



Grenfell Tower Inquiry

Day 112

March 24, 2021

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1 Wednesday, 24 March 2021
 2 (10.00 am)
 3 MR ADRIAN WESTLEY PARGETER (continued)
 4 SIR MARTIN MOORE—BICK: Good morning, everyone. Welcome to
 5 today's hearing. As usual I'm joined by my fellow panel
 6 members, Ms Istephan and Mr Akbor.
 7 MS ISTEPHAN: Good morning.
 8 MR AKBOR: Good morning, everyone.
 9 SIR MARTIN MOORE—BICK: Today we're going to begin by
 10 hearing further evidence from Mr Pargeter, and so my
 11 first task is just to ensure that we are in contact with
 12 Mr Pargeter. I think we are, but I will ask him to
 13 confirm that he can see me and hear me clearly.
 14 THE WITNESS: I can indeed.
 15 SIR MARTIN MOORE—BICK: Good morning, Mr Pargeter, thank you
 16 very much, that's good.
 17 I think, for the form's sake, we should just go
 18 through the usual housekeeping so everyone is clear
 19 where we are.
 20 So can you confirm that you're alone in the room
 21 from which you're giving evidence?
 22 THE WITNESS: I am alone.
 23 SIR MARTIN MOORE—BICK: Thank you.
 24 Can you confirm that you don't have any documents or
 25 other materials with you?

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1 THE WITNESS: I do not.
 2 SIR MARTIN MOORE—BICK: And can you confirm that your mobile
 3 phone is in another room and that you don't have any
 4 other electronic device with you which is capable of
 5 receiving messages?
 6 THE WITNESS: I don't have any devices on me at all.
 7 SIR MARTIN MOORE—BICK: Lovely, thank you very much. And
 8 you have full control over the lights now, haven't you?
 9 THE WITNESS: Yes, so if it goes dark, let me know and I can
 10 switch them on then.
 11 SIR MARTIN MOORE—BICK: Good, thank you very much.
 12 Well, the procedure is the same as yesterday. Is
 13 there anything you would like to ask me or raise with me
 14 before we carry on?
 15 THE WITNESS: No, thank you.
 16 SIR MARTIN MOORE—BICK: Right. Thank you very much. Well,
 17 in that case, I will invite Mr Millett to put some more
 18 questions to you.
 19 Yes, Mr Millett, when you're ready.
 20 Questions from COUNSEL TO THE INQUIRY (continued)
 21 MR MILLETT: Thank you very much, Mr Chairman, and good
 22 morning to you and the panel, and good morning also to
 23 Mr Pargeter.
 24 A. Good morning.
 25 Q. Mr Pargeter, I'm now going to ask you about a letter

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1 dated 19 January 2021, so this year, which was written
 2 by Kingspan under the hand of Ralph Mannion, the
 3 managing director, to three people, namely Clive Betts
 4 MP, the Chair of the select committee; Brian Martin, the
 5 head of technical policy at MHCLG; and Stephen Garvin,
 6 head of Building Standards in Scotland. Those
 7 letters — I will read the references into the record —
 8 are at {KIN00024978}, {KIN00024979} and {KIN00024980},
 9 respectively.
 10 My first question is: are you aware that those
 11 letters were written?
 12 A. Yes, I'm aware of them.
 13 Q. Let's look at the letter to Clive Betts MP. That's at
 14 {KIN000024978}. You can see it bears the date
 15 19 January 2021, it's addressed to Clive Betts and its
 16 title is "Correction of misunderstanding during oral
 17 evidence provided to the Grenfell Tower public inquiry".
 18 If we go down to the bottom of the letter at page 3
 19 {KIN000024978/3}, if you just scroll to that, please,
 20 you can see that there is Mr Mannion's signature as
 21 managing director of Kingspan Insulation UK and Ireland.
 22 Did you see this letter before it went?
 23 A. I don't think I saw it before it went, I saw a copy of
 24 it afterwards.
 25 Q. Right. So does it follow that you didn't yourself have

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1 a hand in drafting it?
 2 A. No, I should imagine it was based on the evidence in my
 3 witness statement as well.
 4 Q. You imagine what based on your evidence in your witness
 5 statement?
 6 A. Well, it covers — it covered the same topic as my fifth
 7 witness statement.
 8 Q. Were you involved in the decision to send a letter such
 9 as this to Mr Betts and, indeed, Mr Martin and
 10 Mr Garvin?
 11 A. No, I was not.
 12 Q. Right. Were you involved in the discussions about what
 13 the letters should contain?
 14 A. I don't recall being involved in the discussions.
 15 Q. Do you know who was involved in the decision to send
 16 such letters?
 17 A. No, I don't, other than Ralph.
 18 Q. Do you know who was involved in the discussions about
 19 what the letters should say?
 20 A. No, I don't.
 21 Q. When did you first discover that this letter had been
 22 sent?
 23 A. I think it would have been the day it was sent. I'm
 24 sure Ralph sent a copy to me.
 25 Q. I take it from that that you did not advise Mr Mannion

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1 about what this letter should say?
 2 A. No, I don't recall doing that.
 3 Q. And he didn't even send it to you in draft for your
 4 comment or correction; is that right?
 5 A. I don't think so. I can't recall. I don't think so.
 6 Q. You can't recall?
 7 A. No, I don't think he did.
 8 Q. You don't think he did. This wasn't very long ago.
 9 This letter was sent two months ago. You can't recall
 10 whether you saw a draft of this letter and were asked
 11 for your comments?
 12 A. Well, I think I had done my witness statement, my fifth
 13 witness statement, so we were having general discussions
 14 about the topic, but I don't recall specifically seeing
 15 the letter.
 16 Q. Right. Well, let's see how far you can assist us with
 17 it.
 18 Can you please look first at paragraph 1.1 and also
 19 1.2 {KIN000024978/1}. 1.1 says, if we can go back to
 20 it:
 21 "1.1. We anticipate that you will be closely
 22 following the evidence provided to the Inquiry and,
 23 given the serious nature of the matters under
 24 discussion, we are writing to draw your attention to
 25 a material factual misunderstanding that arose during

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1 Mr Adrian Pargeter's evidence to the Inquiry on
 2 9 December 2020, which was widely reported in the media
 3 and which pertains to evidence provided by Kingspan
 4 Insulation Limited to the Select Committee in 2018.
 5 "1.2. This misunderstanding led to Counsel to the
 6 Inquiry suggesting to Mr Pargeter that Kingspan 'engaged
 7 in a wholesale attempt to mislead' you and the Select
 8 Committee and 'a deliberate attempt to deceive Mr Betts
 9 and the select committee'. This allegation was based on
 10 an assertion that Kingspan had submitted a test report
 11 on 6 July 2018 to you and the Select Committee of
 12 a system which had been 'designed to fail' and that
 13 Kingspan failed to inform the Select Committee of this
 14 fact. This is not accurate. We explain the
 15 misunderstanding and set out the true position in more
 16 detail below."
 17 So that's what the letter was about.
 18 Now, if we go down, please, to paragraph 2, you can
 19 see "Relevant background", and if you read a little
 20 further down to the next part of the screen — let's
 21 pick it up at 2.2, which starts "In 2018 we were aware",
 22 and if you go down to the next page, top of page 2
 23 {KIN000024978/2} in the electronic version of this
 24 document, you can see that there are two letters, letter
 25 (a) and letter (b). Letter (a) deals with the May 2018

