fire safety requirements of the Building Regulations 2010.

22. It is also helpful to contrast LABC's role, which has been described above, with that of three other entities involved in certification, testing and building control:-

    a. The Building Research Establishment (BRE)
    b. The British Board of Agrément (BBA)
    c. The National House Building Council (NHBC)

23. We will consider the role of each briefly.

24. The Building Research Station was formed in 1921 and rebranded as the Building Research Establishment in 1971. BRE was the building research agency of Government. It was privatised in 1997. It has described itself to this Inquiry as follows:

[16] Schedule 1 B4(1) to the 2010 Regulations stated "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."

"*BRE is a world-leading, multi-disciplinary, building science centre with a mission to improve buildings and infrastructure through research and knowledge generation. BRE generates new knowledge through independent research. This is used to create the products, standards and qualifications that help to ensure that buildings, homes and communities are safe, efficient, productive, sustainable and enjoyable places to be.*"[17]

25. As noted above, BRE was responsible for the production of BR135.

26. BRE Global Limited is the testing, classification and certification body within BRE. BRE Global Limited works in a broad range of areas, with the largest being fire and security. As well as carrying out research for, amongst others, UK Government Departments it also provides testing, classification and certification of construction products for manufacturers. It provides UKAS accredited fire testing.

27. LABC's membership building control teams did not and do not have the technical expertise in respect of fire tests such as BS8414 and classifications to BRE 135 that was and is available to BRE, who undertake tests on behalf of manufacturers. Nor would it be necessary for their roles as building control bodies or when considering applications for Type Approval or Registered Detail.

28. BBA was originally formed in 1966 (albeit then called the Agrément Board) and has described its role to this Inquiry as follows:

"*The purpose of the BBA is to provide reassurance to manufacturers, users, specifiers, insurers and regulators of construction products and systems. This is carried out through the assessment and certification of products and systems for the construction industry against relevant national requirements*"[18]

[17] {BRE00047648/1}
[18] {BBA00011095/2}

29. The BBA describes itself as the leading authority on building product certification. It is a position which it states it has "*held for more than 50 years. With a technical integrity founded on our independent approach and delivered by the industry's recognised experts*"[19]

30. The BBA's role in respect of the Certification of a product's reaction to fire is to take the results of UKAS or similarly accredited fire tests and then assess them against the requirements of the documents supporting the national Building Regulations. The BBA claims that it based its assessments on what it considered to be best practice[20].

31. An entity like LABC (or one of its members) would be most unlikely, and we would submit not unreasonably, to question the correctness of a BBA certificate. If BBA certified that a product had certain properties or met the certain criteria that would be treated as fact. Approved Documents recognise independent certification schemes by certification bodies accredited by UKAS, that their certification scheme can be relied upon. Earlier iterations of Approved Documents specifically listed BBA as one such certification body.

32. NHBC came into existence in 1936. NHBC offers warranties for newly built or converted private housing, affordable housing, self-build homes and commercial premises located on mixed use housing schemes. It operates as a private building control body[21]. As an Approved Inspector NHBC can and does perform the function of building control. It claims to be the largest single Approved Inspector in England and Wales; inspecting around 50% of all new-build properties in the UK[22]. It claims to assist builders to achieve compliance, and advises on Building Regulations for schemes ranging from residential developments to large commercial and mixed-use sites[23]. Accordingly, NHBC inspectors visit building sites at key stages during a construction project to check compliance with its Technical Standards.

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[19] See Transcript [111/37/11]
[20] {BBA00011296/2}
[21] This is, of course, in contrast to LABC which is not a building control body.
[22] {MET00080645/3}
[23] {MET00080645/4}

33. Self-evidently, in acting as Approved Inspector and in addition, warranting new homes and tall buildings it was in a very different position to LABC and local authority building control.

**Part 3 – Government – Missed Opportunities**

34. Professor Bisby has prepared a detailed report entitled "Regulatory Testing and the Path to Grenfell" which considers the historical development and inadequacies of the building control regulatory regime which is plainly relevant to Module 6[24]. Regrettably, he will not address these topics until Module 7. However, his detailed and authoritative analysis exposes multiple occasions when Central Government has failed to grasp the opportunity to address shortcomings in the regulatory regime.

35. Professor Bisby's impressive research demonstrates unequivocally that long before events at Grenfell Tower there was longstanding and widespread confusion over the difference between Class 0 and limited combustibility.

36. Although he has not given evidence about his research orally, given that Module 6 concerns the role of Central Government, LABC considers that it is necessary that its submissions touch upon certain aspects of his analysis at this stage.

37. In December 1979, the new Secretary of State at the Department of the Environment, Michael Heseltine, gave a speech to NHBC setting out his vision for the building regulation system. He suggested the idea of private certification of plans (i.e. an architect could self-certify that their plans met the functional requirements) and also floated the idea that NHBC could become a private building control authority.

38. The partial privatisation of the function of building control (which in turn introduced competition to that arena) was brought about by The Building Act 1984. It was a radical change to the regulatory landscape. The intention was to allow greater flexibility. The role of Approved Inspectors was created. Local Authorities were no longer the only organisations able to deliver building control services. Developers

[24] {LBYP20000001}

could appoint a private company to act as a building control body (i.e. as Approved Inspector)[25]. The regulatory system would be self-financing.

39. The Building Act 1984 also introduced "Approved Documents" (such as Approved Document B").

40. The Approved Document B issued in 1985 introduced the term '*limited combustibility*'. It stated that external walls of buildings above 15 metres "*should be constructed of materials of limited combustibility*"[26]. Materials of limited combustibility were defined. There were four means by which a material could be so deemed.

41. Approved Document B also introduced guidance related to the fire associated with external cladding. It stated that cladding "*that should be of limited combustibility may also be combustible if it is not being relied on to contribute to the fire resistance of a wall*" if it met certain criteria. The upshot was that combustible external cladding was acceptable provided it was Class 0 when applied above 15 metres[27].

42. Class 0 was defined as a material or composite of a product that was composed throughout of materials of limited combustibility or a Class 1 material meeting certain characteristics based on testing under BS476 (part 6 or 7).

43. This created a confusing conflict which should have been recognised by Government. A material which was of limited combustibility could be assumed to be Class 0. However, a material that was Class 0 could not automatically be assumed to be of limited combustibility.

44. Cladding was becoming increasingly popular. It was seen by some as the solution to improving the environmental performance of existing buildings which were cold and damp. BRE published research on overcladding to assist local authorities assessing

[25] NHBC was initially the only body which acted as such. However, other entities did subsequently enter that market. NHBC remains the largest Approved Inspector in the UK
[26] Approved Document B, 1985
[27] Class 0 at that time was a material or composite of a product that was composted of materials of limited combustibility or a Class 1 material meeting certain characteristics.

overcladding schemes. BRE also published research which recognised that the fire hazards created by overcladding depended on the presence of combustible materials. It concluded mineral insulants may be safely used. It made recommendations in respect of proposed overcladding systems incorporating combustible insulants.