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1 test and letter (b) deals with the July 2018 test. I'll
 2 read those to you:
 3 "(a) The 'May 2018 Test' took place on 22 May 2018
 4 at Exova, Dubai: The system incorporated limited
 5 combustibility Alucobond A2 cladding and Rockwool
 6 DuoSlab non-combustible synthetic mineral fibre
 7 insulation. The intention was to test a system which
 8 might realistically be specified to be used on
 9 a building in the UK in accordance with the linear route
 10 to compliance, but which nevertheless contained certain
 11 design 'imperfections', which might be seen in practice
 12 and lead to a less robust fire performance than an
 13 optimally designed system. In fact, the system passed
 14 the test — i.e. the design imperfections did not
 15 adversely affect the performance of the system such as
 16 to result in a failure to meet the BR 135 criteria.
 17 "(b) The 'July 2018 Test' took place on 2 July 2018
 18 at Exova, Dubai: The system which was tested closely
 19 replicated the Department for Communities and Local
 20 Government ('DCLG') post-fire tests #2, 4 & 6 (which set
 21 the benchmark by which the UK Government was determining
 22 national building safety) but incorporated Vitracore G2
 23 cladding panels and Rockwool DuoSlab non-combustible
 24 synthetic mineral fibre insulation. At the time of the
 25 July 2018 Test, Vitracore G2 cladding panels were rated

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1 as of limited combustibility/A2 and available in the UK
 2 market. This system did not contain any deliberate
 3 design imperfections. Indeed, if anything, the tested
 4 construction was more robust than the DCLG tests. It
 5 was therefore (i) a very robust construction and (ii)
 6 a system which would have been compliant under the
 7 linear route. The system failed the test (i.e. it
 8 failed to satisfy the BR 135 criteria)."
 9 Now, just pausing there with these statements in
 10 this letter, the statement in (b) that I've just read to
 11 you, "The system did not contain any deliberate design
 12 imperfections", five lines down within (b), conceals,
 13 doesn't it, the fact that it was constructed using
 14 a Vitracore G2 panel with a poor test record that you
 15 hoped and intended would lead to test failure?
 16 A. No, it doesn't conceal that. It says there
 17 Vitracore G2, it states the performance criteria of the
 18 G2, so it's not concealing anything.
 19 Q. Where does it say here that Kingspan had selected the
 20 Vitracore G2 because or despite Kingspan's suspicions
 21 that it would lead to a failure of an 8414 test?
 22 A. Well, it doesn't say that.
 23 Q. No.
 24 Do you accept that, in omitting that fact, this was
 25 a thoroughly misleading statement?

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1 A. No, it's not thoroughly misleading at all. It's quite
 2 open and transparent about the products that were tested
 3 and the results that they got.
 4 Q. I would suggest to you that in telling Mr Betts that
 5 Vitracore cladding panels were rated as limited
 6 combustibility/A2 and the system didn't contain any
 7 deliberate design imperfections, you are misleadingly
 8 omitting a critical fact, which was that you precisely
 9 selected Vitracore G2 cladding panels because of its
 10 poor test record in an 8414 test.
 11 A. It's not misleading, it's an A2-rated product, so
 12 whether it's passed a test before or not, it was —
 13 you know, we tested it in that system and in that
 14 particular system it failed.
 15 Q. Let's go to paragraph 3.1(c). 3.1 starts:
 16 "During the course of Mr Pargeter's oral evidence on
 17 9 December 2020 ..."
 18 Let's look at (c). I'll read the whole of it to you
 19 so I can show you the context of the part of it I want
 20 to ask you about:
 21 "It was implicit in the subsequent questioning that
 22 Counsel to the Inquiry had understood that the April
 23 emails related to the July 2018 Test when they did not.
 24 This, in turn, led to the line of questioning in which
 25 it was contended that Kingspan was 'engaged in

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1 a wholesale attempt to mislead' you and the Select
 2 Committee. The premise of the questioning was that
 3 Kingspan should have informed the Committee that the
 4 July 2018 test had contained deliberate design
 5 imperfections (or that it was 'designed to fail' in the
 6 words of Counsel). In fact, the system tested in July
 7 2018 had been robustly constructed and contained no such
 8 design imperfections; there was therefore nothing to
 9 draw to the Committee's attention in this regard. It
 10 follows that Kingspan did not in fact mislead the
 11 Select Committee (and most certainly had no intention to
 12 do so)."
 13 Again, it's right, isn't it, Mr Pargeter, that
 14 that's not true, is it? It's not true, because the July
 15 test was deliberately set up using Vitracore G2, which
 16 you knew or at least suspected would perform poorly,
 17 which it did.
 18 A. It's true that the system performed poorly, but it is —
 19 it's not withheld any deliberate design imperfections.
 20 Q. It's true also that the purpose of the July test, as you
 21 confirmed yesterday, was the same as the May test,
 22 namely to have a failed test with which to support your
 23 case to Mr Betts, among others; no?
 24 A. That was the purpose, yes.
 25 Q. You don't reveal that either, do you, in this letter, or

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1 Mr Mannion doesn't in this letter, does he?
 2 A. I would say that was clear, why we've done that test.
 3 That's clear, I think, in that letter.
 4 Q. You say it's clear, is it, that Kingspan had set out to
 5 construct a test on both occasions that was intended to
 6 fail so as to provide evidence to support its case? You
 7 think that's clear from this letter, do you?
 8 A. I think it's clear why we would be testing it, to
 9 challenge the assumptions. I think that's clear, yes.
 10 Q. It's true also, isn't it, at least on what I've read to
 11 you, that this letter doesn't reveal that the reason why
 12 the July test was conducted at all as Kingspan's plan B
 13 was because the May test had succeeded?
 14 A. No, it doesn't say that.
 15 Q. Again, that's, I would suggest to you, a misleading
 16 omission, or an omission which meant that the letter was
 17 apt to mislead?
 18 A. No, the letter's not misleading at all, it's laying out
 19 the facts of what we have found, and just because it
 20 doesn't mention another test doesn't mean to say it's
 21 misleading.
 22 Q. Now, let's go back to paragraph 2.3 on the same page,
 23 higher up the screen. Paragraph 2.3 says:
 24 "Subsequently, Kingspan provided you and the Select
 25 Committee with a copy of the July 2018 Test result (and

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1 a compilation of supporting documents), along with two
 2 other third party test results which had not been
 3 commissioned by Kingspan but had come to Kingspan's
 4 attention, as examples of systems which would meet the
 5 linear route to compliance but which, nevertheless,
 6 failed to meet the BR135 criteria when tested to
 7 BS 8414. The May 2018 Test was not shared with the
 8 Select Committee because it was not relevant as it did
 9 not illustrate the public safety point that Kingspan was
 10 seeking to explain: it is not in doubt that some systems
 11 comprising only A1/A2 materials will meet BR 135
 12 requirements when tested to BS 8414, the point of public
 13 safety is that not all such systems will meet those
 14 requirements."
 15 You claim here, or Mr Mannion claims here, that the
 16 May test was irrelevant because it didn't illustrate the
 17 point that Kingspan was seeking to explain. My question
 18 is: surely that test was highly relevant for that very
 19 reason, namely that it undermined your case?
 20 A. I don't think it was relevant, but obviously here
 21 I hadn't recalled that we did mention that test to them
 22 in this letter. So for the previous question, I think
 23 the previous question implied that we hadn't in this
 24 letter mentioned the May test, but obviously clearly we
 25 did.

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1 Q. Well, clearly you mentioned the May test in this letter.
 2 My point is that it seems from paragraph 2.3 that there
 3 had been a decision not to share the fact of or results
 4 of the May test with the select committee because
 5 somebody at Kingspan had decided that it wasn't
 6 relevant.
 7 Now, let's just break that down. First, is it
 8 right, as this letter suggests, that there was
 9 a positive decision within Kingspan not to share or to
 10 reveal to the select committee the fact of or results of
 11 the May test?
 12 A. Well, it was considered not relevant, so in considering
 13 it's not relevant then to that case then yes, it wasn't
 14 relevant.
 15 Q. Yes, yes. That decision not to share the May test,
 16 let's look at that, when was that made, do you know?
 17 A. I don't know.
 18 Q. Who was privy or party to the decision not to share the
 19 May 2018 test with the select committee?
 20 A. I don't know.
 21 Q. Were you?
 22 A. No.
 23 Q. Right. Who, can you tell us, took the decision that the
 24 reason or the justification for not sharing the May 2018
 25 test with the select committee was because of its

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1 perceived irrelevance?
 2 A. No, I don't know who would have taken that decision.
 3 Q. Do you accept that the fact and results of the May test
 4 was highly relevant, by which I mean something which the
 5 select committee would wish to know when considering
 6 your case, because it undermined your case?
 7 A. No, I don't think it was relevant.
 8 Q. Was it not also relevant because the success of the May
 9 test was the very reason why the July test was necessary
 10 at all?
 11 A. No, I don't think so.
 12 Q. I have to suggest to you that although, as you say, you
 13 had no hand in this letter, this letter was a misleading
 14 letter because it misled the select committee about the
 15 robustness of the July test and misled the
 16 select committee about the real reasons for not
 17 mentioning the May test. Do you accept that?
 18 A. No, I don't think it's misleading at all.
 19 Q. And that in its attempt to claim that Kingspan had not
 20 set out to mislead the select committee, it simply made
 21 further misleading statements; do you accept that?
 22 A. No.
 23 Q. Do you accept that your attempts following your evidence
 24 on 9 December 2020 to set the record straight have
 25 simply been to create a further record of dissembling

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1 and mendacity, Mr Pargeter?
 2 A. No.
 3 Q. Do you accept that Kingspan's attempts to influence the
 4 Government's consideration of the future of fire testing
 5 policy in this country in the wake of the Grenfell Tower
 6 fire have been entirely self-serving and at times
 7 dishonest?
 8 A. No, neither self-serving or dishonest.
 9 MR MILLETT: Mr Chairman, I have come to the end of my
 10 prepared questions. This may be an appropriate moment
 11 for the usual break.
 12 SIR MARTIN MOORE-BICK: Yes. Thank you very much,
 13 Mr Millett.
 14 Well, Mr Pargeter, not very many questions to put to
 15 you this morning, but there we are. Mr Millett thinks
 16 he has got to the end of them.
 17 We always, as I think you know, have a short break
 18 at this point to enable counsel to check the position,
 19 and also to enable others who are following the
 20 proceedings to suggest further questions.
 21 So we will take that break now. We will come back
 22 at 10.35, please, and see if we have any further
 23 questions for you at that stage. And of course, as
 24 before, please don't talk to anyone about your evidence
 25 while you're on the break. All right?

15

1 THE WITNESS: Yes.
 2 SIR MARTIN MOORE-BICK: See you later on. Thank you very
 3 much.
 4 THE WITNESS: Thank you.
 5 (10.20 am)
 6 (A short break)
 7 (10.35 am)
 8 SIR MARTIN MOORE-BICK: Welcome back, everyone. We will now
 9 see whether there are any further questions for
 10 Mr Pargeter.
 11 I will just check, Mr Pargeter, you can see me and
 12 hear me clearly, I hope?
 13 THE WITNESS: I can, yes.
 14 SIR MARTIN MOORE-BICK: Good, thank you very much.
 15 Then we will see whether there are any more
 16 questions for you.
 17 Mr Millett, do you have any more questions for
 18 Mr Pargeter?
 19 MR MILLETT: Yes, Mr Chairman, just one short run of
 20 questions.
 21 Could I invite Mr Pargeter please to be shown the
 22 transcript for {Day85/85}, 9 December 2020.
 23 Mr Pargeter, if you look at the top of the screen,
 24 you can see that there is a question at line 3. Just to
 25 give you the context of the questions, I'm actually

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1 asking you here about the letter to the select committee
2 written on 6 July 2018 that we saw yesterday and indeed
3 on 9 December. At that stage, of course, as we know,
4 the Inquiry did not know about the existence of or the
5 results of the May test, so I'm examining you on the
6 April emails on the hypothesis that that applied to the
7 July test. So that's the background.

8 Let's see the questions and answers at line 3 and
9 following:

10 "Question: All the weaknesses that were introduced
11 into the system that we saw in the April email run,
12 which were designed to make the system perform poorly,
13 were not clearly identified as such in this document,
14 were they?

15 "Answer: No.

16 "Question: And therefore anybody reading it would
17 think that the system was designed not as a worst-case
18 scenario or as designed to perform poorly, but just as
19 a system.

20 "Answer: Correct, as a system.

21 "Question: And therefore anybody reading this
22 letter would be misled, wouldn't they, into thinking
23 that the test had not been set up to fail but was
24 a fairly representative test?

25 "Answer: No, they wouldn't have been misled. It

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1 was a system designed which would comply with the linear
2 route. So that's not misleading anybody, that's what it
3 was.

4 "Sir Martin Moore-Bick: But if I may say so, the
5 key point that counsel is inviting you to consider is
6 whether the system that was actually tested was designed
7 so as to be fairly representative of what one might
8 expect to be built. Is that your point, Mr Millett?

9 "Mr Millett: Yes, Mr Chairman.

10 "Answer: Then it was designed to be the most
11 challenging for that test.

12 "Sir Martin Moore-Bick: So I think it follows that
13 it was not intended to be fairly representative of what
14 one might expect to see built.

15 "Answer: I think I'd agree with that, yes."

16 Now, I've shown you that because that was your
17 evidence on 9 December, and it's important that I remind
18 you of that evidence before I show you a document.

19 Having shown you that evidence, can I now show you
20 the document at {KIN00024926}, please. Now, this is the
21 email run from April 2018 that we looked at a very large
22 number of times over yesterday and on 9 December. If
23 you look down, please, at the bottom of page 1 and over
24 on to the top of page 2 {KIN00024926/2}, you can see
25 that the email run continues with an email on

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1 11 April 2018 from Mark Harris to Nick Jenkins, copied
2 to, among others, you, and also to Gene Murtagh and
3 Gilbert McCarthy.

4 Over at the top of page 2, the text from Mark Harris
5 reads:

6 "Thanks for all the effort you're putting in. Is it
7 fair to state that the configuration and material
8 selection reflects something that could be specified and
9 built in the UK?"

10 Then if you scroll up to the next email up on page 1
11 {KIN00024926/1}, Nick Jenkins responds the same day,
12 11 April 2018, to the same group of email recipients and
13 same copyees, and says:

14 "No problem Mark.

15 "Yes it is absolutely fair to state that the
16 configuration and material selection reflects something
17 that could be specified and built in the UK. In fact
18 there are many projects out there featuring very similar
19 assemblies with both RW, phenolic and PIR rainscreen
20 insulation products. The only difference that these
21 existing projects have panels formed from fr or PE
22 grades of ACM rather than A2."

23 Now, it's right, isn't it, that the answer you gave
24 to the Chairman on Day 85 that I've read to you, that
25 the system with the design imperfections in it was not

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1 intended to be fairly representative of what one might
2 expect to see built, was correct?

3 A. No, I think what this proves is probably the opposite.

4 I mean, I don't have the experience of all the different
5 combinations of designs for rainscreen cladding out
6 there, whereas Nick Jenkins does, and I think this —
7 what this shows really is that it was probably far more
8 fairly representative than I gave it credit for. I know
9 Nick Jenkins has subsequently written in to the Inquiry,
10 separately off his own volition, hasn't he, to confirm
11 that as well? So I think it was probably more fairly
12 representative than I gave it credit for.

13 Q. Right.

14 Are you saying that when you saw this email, you
15 understood Nick Jenkins to be saying that the design
16 imperfections deliberately introduced into the system to
17 be tested and that was tested in May were design
18 imperfections that would be introduced into other
19 systems fairly representative of those built in the UK?

20 A. I think what he was saying was that there are — there's
21 different types of assemblies, there's different ways of
22 putting cladding systems together, there are different
23 fire barriers, and there's obviously the most robust
24 down to the weakest, and then there's quite a lot in
25 between. So I think what he was saying was what we were

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1 constructing there would have been representative of
2 systems, but they weren't — those systems would not
3 have been designed to be deliberately weak, they just
4 would have been weaker, and I think — so he was saying
5 of those elements, we've put them together into this
6 test.

7 Q. Yes. I mean, you're not saying, are you, and when you
8 answered the Chairman you weren't saying, were you, that
9 people would deliberately design this system with the
10 design imperfections introduced into it that you had
11 introduced?