*Knowsley Heights*

45. A rainscreen was used on a building called Knowsley Heights in Merseyside on a project completed in 1989. A GRP sheet was used with an aggregate finish. The GRP was presented as Class 0. To be Class 0 it would have to be "*a material or the surface of a composite product*" that was either composed throughout of materials of limited combustibility, or a Class 1 material which has a fire propagation index (I) of not more than 12, and a sub index (i1) of not more than 6 (in accordance to BS476: Part 6)[28].

46. On 5 April 1991 a fire occurred. There were no fatalities. The subsequent investigation concluded that the primary reason for the rapid and widespread progression of the fire was the absence of cavity barriers between the cladding and the mineral fibre insulation. Approved Document B was altered to address this.

47. But, according to Professor Bisby, there was little or no consideration of the combustibility of the Class 0 GRP rainscreen. He observes[29] that BRE itself appeared to conflate Class 0 products with non-combustible products in a BRE report which was prepared in November 1992[30] (as noted above a Class 0 product is not necessarily non-combustible).

48. Professor Bisby later observes[31]:-

"*if the fundamental fire hazards that appear to have been generated by the combustibility of the Cape Stenni GRP rainscreen used at Knowsley Heights had been explicitly addressed at that time — for instance by implementing a recommendation for rainscreen cladding products to be materials/products of limited combustibility*

[28] {LBYP20000001/76}
[29] {LBYP20000001/99} at Paragraph 492
[30] The BRE report is to be found at {CTAR00000018/2}
[31] {LBYP20000001/105) at Paragraph 544

*rather than simply Class 0 — I consider it likely that the Grenfell Tower fire, a number of other external cladding fires discussed throughout the remainder of this report (some of which were fatal), and much of the current post-Grenfell cladding crisis, could perhaps have been avoided.*" [Emphasis added].

49. Approved Document B was updated in 1992[32]. As with the 1985 version of Approved Document B, the updated 1992 document indicated that any product that was found to be of limited combustibility could automatically be assumed to be Class 0 but did not explain that the opposite was not necessarily the case.

*Garnock Court 1999*

50. A fire occurred on 11 June 1999 in a block of flats known as Garnock Court, Irvine in Scotland. There was one fatality. Garnock Court had been reclad in a GRP cladding product in around 1991.

51. The matter was the subject of a Select Committee inquiry. We note that the Committee heard much evidence concerning Class 0 and criticism of it. For example:-

    a. The Fire Safety Development Group identified that the Approved Document B recommendations for external cladding at the time provided that "*exterior cladding should [only] be Class 0 fire performance*" without any explicit requirement for cladding to be of "*limited combustibility*"[33]. The FSDG referred to confusion over Class 0 standard.
    b. BRE informed the Committee "*There have also been issues referred to already relating to the Class 0' system of fire spread, which is basically a material based system of classification. I think there are some circumstances whereby utilising that of itself would not adequately identify the fire performance of a complete system.*"[34]

52. The Select Committee concluded as follows:-

[32] {LBYP20000001/1045} at Paragraph 546
[33] {LBYP20000001/128}
[34] {LBYP20000001/131}

"*We believe that all external cladding systems should be required to be entirely non-combustible or to be proven through full-scale testing not to pose an unacceptable level of risk in terms of fire spread*"[35]

53. The Government's Response to the Select Committee did not address Class 0. Professor Bisby stated[36]:

"*The Government thus appears to have effectively ignored the numerous criticisms that had been raised with respect to Class 0 as the main basis of recommendations for cladding materials and products used at height. This was despite a substantial body of well-articulated evidence that Class 0, rather than the development of a standardised large scale cladding compliance test, was the critical issue that urgently needed to be addressed.*"

54. This was a significant failing by Government and its advisers. Instead of eliminating Class 0 cladding products it added a new route to compliance in the Approved Document B by means of large-scale testing to BS 8414. This was, at least potentially, a lucrative source of work for testing bodies such as the BRE.

55. In 2000 BRE informed DETR of the results of a survey which it had undertaken[37]. It concluded that "*the level of knowledge within the local authorities with regard to both the number and types of cladding systems installed is extremely limited*"[38]. BRE observed that "*a significant number of [predominantly local authority cladding] contracts are let using materials from a range of manufactures [sic] for which no installation approval can be applied*"[39].

56. BRE also reported to DETR on a range of tests that it had performed on various products. BRE noted that:

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[35] {LFB00032910/15}
[36] {LBYP20000001/137} at Paragraph 721
[37] {BRE00041887}
[38] {LBYP20000001/145} at Paragraph 786
[39] {LBYP20000001/145} at Paragraph 787

*"The results from the British Standard [National reaction-to-fire classification] tests showed that although purchased as Class 0 products, only four of the eleven products tested satisfied Class 0 requirements."*[40]

57. According to Professor Bisby that testing showed, *inter alia*, that[41]:

    a. the National reaction-to-fire classification system in general, and Class 0 in particular, was not able to detect the fire hazards associated with the use of some combustible rainscreen cladding products;
    b. despite being able to achieve a Class 0 reaction-to-fire classification according to the National classification system, the "aluminium sheet" cladding (similar to those later used at Grenfell Tower), presented a clear and alarming external fire spread hazard;
    c. an "aluminium sheet" (i.e. ACM PE) rainscreen cladding product was likely to perform unacceptably with respect to external fire spread hazards. He believes it was chosen for this research project, based on a survey of predominantly social housing providers, because it was being used to overclad social housing stock

58. Class 0 remained in the 2002 revision of Approved Document B. A further opportunity was lost.

*Lakanal House*

59. Another major and tragic fire occurred at block of flats, Lakanal House, Camberwell, London on 3rd July 2009. There were six fatalities. The building had undergone various alterations since its original construction, the most significant of which was the replacement of the exterior walls with aluminium-framed window units and combustible infill panels.

60. The cladding products used in the external wall — the composite window panels specifically — failed to meet the recommendations of Approved Document B for Class 0 above 18 metres.

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[40] {LBYP20000001/157} at Paragraph 845
[41] {LBYP20000001/157} at Paragraph 850

61. Professor Bisby explains[42] that no changes were made after the Lakanal House fire in 2009, despite considerable and apparent confusion, both from fire safety "*experts*" and from construction industry practitioners, regarding the reaction-to-fire classification systems and the regulatory requirements for cladding and external walls, and the application of the relevant clauses within Approved Document B.

*Part 3 Concluding Comments*

62. Thus, throughout the existence of Class 0, there has been considerable confusion within the construction industry, government, and other relevant stakeholders including testing houses and regulatory authorities as to the true meaning of Class 0 and the distinction between it and limited combustibility.

63. As Professor Bisby observes "*The widespread confounding of "Class 0" with "non-combustible" appears to have been a serious problem since at least 1991, and openly discussed with government since at least 1999.*"[43]

64. LABC plainly did not create that confusion. The Government, and its technical research agencies, missed numerous opportunities to address it.

65. When the Government was considering how to implement the new European classification system (the "Euroclass system") in 2000 DETR commissioned Warrington Research Centre to compare existing National classifications against the new European classifications. It was known as the RADAR 2 Project. The authors of that RADAR 2 report observed that replacing Class 0 with the Euroclass B would "*discriminate against*" certain foil-faced polyisocyanurate (PIR) and phenolic foam (PF) insulation products which achieved Class 0 under the UK's system because some could only achieve classes D and C respectively.[44]

66. The Euroclass system did not replace the National Class system. Instead, the two ran in parallel. The decision not to do so was seemingly influenced by the desire not to

[42] {LBYP20000001}
[43] {LBYP20000001/225}
[44] {CLG00000951}

discriminate against combustible insulation products (like Celotex RS5000 and Kingspan K15) being used on tall buildings.

67. By 2010, the fire safety requirements described in requirement B4(1) of the Building Regulations 2010 (as amended) demanded that 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. The Guidance on how to meet this requirement could be found in Approved Document B Vol 2, section 12 (which incorporated the 2007 and 2010 amendments and subsequently the 2013 amendments) offering three routes to compliance with the Building Regulations[45]:-

    a. The first was by meeting the guidance in paragraphs 12.6 to 12.9 of the Approved Document.
    b. The second by meeting the performance criteria in BR135 using full scale tests to either BS8414-1:2002 or BS8414 - 2:2005.
    c. The third method, was through fire safety engineering.

68. Professor Bisby describes the approach taken by Kingspan and others to compliance as a hybrid '*third way*' which was facilitated by the structure and content of the regulations and guidance. He observes[46] that if a Class 0 classification could be obtained in relation to a product, people would wrongly assume that it was a material of limited combustibility or that it had achieved the best possible reaction to fire classification.

69. As the Inquiry is aware Kingspan commissioned tests on the foil facer alone which was stapled to a non-combustible calcium silicate rather than the combustible phenolic foam insulation. This enabled Kingspan to claim the surface was Class 0 and generate the appearance that the product was Class 0 and, the appearance of compliance with the Approved Document B and the Building Regulations. As Professor Bisby observes[47], this practice was utterly indefensible.

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[45] {CLG00014642/95}
[46] {LBYP20000001/180}
[47] {LBYP20000001/180}

70. Thus, the Government's regime for demonstrating compliance created an opportunity for the unscrupulous to manipulate the system[48] as demonstrated by the conduct of Kingspan and Celotex in relation to their insulation products and Arconic in relation to its rain screen panels. The regulatory regime was exploitable and exploited.

**Part - 4 Growing Industry Awareness**

71. The evidence to the Inquiry indicates that from 2013 onwards there was increasing awareness of industry confusion over Class 0 and limited combustibility and recognition that it had resulted in buildings being erected with combustible PIR insulation .

72. On 24 July 2013 the minutes of a Centre for Window and Cladding Technology (hereafter CWCT)[49] Board Meeting refer to concerns being raised about "*misunderstandings regarding insulation as Class 0 does not meet the fire regulations*".

73. The issue was raised and discussed by Chris Macey (Wintech) and this fact is acknowledged by all those present and is confirmed in the minutes[50]. It was raised again in the meeting on 18 September 2013[51].

"*The matter of Fire Performance, raised by Chris Macey, is to be referred to the Technical Group. Building control has a huge problem with insulation materials and we should perhaps write a technical update.*"

74. LABC observes that Mr Macey's concern was not caused or triggered by LABC certification[52].

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[48] Martin Taylor's Witness Statement { LABC0020153/11}
[49] The Centre for Window and Cladding Technology (hereafter CWCT). David Metcalfe states that the primary objectives of the CWCT are to produce guidance, carry out research and provide training in the area of facade engineering, see{CWCT0000115/2}
[50] {CWCT0000115}
[51] {CWCT0000028/1}
[52] Chris Macey categorically denies this in his own witness statement stating '*The Inquiry has asked me a series of questions regarding these LABC certificates. I was not aware of these certificates and therefore did not have any concerns or views about their content. I did not discuss these certificates with any of my colleagues. I do not know whether any of my colleagues at Wintech were aware of them'* {WIN00000005/25}

75. In late 2013, BBA finally amended its misleading 2008 certificate in connection with K15[53].

76. Shortly before this, Mr Macey (of Wintech) and David White (of NHBC) engaged in correspondence in respect of K15. He was concerned about how the sales literature from Kingspan "*infers that all applications of the use of K15 will be acceptable in all events which we believe is not the case.*" [54]. He made the point that K15 did not (as a material) meet the requirements of Part B of the Building Regulations because it was not of limited combustibility. The regulations do allow its use above 18m subject to a specific test on the exact form of construction used. He noted that it was widely used in industry and that the K15 literature infers that K15 is suitable in all events which Mr Macey did not believe to be the case.

77. The CWCT convened a Fire Group Meeting on 2 July 2014. It was attended by inter alia BRE (Sarah Colwell), Kingspan (Dave Cookson) and DCLG (Brian Martin). David White of NHBC sent apologies[55].

78. On the same day Mr Martin e-mailed Neil Smith of NHBC[56] in the following terms:

> "*Allegedly- several buildings have been erected where PIR insulation has been used in cladding panels well over 18m in height. Apparently people are under the impression that PIR is a material of limited combustibility (which it isn't). Again, allegedly, many of these buildings are blocks of flats.*
> *I've no idea how true these allegations are but they come from relatively reliable sources.*
> *The purpose of my email is a friendly warning. You might want to double check with your inspectors and plan checkers that they are on top of this.*"

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[53] {BBA00000036}. NB Having considered the evidence of BBA's witnesses LABC remains unsure when, if ever, the other misleading BBA certificate for K15 dated April 2010 {BBA00006253} was actually issued
[54] {NHB00000585}
[55] {CWCT0000032}
[56] {CLG00014889/2}

79. On 11 July 2014 Mr Martin received a response from Steve Evans[57], NHBC's Senior Area Technical Manager. It stated:-