12 A. I don't think anybody would deliberately design
13 imperfections, but they would be there, they would be
14 there by the nature of the design, if you understand
15 what I mean, and I think that test reflected that, that
16 potential.

17 Q. Right.

18 Mr Chairman, I don't think I have any further
19 questions arising out of that.

20 Mr Pargeter, subject to one matter, those are all
21 the questions I have for you. There are outstanding
22 document requests which have been the subject of
23 correspondence overnight with Kingspan, and I'm going to
24 ask you whether you would agree to assist Kingspan in
25 assisting the Inquiry in finding and producing the

21

1 further documents to which you referred yesterday during
2 your examination, which you thought might exist, so that
3 we can see the full picture. Would you do that?

4 A. Of course, yes, yes.

5 MR MILLETT: Thank you very much.

6 Subject to that, Mr Chairman, I have no further
7 questions, and it only remains for me to thank you very
8 much, Mr Pargeter, for coming back to the Inquiry and
9 answering our further questions. We're very grateful,
10 thank you.

11 THE WITNESS: Thank you.

12 SIR MARTIN MOORE—BICK: Thank you, Mr Millett.

13 Well, it's right, Mr Pargeter, that I should
14 thank you as well on behalf of myself and the panel for
15 coming on a second occasion to give evidence. It's been
16 very helpful to hear from you.

17 I'm glad to hear that you're willing to assist
18 Kingspan in putting their hand on the documents to which
19 you've referred and which we haven't yet seen.

20 In the circumstances, I'm going to release you, in
21 the sense that I'm not going to ask you not to talk
22 about your evidence to anyone else. If it becomes
23 necessary to ask you back, then I think we'll just have
24 to swear you again if and when that becomes necessary.

25 But, for the moment, that's all we have for you.

22

1 Thank you very much again for coming to help us, and
2 that's all we have for you.

3 THE WITNESS: Thank you.

4 SIR MARTIN MOORE—BICK: Thank you very much.

5 (The witness withdrew)

6 SIR MARTIN MOORE—BICK: Right.

7 Well, now, we'll take a short break at this point
8 while we make arrangements for the next witness.

9 (10.45 am)

10 (A short break)

11 (11.05 am)

12 MR RICHARD BURNLEY (continued)

13 SIR MARTIN MOORE—BICK: Welcome back, everyone. Our next
14 witness is Mr Richard Burnley, who started giving his
15 evidence as long ago as December, but unfortunately was
16 interrupted when we had to discontinue proceedings
17 because of the pandemic. He is now back with us, and
18 the first task for me is to ensure that we are in
19 contact and that he can see me and hear me.

20 So good morning, Mr Burnley, can you see me and can
21 you hear me?

22 THE WITNESS: Good morning, yes, I can.

23 SIR MARTIN MOORE—BICK: Good, thank you very much, and
24 thank you for coming back on a second occasion. I'm
25 sorry that your evidence has been so disrupted, we would

23

1 have liked to have avoided that, but I don't think we
2 had very much choice.

3 THE WITNESS: I appreciate you saying that, but I realise
4 how difficult it's been for everybody involved.

5 SIR MARTIN MOORE—BICK: Thank you very much.

6 Just to remind you, I think you made the oath when
7 you attended last time, so just to remind you, you're
8 still under oath today.

9 THE WITNESS: Yes.

10 SIR MARTIN MOORE—BICK: I should just also remind you that
11 your legal representatives are here in the virtual
12 hearing room with us, so they're following the
13 proceedings. They do have the ability to intervene if
14 they think it's essential to do so, although we have
15 other means by which they can contact our counsel if
16 they think there is something that needs to be picked
17 up, so I'm asking them to keep their microphones and
18 cameras switched off to avoid any technical problems.

19 I hope we won't have any technical problems, but if
20 we do, we will have a short break so that the engineers
21 can resolve them.

22 We will have a short break halfway through this
23 morning and part-way through this afternoon. I think
24 this morning we will put it back until about 11.45 or
25 11.50, break the remainder of the morning roughly in

24

1 half.
 2 Before we continue your evidence, is there anything
 3 you would like to raise with me or questions you would
 4 like to ask?
 5 THE WITNESS: No, there isn't.
 6 SIR MARTIN MOORE—BICK: Right. Well, thank you very much.
 7 In that case, I'll invite Mr Millett to put some
 8 questions to you.
 9 Yes, Mr Millett.
 10 Questions from COUNSEL TO THE INQUIRY (continued)
 11 MR MILLETT: Thank you very much, Mr Chairman.
 12 Good morning, Mr Burnley, and welcome back to
 13 the Inquiry. We are very grateful to you for coming
 14 back.
 15 I should just, I suppose, start again with the
 16 introduction that I always start with all witnesses,
 17 which is to thank you for coming to the Inquiry, and for
 18 assisting us with our investigations.
 19 Also just to ask you, please, to keep your voice up,
 20 so that the transcriber, who is also on the call, can
 21 get down your evidence very clearly. And don't nod or
 22 shake your head, you have to say "yes" or "no" as the
 23 case may be.
 24 If we need a break at any other time, other than the
 25 scheduled breaks that the Chairman has indicated, then

25

1 we can take a short break.
 2 SIR MARTIN MOORE—BICK: Mr Millett, I'm sorry to interrupt
 3 you straightaway, but I think I really should have gone
 4 through the housekeeping routine with Mr Burnley before
 5 he starts giving his evidence.
 6 MR MILLETT: Yes.
 7 SIR MARTIN MOORE—BICK: Mr Burnley, there are a few
 8 questions which we ask all witnesses just to deal with
 9 before they start, really to ensure that you are able to
 10 give evidence without anyone being in contact.
 11 Can you confirm that you're alone in the room from
 12 which you're giving evidence?
 13 THE WITNESS: I can, yes.
 14 SIR MARTIN MOORE—BICK: Thank you.
 15 Can you confirm that you have no documents or other
 16 materials with you?
 17 THE WITNESS: No, I don't.
 18 SIR MARTIN MOORE—BICK: Finally, can you confirm that your
 19 mobile phone is in another room and that you don't have
 20 any other electronic device with you that is capable of
 21 receiving messages?
 22 THE WITNESS: I can, and I don't.
 23 SIR MARTIN MOORE—BICK: Good, thank you very much indeed.
 24 I'm sorry, Mr Millett, I should have dealt with that
 25 earlier.

26

1 MR MILLETT: Now, Mr Burnley, when your evidence was stopped
 2 on 9 December 2020, we were looking at an email sent to
 3 you by Tony Millichap on 12 November 2014. I would like
 4 to go back to that, please. It's {KIN00021810}.
 5 You will see that the subject title, from the first
 6 email here in the chain on the screen in front of you,
 7 is "K15 testing direction", and Tony Millichap had
 8 referred to a meeting earlier that day, and had
 9 discussed in that email a recent test success to
 10 BS 8414—2 by Celotex. If you go down, you will see
 11 that.
 12 Do you remember that?
 13 A. I don't remember the specific details of it, no, but,
 14 I mean, I was aware at the time of what this was about.
 15 Q. Right.
 16 Now, if we look at the last main paragraph of that
 17 email — and if you want me to read the whole of it
 18 again to you, I can certainly do that, because it's
 19 a long time since you saw it, I accept. Let's see how
 20 we go.
 21 If you look at the last main paragraph of the email,
 22 it says:
 23 "The above approach assumes we continue to
 24 acknowledge differences between the tested products
 25 (both blowing agent and facing thickness have

27

1 significant impact). All testing has been referenced
 2 back to precise batches with control samples as is
 3 a requirement of BRE however this does not include
 4 a description of the physical differences."
 5 Now, can we go next, please — I've shown you
 6 that — to the transcript for Day 85, and I want to the
 7 show you what the exchanges were between us leading up
 8 to the point when we stopped.
 9 {Day85/195:18}. You can see that I've just read to
 10 you the paragraph from this very email we've got on the
 11 screen or just had on the screen.
 12 Then if we turn to page 196 {Day85/196:1}, we can
 13 see the exchange runs as follows:
 14 "Question: Now, pausing there, you realised surely
 15 by that stage, November 2014, if not at an earlier
 16 stage, that the blowing agent and facer thickness had
 17 significant impact on fire performance; yes?
 18 "Answer: Sorry, could you repeat the question for
 19 me?
 20 "Question: Did you realise — I'm putting to you
 21 that you must have done by this stage, on seeing this
 22 email, if not earlier — that the blowing agent and the
 23 facer thickness had significant impact on the fire
 24 performance of the K15 as a product?
 25 "Answer: I don't know what time around this, but

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1 facer thickness I can't pass comment on. I do know that
2 my understanding was that we felt we would see
3 an improvement from the blowing agent, and then again,
4 from hearing evidence, I do remember that we didn't see
5 that.