"*This is an issue that NHBC are aware of and have been in discussions with industry about it for some time.*
*The issue is in respect of the use of Kingspan Kooltherm K15 Rainscreen Board in buildings over 18m in height. The confusion has arisen from Kingspan's statement that their product is acceptable for use in a building >18m. However, the product is made from a generic type of polyurethane foam which is, by nature, combustible. However, since 27 October 2008, the product held a BBA Certificate (attached) which indicates that it is acceptable for use in accordance with Approved Document B Volume 2 Paragraph 12.7 (7.1) subject to advice being should be* [sic] *sought from the certificate holder (7.2) if the building exceeds 18m in height. It was on this basis that NHBC Building Control and other building control bodies accepted the use of K15 in buildings over 18m in height including blocks of flats. We understand that LABC have also issued a Registered Detail approving the material for use over 18m....*"

80. Evans explained that NHBC had been aware in January 2014 of a revised BBA certificate for K15 which removed the reference that it was acceptable for use in accordance with Approved Document B Volume 2 paragraph 12.7 but that it had only been tested for one specific construction on masonry walls. Mr Evans informed Mr Martin that NHBC had approached Kingspan and explained that Kingspan were currently undertaking further testing the results of which were expected to be available later that month. Mr Evans felt there was no immediate reason to suspect that buildings with K15 were at risk[58].

81. It is clear that LABC's certification was not the trigger or cause of Mr Martin's nor the industry's concerns:-

    a. The concern was initially raised by Mr Macey of Wintech who was unaware of the LABC certificates.

[57] {CLG00014889/1}
[58] {CLG00014889/1}




LABC0020161_0019

b. Mr Martin contacted NHBC, he did not contact LABC[59].

c. Mr Evans, of NHBC, did not suggest that NHBC had been misled by LABC certification. There is no reference in NHBC's correspondence to the LABC Type Approval in 2009 (which had in any event lapsed in 2012). Although the correspondence refers to LABC's Registered Detail (issued in August 2013 – which Kingspan had sought and obtained in part relying on the October 2008 BBA certificate) it is not suggested that this had caused or triggered any confusion.

d. Throughout 2013 and 2014 there is no mention of LABC in the minutes of the CWCT Board Meetings or its Technical Group or its Fire Group despite the issue of combustible insulation being discussed and referred to in the minutes of all such meetings

82. Mr Evans forwarded Mr Martin's e-mail to LABC on 11 July 2014 LABC[60]. He stated:-

"*…Please keep this confidential at this time but felt that you may like to see this approach we have had from DCLG and my response. I have mentioned this at BCA meetings in the past but it is now coming to a head. I note that LABC Registered Detail expires in August this year so you may wish to consider this in light of the amended BBA certificate issued in December 2013*"

83. LABC acknowledges this demanded action on its part. The e-mail was circulated amongst LABC's technical members of staff including David Ewing on 6 August 2014 (who was at that time involved in the ongoing assessment by Celotex's RS5000 product)[61].

84. As for K15, the 2013 registered detail certificate had been drafted on the basis of the wording of the 2008 BBA certificate which had been accepted by David Jones of Herefordshire Council. When the BBA certificate was amended it was necessary to

[59] {CLG00014889/2}
[60] {LABC0002690}.
[61] {LABC0002690}.

amend the registered detail certificate for KI5 to also reflect the changes in the BBA certificate.

85. LABC did respond to the amended BBA certificate by withdrawing and subsequently reissuing the certificate for K15 albeit, it acknowledges, not as swiftly as it ought to have. This had no impact on the Grenfell Tower refurbishment because the August 2013 certificate for K15 lapsed in November 2014 long before that insulation was considered for Grenfell Tower and in any event no person involved with that project had regard to it.

86. As for RS5000, despite the communication from Mr Evans, a certificate was issued on 21 August 2014 which stated that it could be used on buildings above 18m subject to it being attached to a non-combustible substrate without the required caveats. This error was corrected within a relatively short timeframe when the RS5000 certificate was revised in November 2014.

87. By 30 November 2014 LABC had revised or withdrawn the certificates for both K15 and RS5000. When revised and republished, both certificates properly stated that the products could only be used above 18m in applications which exactly matched the specifications in the BR135 classification reports.

88. Thus, shortcomings in the LABC certification were plainly a symptom of longstanding and widespread confusion within the industry over classification which was not of LABC's making. Like many in the industry, LABC had a growing appreciation of this confusion in late 2013 and 2014 but LABC's confusion did not contribute to the events at Grenfell Tower.

*Building Control Alliance*

89. Prior to the establishment of the Building Control Alliance (BCA), the Association of Consultant Approved Inspectors (ACAI) and LABC had been working together to issue joint technical guidance to member organisations and to provide a mediation service.

90. The BCA was formed in 2007, as a pan-building control industry group compromising representative organisations with direct building standards involvement which included The Association of Building Engineers (ABE, now the Chartered Association of Building Engineers, CABE), ACAI, LABC, The Chartered Institute of Building (CIOB) and The Royal Institution of Chartered Surveyors (RICS).

91. The BCA's primary objectives were:

    a. To provide a single voice on cross industry building control issues to Government and departmental / industry working groups.

    b. To create joint technical guidance to member organisations of ACAI/LABC on interpretation of Building Regulation matters to avoid the potential that technical interpretation may become a competitive tool.

    c. To provide a mediation route for building control bodies in relation to procedural disputes between Approved Inspectors and the Local Authority over Initial Notice related matters.

92. The BCA's Technical Guidance Note No.18 (TGN18) was issued in June 2014 and was entitled "*Use of Combustible Cladding materials on Residential Buildings*". In its introduction[62], it stated:

    "*BCA technical guidance notes are for the benefit of its members and the construction industry, to provide information, promote good practice and encourage consistency of interpretation for the benefit of our clients. They are advisory in nature, and in all cases the responsibility for determining compliance with the Building Regulations remains with the building control body concerned.*"

93. TGN18 emphasised that where a building exceeded 18m in height, Approved Document B Volume 2 recommends (for the entire wall area both below and above 18m) either the use of materials of limited combustibility for all key components or to

[62] {BCA00000001/1}

submit evidence that the complete proposed external cladding system has been assessed according to the acceptance criteria in BR135.

94. The BCA guidance note presented three options[63] to show compliance with paragraph 12.7 of Approved Document B Volume 2:-

    a. Use of materials of limited combustibility for all elements of the cladding system both above and below 18m.
    b. Submitting evidence to the Building Control Body that the complete proposed external cladding system has been assessed according to the acceptance criteria in BR135.
    c. Where no fire test data exists for a particular system, the client may instead submit a desktop study report from a suitable independent UKAS accredited testing body (BRE, Chiltern Fire or Warrington Fire) stating whether, in their opinion, BR135 criteria would be met with the proposed system.

95. The BCA issued TGN18 in June 2014 and LABC, as a member of the BCA, followed it from that point onwards. Under option 1 (known as the linear route) all materials had to be of limited combustibility. If this route to compliance was adopted it would avoid the use of Class 0 Rainscreen Panels without further testing or fire engineering analysis. Thus TGN18 recognised and sought to address the use of Class 0 products on tall buildings that was otherwise possibly permitted by Diagram 40 of Approved Document B.

96. LABC personnel did not have concerns about desktop studies at the time TGN18 was issued. They were permissible under Approved Document B. The absence of concern must be viewed in its proper context. LABC was not then and has never been a building control body. It did not receive such desktop reports and so was in no position to comment upon the quality and suitability as a means of demonstrating compliance. Other members of the BCA were aware of the shortcomings of such reports. [NB LABC note that Steve Evans of NHBC and Brian Martin commented privately upon

[63] {BCA00000001/2}

their inadequacy in e-mail exchanges in June 2016[64]]. Such concerns were not shared with the BCA membership either in 2014 or subsequently and LABC was unaware of them. LABC considers that those concerns should have been shared widely, so that steps could have been taken to help building control bodies address the quality and suitability of such reports as a means of demonstrating compliance and, if necessary, the guidance note could have been amended or withdrawn.

97. Steve Evans of NHBC has observed that the third option, i.e. desktop studies were probably the method most used to demonstrate compliance[65]. The reason for that is that facade systems are different. That, in itself, underpins the danger of such studies as a method of demonstrating compliance. The reason why the second route to compliance demanded testing of the complete system to the criteria in BR135 was because products used in different formulations might react differently.

98. In June 2015 TGN18 was amended to introduce a fourth option, namely, a holistic fire engineered approach. A desktop study remained a route to compliance.

99. LABC accepts that, on reflection and in light of evidence to the Inquiry, desktop studies were not a satisfactory means of demonstrating compliance with the requirements with Approved Document B Volume 2 paragraph 12.7 and that this route to compliance has rightly been withdrawn.

## Part 5 – Shortcomings in LABC Certification

100. In its Closing Statement to Module 2[66] LABC accepted significant shortcomings in relation to LABC's Type Approval and later Registered Detail of Kingspan's K15 product and also in relation to the Registered Detail of Celotex's RS 5000 product.

101. Briefly, and by way of recap, it accepts[67]:-

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[64] {NHB00001325}
[65] {MET00080645/9}
[66] {LABC0019740/1}
[67] LABC does not wish to regurgitate its submissions relating to Kingspan's dishonesty in seeking LABC Type Approval and Registered Detail. Celotex was similarly dishonest when it sought Registered Detail status.

a. With respect to K15, the Type Approval Summary issued in 2009 should not have stated that K15 could be considered a material of limited combustibility and suitable for use above 18m. Mr Jones's (of Herefordshire Council) judgement that K15 could be considered of limited combustibility was not a judgement he was permitted to make. It did not satisfy the definition in table A7 of Approved Document B. Errors he made could and should have been identified during LABC's member '*peer review*' process[68].

b. With the respect to K15, the Registered Details Point 3 of Appendix A to the Registered Detail of 28 August 2013 stated that *"The product can be used on buildings with stories [sic] greater than 18m from ground level provided it is used in combination with suitably non-combustible substrates and ancillary components (note – BS 8414 testing referenced in section 1 of the BBA certificate is noted as meeting requirements of BRE 135, i.e. alternative compliance route referenced in Approved Document B or Scottish Technical Handbook)"*. This was wrong because it could only be in a system which was identical to that which had been the subject of the BS8414 test.

c. With respect to RS5000, LABC's first Registered System document should not have stated RS5000 is acceptable for use in buildings with storeys above 18m in height subject to the board being fixed to a non-combustible substrate without explicit reference to the requisite caveats. As above, this was wrong because it could only be used in a system which was identical to that which had been the subject of the BS8414 test.

102. Whilst it may be tempting to some to assume that LABC's Type Approval and Registered Detail certification must have influenced decisions on the use of K15 and RS5000 on Grenfell Tower, it would be wrong to do so. In its closing statement to Module 2[69] LABC explained in detail how the shortcomings in the certification could not and did not have any bearing on the use of those products on Grenfell Tower. That firmly remains LABC's position. With the exception of the evidence of Mr Hoban which on any objective assessment lacked consistency and credibility, and which

[68] As is noted below, the BBA certificate provided in support of the application was erroneous and misleading. The peer review process could not reasonably be expected to and did not identify errors in the misleading BBA certificate which the peer review group also received. As to the impact of the misleading BBA certificate see paragraph 112 herein..

[69] {LABC0019740/1}

LABC submits should not be relied upon, no person involved in the Grenfell Tower refurbishment works who has given evidence to the Inquiry has suggested that they consulted, read or relied upon an LABC certificate[70].

***BBA's Misleading Certificate in relation to K15***

103. It will be recalled that, in support of its application for Type Approval, Kingspan provided a BBA Certificate (08/4582) for its K15 Rainscreen Insulation Board. The BBA certificate was issued on 27 October 2008. It stated at section 7.1 that the "*the product meets the criteria stated within BRE135*" and at section 7.2 that "*The product is classified as Class 0 or "low risk" as defined in the documents supporting the national Building Regulations*"[71]. The certificate also stated that it would '*not contribute to the development stages of a fire*' – a completely unfounded and misleading statement in LABC's opinion.

104. We have noted above that there was widespread industry confusion over the distinction between Class 0 and limited combustibility. This BBA certificate is a paradigm example of that confusion. Its author, George Lee, provided a witness statement to the Inquiry in which he stated that a '*Class 0 rating indicated limited combustibility*'[72] . It did not but his statement to that effect explains, at least in part, how the certificate came to be worded in that fashion.

105. John Albon of BBA stated that "*The intention is that the Certificate is a standalone document that gives the reader all of the information required, without recourse to any other documents.*"[73] He agreed that the statement in the certificate that '*the product met the criteria within BR 135*' was wholly inaccurate and misleading as the test was a system test and not a product test[74]. The BBA's Chief Scientific Officer

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[70] See e.g. Simon Lawrence of Rydon stated he had never seen LABC's certificate in relation to K15 see Transcript [24/152/2]; David Hughes of Rydon see Transcript [27/66/3]; Ray Bailey of Harley Façades confirmed that he did not consult the LABC certificate for RS5000 see Transcript [33/87/5]; Daniel Anketell Jones of Harley Façades confirmed he did not read the RS5000 certificate see Transcript [33/87/5] and also states he had never heard of LABC see Transcript [36/88/21]; Ben Bailey of Harley Façades did not see the registered detail certificate see Transcript [39/125/20]; witnesses from Studio E – architects for the Grenfell Tower refurbishment provided 12 statements and gave evidence over 10 days and yet none suggested consultation of or reliance upon LABC certification; Andrew McQuatt of Max Fordham gave evidence on day 42 and did not refer to LABC.