6 "Question: When he refers to acknowledging the
7 differences between the tested products, to whom was he
8 suggesting that acknowledgement should be given?

9 (Pause)

10 "Answer: I'm not sure. I think he is just
11 referring that we accept that there are differences.

12 "Question: Right. And he is referring to
13 differences, isn't he, between solstice-blown and new
14 technology K15?

15 "Answer: Yes.

16 "Question: No acknowledgement was given to anybody
17 in 2014 of those differences, was it?

18 "Answer: Well, no, because we weren't selling
19 solstice-blown foam. This was a development project.

20 "Question: Exactly. And you knew that by this
21 time.

22 "Answer: Yeah, that was my understanding, yes."

23 And that is where we stopped.

24 Now, I was about to ask you a question in the first
25 sentence in that paragraph of this email when we were

29

1 stopped, and I now want to ask you that question now and
2 then continue from there. So I'm trying to make this as
3 seamless as possible, Mr Burnley.

4 My question is — and can we go back to the email,
5 perhaps that's the best thing to do, we were looking at
6 a moment ago at {KIN00021810}, looking at that last
7 paragraph on that page, "The above approach assumes".

8 Do you agree that no acknowledgement of the
9 differences between solstice-blown K15 and standard new
10 technology was given to the public?

11 A. Well, I think at this stage the solstice-blown foam was
12 a development project, so I don't think it would have
13 been, no.

14 Q. Or to the BRE or the BBA or the NHBC?

15 A. Not that I'm aware of, no.

16 Q. If we go to the second sentence that I read to you from
17 that last same paragraph:

18 "All testing has been referenced back to precise
19 batches with control samples as is a requirement of BRE
20 however this does not include a description of the
21 physical differences."

22 It's right, isn't it, that Kingspan knew exactly
23 what was tested under each fire test?

24 A. I would have expected so, yes.

25 Q. You were aware, weren't you, of exactly what was tested

30

1 in July 2014?

2 A. No, I wasn't. I think that was my second month with the
3 company, so I probably wasn't even aware in June/July
4 what a BS 8414 test was.

5 Q. Do you know why Kingspan didn't give a description of
6 the physical differences to the BRE?

7 A. No, I don't.

8 Q. Can I suggest that one reason was that the BRE did not
9 discover that you were testing a research and
10 development product?

11 A. I mean, I don't know. I can't answer. I don't know why
12 they wouldn't have done that.

13 Q. Right.

14 We can see at the top of this email, if we go to the
15 very top of the page, which should be at the top of the
16 screen there, you can see that Ivor Meredith forwards
17 this email on to Adrian Pargeter with the same subject
18 heading on Friday, 14 November.

19 At that stage, it's right, isn't it, that
20 Adrian Pargeter was the head of marketing, not
21 technical?

22 A. Correct, yes, that's right.

23 Q. Do you know why Adrian Pargeter would need to be aware
24 of this discussion in his role as head of marketing?

25 A. I don't, no.

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1 Q. Would it be — let me suggest something to you and see
2 what you say — that he would need to be kept in the
3 loop so that he could see how far to go in attacking the
4 tests for Celotex RS5000 given the problems that had
5 been experienced in testing K15 as sold?

6 A. No, I don't think that would have been the case. It's
7 more likely that Ivor's informing Adrian because it's
8 a matter of interest in terms of the technical back-up
9 to any literature that they would be considering
10 preparing, but at this stage it was a development
11 product, so I think it's more just for interest than
12 anything else.

13 Q. Now, I would like to ask you some questions about the
14 routes to compliance document published in August 2015.

15 Can we look at {KIN00000086}, please. You can see
16 that this is the first page of that document, "Routes to
17 Compliance: Fire Safety", first issue, top right-hand
18 corner, August 2015. Can you see that?

19 A. Yes, I can.

20 Q. Now, Adrian Pargeter says in his second statement, and
21 I summarise, that he signed off on this document and
22 sent it to you and Richard Bromwich on 24 July 2015 for
23 your final sign-off. That's what he says in his second
24 witness statement at paragraph 4.19 and 4.21
25 {KIN00020824/23}. Do you agree?

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1 A. Yes, no, that happened.
 2 Q. Did you sign off on it?
 3 A. Whether I actually wrote back, I can't recall, but,
 4 I mean, I would have certainly spoken to Adrian.
 5 I mean, you know, my technical knowledge was not strong,
 6 so I would purely be looking at it from a, you know, did
 7 it make sense, was it readable perspective, so — and
 8 I'm sure I would have said yes, that I was happy for the
 9 document to be released.
 10 Q. Right. I see.
 11 Did you discuss its contents with Adrian Pargeter or
 12 anybody else before you approved it?
 13 A. Well, I remember — I've seen the email that Adrian
 14 forwarded the document to me. I don't believe from
 15 receiving that email to them releasing the document
 16 I discussed the contents, no.
 17 Q. Right. Did you —
 18 A. Sorry, I suspect — I mean, the email to
 19 Richard Bromwich and I — I mean, Richard Bromwich had
 20 been involved in the development of the document, and
 21 I think it was more of a matter of politeness that I was
 22 included on it, as the MD of the business, to see it, to
 23 make sure that I was happy with it.
 24 Q. Yes, I see.
 25 Bearing that answer in mind, did you examine and

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1 seek to verify the claims in it by looking at any
 2 underlying test evidence?
 3 A. Well, no, I didn't. I mean, I was relying on what was
 4 provided in there, and I'm not sure that I'm technically
 5 qualified, or was then, to have said whether the
 6 information I was provided was right. I was relying on
 7 other people.
 8 Q. Do we take it from that that you trusted your team to
 9 get such matters right?
 10 A. Completely.
 11 Q. And not to make any misleading statements in this
 12 document?
 13 A. No, absolutely.
 14 Q. Can we go down to page 17 {KIN00000086/17}, please.
 15 Now, this is appendix B, and it refers to large-scale
 16 test data, and as you can see from the screen in front
 17 of you, there are three diagrams or models showing the
 18 build-up in three separate tests.
 19 Do you remember reviewing this page of this
 20 document?
 21 A. I mean, I did read through the document so, yes, I would
 22 have been through the contents of the page.
 23 Q. It starts by saying:
 24 "Build-ups incorporating Kingspan Kooltherm K15
 25 Rainscreen Board successfully tested to BS 8414—1:2002

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1 and BS 8414—2:2005, in accordance with the performance
 2 criteria set out in BR 135. In all cases shown, fire
 3 stopping was provided by intumescent fire breaks
 4 positioned at floor level and around all openings, in
 5 accordance with the guidance given in Approved
 6 Document B2 and Technical Handbooks Section 2."
 7 Then you can see the diagrams.
 8 If you look at the first build-up, which is the
 9 diagram on the left, with report number 220876 — can
 10 you see that?
 11 A. I can.
 12 Q. You can see the report number at the bottom. That was
 13 the 2005 test using the cement board cladding, wasn't
 14 it?
 15 A. Well, that's what it says there. I would not have known
 16 whether that was right or wrong.
 17 Q. When you say whether that was right or wrong, whether
 18 what was right or wrong? Whether what I've just asked
 19 you —
 20 A. Yes. I mean, I can see what it says, but whether that
 21 is — I mean, I can agree that that's what it says in
 22 the picture.
 23 Q. I see.
 24 Now, do you accept that the K15 used in that test in
 25 May 2005 was not the K15 being sold in August 2015?