[71] {BBA00000038/5}

[72] {BBA00010794/4}

[73] {BBA00000158/16}

[74] See Transcript [110/135/11]

accepted that there was '*a very basic failure of due diligence*' in producing the certificate[75]. Additionally, the BBA has provided no adequate explanation for the claim that the boards will not contribute to the development stages of a fire.

106. LABC (and its membership) would have no reason not to accept the content of a BBA certificate as anything less than completely accurate given the status of such a document and of the BBA itself (see paragraph 27-31 above). BBA certification has been described as being "*recognised throughout the construction industry as a symbol of quality and reassurance. It's the vital ingredient in the provision of assurance, quality and integrity to a plethora of stakeholders in the construction industry.*"[76]

107. Kingspan would use this BBA certificate in support of its applications for Type Approval and Registered Detail in 2013[77].

108. The following propositions were put to Mr Albon by CTI during his evidence:

a. '*...can we agree that it was an inaccurate...statement of how this combustible phenolic insulation would behave in fire*?'[78]
b. '*Do you accept that the most natural reading of that phrase, "will not contribute to the development stages of a fire" is a description of something which is non-combustible?*"[79]
c. '*Do you agree that a reader would inevitably conclude that K15 as a product had met the criteria in BR135?*'[80]
d. '*Yes, can we agree that that section of the certificate is wholly inaccurate and misleading?*'[81] [Emphasis added]

109. LABC agrees entirely with the sentiment behind each of these questions posed by CTI.

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[75] See Transcript [110/159/7]
[76] {PHYR0000029/98}
[77] A further BBA certificate was issued in 2010 yet it continued to rely upon the 2008 certificate in respect of its application for Registered Detail.
[78] See Transcript [110/112/23]
[79] See Transcript [110/113/12]
[80] See Transcript [110/135/11]
[81] See Transcript [110/135/17]

110. Sarah Colwell, BRE's Technical Development Director, raised concern about the content of the BBA certificate with George Lee[82]. What followed was disgraceful.

a. Mr Lee indicated to Kingspan that the certificate should be amended to make clear that the product had been '*tested to BS4141-1 for a specific construction on masonry walls*' [83]
b. Kingspan threatened BBA that it would seek to pass on the cost implications of the proposed change to the BBA certificate.
c. The BBA backed down and did not make the necessary changes to its certificate.
d. Kingspan told its 'guys' to let the file '*gather dust*'.

111. This allowed the misleading BBA certificate to be presented to Mr Jones of Herefordshire Council when the Type Approval application was made.

112. It is perhaps obvious but a misleading BBA certificate will inevitably mislead the reader unless that person knows that it is inaccurate or has grounds for suspecting it was wrong[84]. It is inconceivable that the LABC Type Approval certificate would have been issued in the way it was if the BBA certificate had been correct. The BBA certificate was a trap which was set, manipulated and relied upon by Kingspan. Mr Jones was caught in this trap and the LABC certificate was issued.

***LABC's Opportunity to Reconsider the Type Approval***

113. LABC acknowledges that it did miss an opportunity to give further consideration to the accuracy of its 2009 certificate.

114. On 25 September 2009 Mr Cody of Rockwool Limited wrote to Mr Barry Turner of LABC[85] referring to Kingspan's claim on its website that it was "*First to make the grade with LABC*", with Kl5. Mr Cody stated "*This article asserts that LABC has stated that "Kl5 can be considered a 'material of Limited Combustibility"' and "is*

[82] See Transcript [233/26/1] - [233/26/15]
[83] {KIN00009103/1}.
[84] See David Ewing's Witness Statement {LABC0020139/8}
[85] {LABC0000924}

*suitable in all situations shown on Diagram 40 of Approved Document B Volume 2, including those parts of a building more than 18m above ground*". Mr Cody describes this claim as being of "*serious concern*" because of the confusion which could be caused by combustible products being used on tall buildings. Mr Cody sought confirmation that LABC had issued a statement that K15 could be considered to be of limited combustibility together with an explanation. He made the point that "*it is of concern that LABC is cited by Kingspan as offering an opinion which could result in a combustible insulation material being used in an application where a potential risk has been clearly identified [in Approved Document B].*"

115. Mr Cody did not receive a prompt response to his letter. Indeed, he sent a chasing letter to Mr Turner in October 2009[86] and when that did not garner a response he e-mailed another member of LABC staff, on 1 February 2010[87] which led to a response on 23 February 2010 to Mr Cody:

"*With particular reference to the Kingspan K15 product. At the time of consideration, the Local Authority, that carried out the assessment for compliance with the Building Regulations, were satisfied that it met the relevant criteria. On that basis they felt able to recommend to other members that under the circumstances described, the material met the requirements of Building Regulations... This is now your second challenge on this rival manufacturer relating to compliance with part B of the Building Regulations.*

*If you have issues with claims made by a competitor I must ask that you deal direct with the company making those claims.*"

116. LABC considers that Mr Turner's evidence on this point is unimpressive[88] . When he was asked about the concerns raised in Mr Cody's first letter he stated:

"*From recollection, I didn't consider them. This was a letter of -- or my recollection is that this was considered a complaint from a competitor, and LABC shouldn't act as referee between competitors. I put my trust in those that had dealt with the matter and*

[86] {LABC0000853}
[87] {LABC0010318/3}
[88] See Transcript [216/83/14]

*the certifications that were in place by the likes of BBA, rather than believe an argument put forward by a competitor.*"

117. LABC considers that this was a reasoned concern which should not have been dismissed as a complaint from a rival in the manner it was. Rockwool was in a commercial dispute with Kingspan and it had submitted inaccurate complaints to LABC[89]. But this complaint was worthy of detailed consideration. The response it received was late and inadequate.

118. Regrettable and inexcusable though Mr Turner's approach was, and it is not condoned by LABC, a proper consideration of Rockwool's concerns would not have made a difference to the events at Grenfell Tower because:-

a. The LABC scheme took a BBA certificate at face value. It was not in a position to go behind the validity of the tests. Therefore, it is unlikely that more detailed consideration of the issue would have made a difference.
b. In any event, the Type Approval lapsed in 2012.
c. No person involved in the Grenfell Tower refurbishment had any knowledge of LABC certification.
d. It was never intended that K15 would be used in the refurbishment. It was only used because of a shortage of supply of RS5000.
e. K15 represented only a small proportion of the insulation used on Grenfell Tower.

***BRE – Appreciated error in LABC's K15 Type Approval but did nothing***

119. BRE realised the error in the LABC certificate which had been brought about by the misleading content of the BBA certificate (which, of course, BRE had also identified). It did nothing about the erroneous LABC certificate.

120. On 14 May 2009 there was an internal e-mail exchange between John Raybould and various other BRE employees including Stephen Howard, Sarah Colwell and

[89] {LABC0019679}

Debbie Smith. Mr Raybould had obtained a copy of the 2009 LABC Type Approval Certificate[90]. Mr Raybould noted:-

"*I have managed to get an LABC certificate - from Herefordshire, that says the Kingspan K15 insulation can be used in a mixture of insulation thicknesses, masonry or steel framed substrates, a rain cavity gap of 50mm with a range of rainscreen claddings..... Also note that this appears to give automatic acceptance for systems over 18m....*"

121. Sarah Colwell responded within minutes stating "*We need to discuss this urgently*". It is apparent that she was very concerned about the accuracy of the certificate[91]. She claims that a discussion took place and that it was left for Dr Deborah Smith to raise the matter with LABC.

122. Dr Smith confirmed in her evidence that she knew at that time that there were no circumstances in which Kingspan's K15 phenolic insulation board could ever be considered a material of limited combustibility.[92]

123. In her statement Dr Smith denied that any such internal BRE discussion took place:-

*"As far as I am able to recollect, I have not been involved in any discussions as to the suitability or use of either K15 or RS5000 insulation on buildings over 18m in height, or any potential concerns in relation to the same. Nor has my review of documents disclosed by BRE to the Inquiry revealed any such discussions.*"[93]

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[90] {BRE00003314}
[91] {BRE00012252/1}
[92] See Transcript [238/62/17]
[93] {BRE00005624/32}; see also {BRE00005624/32} Q5b para 117 "*As far as I am able to recollect, I have not been present at any meetings, technical or otherwise, in relation to the suitability or use of either K15 or RS5000 insulation on buildings over 18m in height, or any potential concerns in relation to the same. Nor has my review of documents disclosed by BRE to the Inquiry revealed any such meetings.*"

124. In her oral evidence she back-tracked from this denial. She claimed that she '*would have referred any concerns that we had...up to [Carol Atkinson and Philip Field] to have raised in their discussions that they were having*"[94] with LABC.

125. LABC has no record of any such concerns being raised with it by BRE. It has been diligent in its approach to disclosure. We can be sure that BRE has no contemporaneous record of these concerns being raised either because if it did the Inquiry would have been provided with a copy of it. Dr Smith's recollection in the witness box of how BRE's concerns might have been raised with LABC is emphatically rejected. Her spontaneous and self-serving recall of that particular detail, which had not been included in her statement, contrasts markedly with the fact that she answered 265 questions with the expression '*I do not recall*'. LABC submits that the Inquiry can be confident that BRE did not raise its concerns with LABC[95]. LABC would not have been able to dismiss BRE in the way it had dismissed Rockwool as an aggrieved competitor.

126. BRE did not raise its concern with Kingspan either[96]:-.

"*Can you explain why, given the manifestly erroneous and misleading content of this certificate in the way you and I have, I think, agreed, we never see in the records that we have seen from the BRE a strong letter that goes to Kingspan to ask them about how it is that they have allowed LABC to labour under this clearly wrong impression and what they propose to do to correct it? Can you explain why we see no such communication?*"

"*No, I can't...On reflection, yes, we should have done that*"

127. On any view this was a significant missed opportunity for BRE, the Government's leading research agency, to address the inaccuracy of the K15 certificate.

***Celotex RS5000***

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[94] See Transcript [238/63/22]
[95] See Transcript [238/62/24] – [238/63/1]
[96] See Transcript [238/69/24] – [238/70/9]

128. In 2013 Celotex began exploring whether it could enter the '>18m market'.

129. Celotex has admitted that it adopted a similarly deceptive and underhand approach of gaining a Registered Detail for RS5000 as Kingspan had done with respect to its K15 product: rigging tests and relying upon the misleading results (which were not identified by BRE) in support of the application.

130. On 17 June 2014 Celetox supplied the LABC's appointed research authority with a letter from the BRE which indicated that RS5000 had passed a BR8414-2 test and a BR135 classification was being prepared. On 5 August 2014 Celotex was informed it had successfully gained registration.

131. A registered system document dated 21 August 2014 was prepared and published which, as noted above, wrongly stated that it was acceptable for use above 18m subject to being fixed to a non-combustible substrate.

132. This error was corrected on 3 November 2014 when the certificate was superseded by a new certificate. It was subsequently withdrawn entirely on 6 November 2014 before being republished with explicit caveats included in July 2015.

133. Although, relatively short lived, LABC recognises that this mistake should never have occurred in the first place. By August 2014, LABC was aware of the widespread industry concern about the use of combustible products. It ought to have been more careful.

***LABC did not certify the ACM Rainscreen Panels***

134. Inevitably, this statement has focussed on the assessment and registration of insulation products. However, the insulation panels were, as the Chairman and others have already noted, not the principal reason for the spread of flames on Grenfell Tower. As Professor Bisby observed the ACM panels were '*by a considerable margin*' the primary cause of the rapid fire growth and extremely poor overall fire performance of the type of cladding system installed on Grenfell[97].

[97] {LBYR00000001/151}

135. The Chairman accepted Professor Bisby's analysis in the key findings from the Phase 1 report[98] that the "*principal reason why the flames spread so rapidly up the building was the presence of the ACM panels with polyethylene cores*"

136. LABC emphasise that it did not assess nor certify the ACM panels on Grenfell Tower or indeed any other ACM product whatsoever. By contrast, BBA did certify ACM panels. NHBC endorsed the use of ACM panels in its 2016 Guidance.

**Part 7 – Observations on 'LABC Witnesses'**

137. The Inquiry heard evidence from two people on behalf of LABC - Barry Turner and David Ewing.

138. Mr Turner is no longer an LABC employee and nor was he at the time he gave his evidence. The Inquiry may conclude that in giving his evidence he was at times unhelpful and dismissive and that he showed a poor attitude. Regrettably, LABC would agree with any such assessment.

139. LABC has already acknowledged that his handling of the concern raised by Rockwool was inadequate (albeit in no way causative of subsequent events).

140. Mr Turner may also have given the impression that LABC's relationship with Kingspan may have compromised its ability to act impartially. If that is what he meant, LABC reject that allegation entirely. There is no credible basis for that contention:

141. The Inquiry is aware the Kingspan logo appeared on technical guidance in 2009[99] LABC does not accept that resulted in any preferential treatment[100] .