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1 A. Sorry, could you repeat the question, please?
 2 Q. Yes.
 3 Do you accept that the K15 product used in that test
 4 in May 2005 was not the same as the K15 being sold in
 5 August 2015?
 6 A. No, I didn't know that.
 7 Q. Right.
 8 Do you accept that, to the extent that this diagram
 9 represents or leads one to think that it was the same,
 10 it was factually incorrect and misleading?
 11 A. At the time when I read it, no, I didn't think that,
 12 because I wasn't aware of the difference that you're
 13 explaining.
 14 Q. No, I understand that, and thank you for that.
 15 On the hypothesis that I'm correct and that the K15
 16 used in the test the subject of the diagram on the left
 17 was not the same as the K15 being sold in August 2015,
 18 would you accept that, to that extent, using that
 19 diagram was incorrect and misleading?
 20 A. Oh, yes. No, yes, I would, I would.
 21 Q. The third build-up in the bottom right-hand corner, the
 22 third of the tests, if we expand that so that you can
 23 see it, it's a build-up of terracotta tile cladding and
 24 SFS, report number 291642. You can see that the brown
 25 rainscreen material is 30 millimetres non-combustible

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1 terracotta tile cladding.
 2 Did you know at the time that this was a reference
 3 to the BRE classification report of 5 March 2015 for the
 4 test conducted in July 2014?
 5 A. I don't know. I don't recall. I don't think so, no,
 6 but I can't be absolutely sure.
 7 Q. Right. When you say you don't think so, you don't think
 8 you knew that?
 9 A. I don't think I joined those dots up at that stage, no.
 10 Q. Okay.
 11 Now, in fact, again, the K15 in the diagram here on
 12 the bottom right is said to be K15, but in fact the
 13 material used in the test was a non-standard board. Did
 14 you know that?
 15 A. I didn't.
 16 Q. I think you had agreed in December — maybe you have
 17 forgotten — that the K15 tested in July 2014 was
 18 a trial product, solstice-blown K15 with a 50-micron
 19 foil facer perforated only on one side, whereas the
 20 standard K15 being sold at the time had a foil facer
 21 perforated on both sides. Do you remember that?
 22 A. Yes, but I think we should — I mean, we need — in
 23 terms of timeframes, I wasn't aware at the time that
 24 this was referring to that test product that had been
 25 used, whereas now I obviously am aware of that.

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1 Q. Right, I see.
 2 Do you accept now that you know what it does refer
 3 to that, again, this technical bulletin in this respect
 4 was wrong and misleading?
 5 A. Yeah, in the preparation I did for attending in
 6 December, I realised that that was misleading.
 7 Q. Very good, thank you very much, and you accept that now?
 8 A. Oh, I do, yes.
 9 Q. Yes.
 10 Given what Mr Millichap had told you in the
 11 November 2014 email we've just looked at, did you not
 12 ask yourself why the July 2014 test was being cited here
 13 in this August 2015 document when you, I would suggest
 14 to you, must have realised that it wasn't on standard
 15 K15 as sold?
 16 A. I mean, I had no reason at the time to think that what
 17 was being shown to me was incorrect. I mean, during the
 18 course of a month, I would see at least one of these
 19 types of documents across the whole range of products
 20 that Kingspan had sold, so I was relying on people to
 21 provide me with accurate information.
 22 Q. You realised, didn't you, that what had been tested in
 23 July 2014 wasn't a standard K15? I think we had
 24 established that. That being the case, did you not
 25 realise when you signed off on this document that, in

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1 representing the K15 as K15 as sold, this was a false
 2 and misleading document?
 3 A. At the time I was asked to sign the document off, no.
 4 Q. Right, I see.
 5 How can you account for not realising that you were
 6 signing off on a document that at least in two respects
 7 was false and misleading?
 8 A. Because I was relying on the people that work for me,
 9 their teams, to provide me with accurate information,
 10 and I had no reason to doubt that what they were
 11 providing was accurate.
 12 Q. Now, I'd like to take you to an email that
 13 Adrian Pargeter sent you and Richard Bromwich on 24 July
 14 that you've referred to, I think, earlier just now this
 15 morning. It's at {KIN00006676}.
 16 At the top of the screen, you will see the email
 17 from Richard Bromwich out somewhere, and the email
 18 immediately below it is from Adrian Pargeter to you and
 19 Richard Bromwich, copied to Reshma Roodurmun, and the
 20 subject is "K15 Technical Bulletin". I'll just read
 21 parts of it to you:
 22 "Gents
 23 "We have now (finally I know) got the bulletin ready
 24 for final review!
 25 "Although we have struggled with case studies and

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1 people refusing because of the issues, we have included
 2 3 off to kick off the document."
 3 Then you can see underneath that he cites:
 4 "Brook House, Riverside Apartments, Tottenham [over]
 5 18m.
 6 " ■ Approved & signed off by relevant parties.
 7 " ■ Awaiting photography.
 8 " ■ ETA w/c 27th July (weather dependent) max
 9 2 [weeks].
 10 Then the second one:
 11 "Creating a New Pendleton, Residential Tower Blocks,
 12 Salford [over] 18m.
 13 " ■ Permission requested— due back next week.
 14 " ■ Once signed off, we will need photography.
 15 " ■ ETA 2.5 [weeks]."
 16 Then the third:
 17 "Barnsley College, South Yorkshire (Existing case
 18 study) [over] 18m.
 19 " ■ Awaiting sign-off for updated text from one
 20 person.
 21 " ■ ETA 1 [week]."
 22 Pausing there, what were the issues, if you go back
 23 to the second paragraph of the email, that Mr Pargeter
 24 was referring to there?
 25 A. I think there were two — from memory, I think there

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1 were two main issues: one was that we were talking to
2 other manufacturers who had got product involved in
3 systems that were also doing testing, so we had to get
4 their permission to use or not use the information; and
5 I think the second was that the customers who had bought
6 the product weren't the owners of the buildings, and so
7 the owners of the buildings had to sign off on us using
8 those properties as examples.

9 Q. I follow.

10 Did you go through the bulletin at that stage?

11 A. I don't know that it was attached to this email, so
12 I don't think I did, no.

13 Q. Right.

14 Now, can I ask you to look at your second statement
15 to the Inquiry, then, {KIN00022662/19}, and look at
16 question 18 and your answer to it. Question 18 reads as
17 follows:

18 "As far as you were aware, prior to 14 June 2017,
19 had K15 been used in any external cladding system
20 incorporating ACM panels with a PE core (other than
21 Grenfell Tower)? If so, please identify the building or
22 buildings on which such a system was used. If not,
23 please explain in detail what steps you have taken, as
24 Managing Director, to satisfy yourself that this is the
25 case."

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1 Your answer is contained in paragraphs 5.8 and 5.9
2 below that. Let's look at that. You say:

3 "5.8. As at 14 June 2017, as far as I was aware,
4 K15 had not been used in any external cladding system
5 incorporating ACM panels with a PE core. I was also not
6 aware it had been used on Grenfell Tower until after
7 14 June 2017.

8 "5.9. During my time as Managing Director,
9 Insulation UK had a project tracking database (CRM tool)
10 to record details of specifications that Insulation UK
11 had been directly involved in across its product range.
12 As part of Insulation UK's investigations shortly after
13 the Grenfell Tower tragedy, Insulation UK searched this
14 database for all K15 specifications and did not find any
15 example of K15 being specified in any external cladding
16 system incorporating ACM panels with a PE core."

17 Do you accept, going back to the first two case
18 studies mentioned in Mr Pargeter's email of 24 July,
19 Brook House and Pendleton Spruce, which featured in your
20 technical bulletin, those two case studies in fact did
21 use K15 with ACM panels with a PE core?