142. LABC did offer Kingspan the opportunity to acquire a Business Sponsorship Package. The proposal to Kingspan stated as follows:

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[98] {INQ00014818/9}
[99] See Transcript [216/111/12] onwards
[100] See Transcript [216/116/25].

"*Business Sponsorship Packages provide a simple and direct channel for manufacturers and service providers to communicate with LABC surveyors and their customers. Payment of a sponsorship fee simply pays for LABC's communication costs and helps us to run sales activities, events, publications and our various online activities.*"

143. LABC's proposal made clear that it would work with any reputable company whilst retaining its independence and impartiality[101] . LABC's mistake was to consider Kingspan a reputable company – a mistake unfortunately made by many others including government bodies and testing and certification bodies. In other words, sponsorship was not a route to more favourable treatment by LABC.

144. During his evidence Mr Turner gave the impression that this type of sponsorship arrangement may have compromised LABC's independence[102].

"*Q. Were you ever involved in any discussions about whether such business sponsorship packages risked prejudicing LABC's independence from manufacturers? A. It was a difficult line for us to follow and a difficult path, because, because we had a need for income to be able to promote Local Authority Building Control in a competitive market, there needed to be income from somewhere. It wasn't provided by government, and it certainly wasn't provided by local authorities. And so this was a -- you know, one of many methods by which some form of income could be generated in order to promote those services. It wasn't part of my remit, and I can't answer for that document.*"

145. It is not entirely clear what point Mr Turner was seeking to make although LABC would refer in particular to the final sentence in Mr Turner's answer.

146. There is, of course, not a scrap of evidence that LABC made any decision about approval or registration in order to preserve commercial relationships or for financial gain. It would be unfair and quite wrong to interpret light-hearted comments in e-mails

[101] {LABC0002324/1}
[102] See Transcript [216/134/8]

regarding bonuses to staff (which, as noted above, are not given) or what an attempt at humour in an e-mail about a possible line of work Kingspan '*sav[ing] this failing company yet*'[103]; which was confirmed by David Ewing[104] . The humour was rooted in the fact that LABC was neither failing and it made little financial gain from registered details. If proof was needed that LABC was not dependent on Kingspan, as the Inquiry is aware, LABC severed all ties with Kingspan after the events of Grenfell Tower.

147. In contrast, the Inquiry may feel that Mr Ewing did his best to assist the Inquiry. He gave his evidence in a straightforward, respectful and helpful way. He acknowledged shortcomings where appropriate and did all he could to assist the Inquiry.

## Part 8 - LABC Improvements

148. LABC prefaces its submissions under this heading by noting that it has been invited by the Panel to participate in identifying changes it has already made and potential recommendations arising from the evidence heard in Phase 2. LABC welcomes that invitation and will be making submissions in due course.

149. In its closing submission to Module 2 LABC summarised the changes that it had made since the terrible tragedy[105].

150. As noted above, LABC severed ties with Kingspan. Even that proved controversial. In summary:

a. LABC suspended all of Kingspan's registrations alongside those of related companies such as EcoTherm as soon as it discovered details of Kingspan's falsification of test reports and utter disregard for public safety. This eroded any trust that LABC had in Kingspan.

[103] {LABC0002686/1}
[104] See Transcript [218/21] – [218/22]
[105] {LABC0019740}

b. LABC was accused by Kingspan of misusing material obtained through its core participant status to this Inquiry. LABC rejects that accusation.
c. Kingspan wrote to the Inquiry. LABC was reminded of its obligations by the Inquiry.
d. Kingspan further threatened to take 'formal steps' against LABC in May 2021.

151. Whatever conclusions the Inquiry may have reached about the use of inquiry material, LABC's motives were entirely proper and driven by its legitimate concerns over Kingspan's integrity and honesty.

152. LABC also withdrew its registration of Celotex's RS5000 immediately after the tragic events of June 2017 when it became apparent that the Celotex product had been involved.

153. LABC draws the Panel's attention to the statements of Lorna Stimpson and Martin Taylor which provide further details of the changes and improvements made[106]. At this stage, LABC highlight the following:-

a. Building on work started in 2016 it has created a UKAS audited ISO standards framework for local authority building control teams. To date 90% of authorities in England and Wales have voluntarily signed up to the quality management system (QMS) and are now independently audited by the LABC Standards Team and UKAS accredited Alcumus ISOQAR. Part of the QMS includes an assessment of the competence of surveyors, closely matched to project complexity; independent audits are regularly made to ensure that surveyors are not working outside the scope of this competence. These audits will include a detailed audit of technical decision making both in information (application) assessment and on-site assessments by surveyors.
b. In the absence of any accredited learning for the building control discipline since the early 1990s, building control had relied on building surveying or general construction courses for education, none of which delivered the learning

[106] See Lorna Stimpson's Witness Statement {LABC0020158/75} and Martin Taylor's Witness Statement {LABC0020153}

needed to produce skilled building control surveyors. Starting in 2017 LABC has developed a range of OFQUAL accredited learning and qualifications for building control professionals.

c. In 2018 LABC took on Dame Judith's challenge to prove the competency of building control professionals. Working with the Institution of Fire Engineers, LABC developed a competency validation assessment for Building Regulation Fire Safety in Higher Risk Buildings. To date LABC has accredited over 600 surveyors. This scheme of validation was extended to cover all levels of building control professionals in early 2022.

d. The LABC Board of Directors on behalf of the LABC Members agreed at their meeting on 15th July 2021 to wind down the LABC Registered Details Scheme.

e. The Building Safety Competence Foundation Community Interest Company (BSCF) has been set up by LABC as a public interest organisation to provide a range of services to the construction industry. In the interests of public benefit, public safety and consumer protection, the creation of the BSCF enables investment in the education, competence, ethics and culture of the wider construction industry. It is a new vehicle for delivery of competence validation of those responsible for the regulation, design, construction and maintenance of our built environment. The Vision for the organisation is to "*Give confidence in those responsible for a healthy and safe built environment*" which is intended to help re-establish public trust in the construction industry.

f. Since 2020 LABC has ceased all sponsorship activity.

154. LABC sincerely hopes that the Panel will agree that LABC has recognised its failings and has taken steps to address them. In Opening Module 6 CTI stated "*core participants and their witnesses know, or ought to know, what is in the documents. It is in the interests of the Inquiry's work, and so in the public interest, that these bodies fully embrace their obligations of candour and openness, and face up to the stark realities that they reveal. Their written submissions tend to suggest that they have been drafted with fingers crossed.*"[107] LABC did not provide a written opening to Module 6. Whoever CTI had in mind LABC does not fit that description. It has been self-critical and entirely frank with the Inquiry. It will continue to be so.

[107] See Transcript [214/11/7]