22 A. Are we able to go back to the technical bulletin then?
23 I maintain those statements as being correct, so you'll
24 need to show me that that wasn't the case.

25 Q. Yes, let's go to {KIN00006676}. Those first two are

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1 "Brook House, Riverside Apartments, Tottenham" and
2 "Creating a New Pendleton, Residential Tower Blocks,
3 Salford".

4 A. Yeah.

5 Q. We can go back to the bulletin itself, but the bulletin
6 certainly says that they were — well, do you want to
7 see that?

8 A. If you could, because there's nothing there that tells
9 me that they were PE cores.

10 Q. Ah, okay. So you accept they were ACM, though, don't
11 you?

12 A. No, I don't. I would like to see what the bulletin
13 says, because I'm not able to understand that at this
14 stage.

15 Q. Yes, absolutely, we can do that.

16 If you go back to the bulletin, you will find it at
17 {KIN00000086}. The case studies start on page 8, and we
18 can look at pages 8 and 10.

19 If you go to page 8 {KIN00000086/8}, first of all,
20 there is the New Pendleton residential tower blocks,
21 Salford. Do you see that?

22 A. I do.

23 Q. If you go to the third paragraph down, it says:

24 "The tired brick façades of the mid and high level
25 apartment blocks are being replaced by modern aluminium

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1 rainscreen cladding."

2 Then there is a photograph. Do you see that?

3 A. I see it, yes.

4 Q. So it was clear to you from this bulletin that aluminium
5 cladding, at the least, was being applied to this
6 building?

7 A. Yeah, I can see that, but I don't link — at the time
8 that I was reviewing this document, I wasn't linking
9 modern aluminium rainscreen cladding with ACM, and
10 definitely not with ACM PE core.

11 Q. Yes, I see. I see.

12 If we go to the next one, page 10 {KIN00000086/10},
13 Brook House, Rivers Apartments, Tottenham, and go down
14 to the paragraph just above the photograph, you can see
15 that it says this:

16 "For the Rivers Apartments, Gypcraft: installed 60
17 and 100 mm Kingspan Kooltherm K15 Rainscreen Board
18 within a steel frame infill system. To complete the
19 building envelope, Gypcraft then fitted an aluminium
20 composite material façade."

21 So for this one, it was clear from the bulletin
22 itself, wasn't it, that ACM was being used? I accept it
23 doesn't say with a PE core, but certainly you would have
24 realised, reading this, that ACM itself was used.

25 A. I just want to clarify, I would have read that it says

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1 "an aluminium composite material façade". I would not
 2 have understood what that was at that point.
 3 Q. Right. So are you saying that when you read this on or
 4 perhaps shortly after 24 July, you might have read
 5 "aluminium composite material façade", but it wouldn't
 6 have registered with you what that was or what it
 7 signified?
 8 A. Absolutely not.
 9 Q. I see.
 10 Do I take it that you didn't know that, as a matter
 11 of fact, in relation to the Pendleton development, the
 12 one on page 8 of this bulletin, Kingspan actually
 13 sanctioned the use of K15 with Reynobond ACM panels in
 14 a bespoke letter? Did you know that?
 15 A. Not that I'm — no, I don't think I am.
 16 Q. Right, let me show it to you —
 17 A. Not specifically. I'm aware that there were letters
 18 written, but I can't recall the exact details of all of
 19 them.
 20 Q. Right.
 21 Let's look at that, {KIN00002731}. This is a letter
 22 from Kingspan almost exactly the previous year,
 23 14 August 2014, to Graham Smith of Simco. The heading
 24 is "Pendleton Spruce Court — Kooltherm K15."
 25 If you read down the letter, you can see — if you

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1 go to page 2, I should just show you who it's from, it's
 2 from Dan Ball, the technical project leader, as you can
 3 see there.
 4 If you go back to page 1, you can see that he says
 5 in the first paragraph there, in the third line, second
 6 part of the sentence:
 7 "... we can confirm from checking through the
 8 build-up listed in the query form (attached separately)
 9 Kingspan Insulation Limited are happy that the build-up
 10 you propose is suitable to include K15."
 11 The same point is made in the next paragraph.
 12 The query form is what we need to look at, which is
 13 attached to this letter. That's at {KIN00002729/3},
 14 just dig into that. There is the query form, and if you
 15 have it expanded, you will see that in the third item
 16 down, after "Project Name" and "Full Project Address",
 17 within the form, you will see there is a line for
 18 "Cladding/Outer face type", and you will see there it
 19 says, "Reynobond, 4mm thick".
 20 Now, I'm not suggesting that you saw this document
 21 at the time, unless you tell me you did, Mr Burnley, but
 22 looking at that, do you accept, on the face of it, that
 23 Kingspan itself was sanctioning the use of K15 with
 24 Reynobond 4-millimetre cladding?
 25 A. I mean, I haven't — I can't recall seeing either the

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1 letter or this document before, and I can only tell you
 2 what I believed to have been the case at — I mean,
 3 whether — it probably wasn't when this was issued, and
 4 it's probably — certainly wasn't when the routes to
 5 compliance bulletin was issued, but my knowledge remains
 6 that I don't think that we had sanctioned K15 with
 7 a pure PE core ACM. I think there was — it was used
 8 with a mineral content ACM which did have a fire rating,
 9 but that's the limit of my technical knowledge.
 10 Q. Right. Well, let's just pursue this a little bit more.
 11 You can see that, in August 2014, Dan Ball of
 12 Kingspan is sanctioning the use of K15 on
 13 Pendleton Spruce with Reynobond 4 millimetres thick.
 14 Let's look at another document, {MET00040563}. Now,
 15 this is email correspondence between Genius Facades, who
 16 is associated with Mr Simmons, and Arconic in May 2015,
 17 so it's a date after the August 2014 letter but before
 18 the sign-off. Again, I'm not suggesting that you would
 19 have seen this for one moment, but it's a document that
 20 comes from Arconic and Genius Facades.
 21 If you go to page 2 {MET00040563/2}, you will see
 22 an email from Liam Harper to Grahame Byrne at
 23 Genius Facades, and the subject is:
 24 "RE: Reynobond PE switch from [transparent] core to
 25 black core ...

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1 "Peter,
 2 "The only project that we have ongoing would be
 3 Pendleton. With this in mind any material for the
 4 following blocks will need to be the transparent core as
 5 previous."
 6 Then you can see Spruce Court, so that's
 7 Pendleton Spruce. There are a number of other Pendleton
 8 buildings named after trees, I think, certainly Hornbeam
 9 and Whitebeam.
 10 I'm not asking you to comment.
 11 If this document shows — on the hypothesis that it
 12 shows that what was being used as the Reynobond
 13 panels — as the rainscreen at Pendleton Spruce was
 14 Reynobond 4-millimetre with a PE core, regardless of
 15 whether it was transparent or not, then that would show,
 16 would it not, that Kingspan had in fact sanctioned the
 17 use of K15 with an ACM panel with a PE core for
 18 Pendleton Spruce, one of the case studies used in the
 19 August 2015 routes to compliance document you
 20 sanctioned?
 21 A. That was a very long question, but I think I get the
 22 gist of it.
 23 I mean, I would have to disagree. I think as
 24 a consequence of the process that we're going through
 25 now, I would have to see what the exact specification is

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1 of the Reynobond PE transparent core and black core to
 2 pass comment.
 3 Q. Now —
 4 A. But I'm not sure, even if I saw it, that I'd necessarily
 5 know without asking somebody, but I wouldn't want to
 6 assume anything.
 7 Q. All right.
 8 You said in your statement that I read to you that,
 9 as part of Insulation UK's investigation shortly after
 10 the Grenfell Tower fire, Insulation UK searched your CRM
 11 database for all K15 specifications and didn't find any
 12 example of K15 being specified in any external cladding
 13 systems incorporating ACM panels with a PE core. That
 14 was your evidence.
 15 A. It was.
 16 Q. Did it not pick up Pendleton Spruce?
 17 A. My understanding is that Pendleton Spruce, as
 18 I understand it, wasn't a pure PE core, it was a — it
 19 was one with some sort of mineral core as well.
 20 Q. Well, you say, "My understanding is that"; was that
 21 an understanding that you had at the time you signed
 22 your second statement and answered question 18 from
 23 the Inquiry?
 24 A. Yes.
 25 Q. Did you have a conversation with anybody within Kingspan

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1 about precisely what the nature of the core used within
 2 the Reynobond 4—millimetre ACM panels was at
 3 Pendleton Spruce?
 4 A. When I provided my statement?
 5 Q. You did, did you?
 6 A. No, I didn't. I wasn't working at Kingspan when
 7 I provided my second statement.
 8 Q. So my question again — maybe we're at cross—purposes —
 9 can you explain why it was that when Insulation did its
 10 search of its database and failed to find any example of
 11 Kingspan K15 being specified in an external cladding
 12 system incorporating ACM panels with a PE core, as you
 13 say in your statement, that search did not turn up
 14 Pendleton Spruce?
 15 A. I can't explain it, but what I put in the statement was
 16 exactly my understanding.
 17 Q. Did anybody tell you — well, was your understanding —
 18 what was the source of your understanding about the
 19 search of the database?
 20 A. I think — well, I remember that Adrian Pargeter and
 21 I had a — we talked about: how do we try and find out
 22 where K15 has been used, and the obvious place was in
 23 our CRM system, and so, you know, it was agreed that we
 24 would do a search, and so my understanding would have
 25 come from whatever I was told that that search brought

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1 up.
 2 Q. You didn't do that search yourself, I take it?
 3 A. Absolutely not, no.
 4 Q. Who did it?
 5 A. I don't know. Somebody within Adrian Pargeter's team.
 6 Q. Right.
 7 You see, when you say in your statement,
 8 "Insulation UK searched the database for all K15
 9 specifications and did not find any example", what is
 10 the source of your evidence that it did not find any
 11 example? Is that something somebody told you or
 12 something you know for yourself?
 13 A. It's something somebody would have told me.
 14 Q. Who was that?
 15 A. I don't recall.
 16 Q. Right.
 17 Did you actually see a document presenting the
 18 results of this search, or was this something —
 19 A. No. No, I didn't. That was something I'd have been
 20 told verbally.
 21 Q. Right, I see, and you don't know who that was?
 22 A. I can't recall, no.
 23 Q. Right.
 24 You see, in your statement, you don't say, "I was
 25 told that no example was found", you're swearing to the

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1 fact that none was found, but you can't now tell us how
 2 precisely that investigation was conducted?
 3 A. I can't, no. But, you know, I stand by that statement
 4 when I made that statement.
 5 Q. Well, when you say you stand by the statement when you
 6 made the statement, are you telling us merely that you
 7 had no reason to think that it was wrong?
 8 A. Correct.
 9 Q. But now I've shown you with some evidence that in fact
 10 it was wrong, and that there was a case where Kingspan
 11 had sanctioned use of K15 with an ACM panel with a PE
 12 core, namely Pendleton Spruce, that in fact the search
 13 that was conducted had missed that.
 14 A. Well, I'm very sorry if I've missed something that
 15 you've explained to me. I still am not absolutely clear
 16 that we're talking about the same PE core, pure PE core.
 17 I need to understand the exact nature of the panels that
 18 we're referring to in those three examples in the route
 19 to compliance.
 20 Q. Well, what did you understand in your witness statement
 21 when you referred to ACM panels with a PE core? What
 22 did you think that was about?
 23 A. I thought it was referring to the type of panel that was
 24 used at Grenfell Tower.
 25 Q. Right. What is it about the Pendleton Spruce panels,

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1 the subject of the emails I've just been showing you,
 2 that makes all the difference and tells you that that
 3 isn't an ACM panel with a PE core as you identified in
 4 your statement?
 5 A. Well, I think what I'm generally showing in a very
 6 awkward way is my lack of technical understanding.
 7 Q. Are you in any doubt on what I've shown you, that
 8 in fact what was specified for Pendleton Spruce was
 9 in fact ACM with a PE core? You're not challenging
 10 that, are you?
 11 A. I can only see what you've shown me this morning, so I'm
 12 not challenging it, I'm saying I don't fully understand
 13 it and I'd like to see the specifications.
 14 Q. Well, let me try —
 15 A. Even then, I'm not sure — but, yes, I can take — if
 16 you want me to agree with you, I can agree with you.
 17 Q. Well, I don't want you to agree with me for the sake of
 18 it, I just want you to agree with me where it's right
 19 to.
 20 Let me just show you one more document and then
 21 we'll move on. This is Debbie French's Metropolitan
 22 Police witness statement, {MET00053162}. This is a long
 23 statement, and I may just have to come back to the
 24 reference in due course, but take it from me that she —
 25 well, I think we'll just come back to that in due course

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1 if we need to, but she makes it clear that it was a PE
 2 core that was used at Pendleton Spruce. You would have
 3 no reason to disagree with that?
 4 A. If that's what the lady said, then I would have no
 5 reason to disagree with it.
 6 Q. I'll come back to that and put that right after the
 7 break. It's a 34-page statement.
 8 Do you agree that in general, on what we've seen
 9 this morning, this routes to compliance document of
 10 August 2018(sic) was dangerous in its general
 11 descriptions of the cladding systems built up for
 12 Pendleton Spruce because it masks the fact that ACM with
 13 a PE core was being used as the cladding with K15 as the
 14 insulation product when you didn't know that?
 15 A. I would agree that it's misleading, yes.
 16 Q. Yes.
 17 Do you accept that you had the means to know that,
 18 to know that Pendleton Spruce, although a case study,
 19 was K15 together with an ACM with a PE core?
 20 A. Me personally?
 21 Q. Yes.
 22 A. No, I don't.
 23 Q. Now, if we go — actually, I think I can take you to
 24 this reference, because I've just been assisted with it
 25 very helpfully. If we go back to the statement from

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1 Deborah French, {MET00053162/31}, paragraph 96, please,
 2 we can see that she's covering a topic there,
 3 Genius Facades and Simco, and if you go about a third of
 4 the way through the paragraph, she is talking about
 5 Reynobond and Genius being a customer of Reynobond,
 6 a customer of Arconic in the UK, and she says:
 7 "One of those projects was called Pendleton which
 8 was a large project in Manchester or Salford involving
 9 three buildings. It was an unusual design which I think
 10 incorporated both rivet and cassette systems. The
 11 product supplied was Reynobond PE. I gave
 12 a presentation to Simco on this project in around May
 13 2011 which included reference to both the BBA
 14 certificate and to the product having both UK and
 15 European fire certificates."
 16 Now, on the basis that she is correct about that,
 17 would you accept that the cladding used at Pendleton,
 18 including Pendleton Spruce, was Reynobond 4-millimetre
 19 PE-cored ACM?
 20 A. I would agree that that is the product that was
 21 supplied. The piece that I'm missing is: I'm not
 22 agreeing with the fact that that is necessarily what
 23 Kingspan signed off on. That's what I can't consolidate
 24 in my mind. I can see that it was supplied. I still
 25 haven't seen anything that — I need to go back and see

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1 what Kingspan have said that they're signing off as the
 2 system.
 3 Q. Well, I showed you the letter sent by Dan Ball on
 4 14 August 2014 as what it was that Kingspan were
 5 sanctioning and signing off on, which attached the query
 6 form which identified 4 millimetres Reynobond. I've put
 7 all the pieces together for you. I'm not sure I can do
 8 much more.
 9 Do you accept as a fact that at Pendleton Spruce,
 10 K15 was used with ACM with a PE core, supplied by
 11 Arconic under the Reynobond brand, as we've seen, and
 12 that that was something signed off on by Dan Ball of
 13 Kingspan in August 2014?
 14 A. I can't agree with that, no. I can agree that the
 15 Reynobond PE appears to have been supplied and that K15
 16 was also installed.
 17 Q. It's true, isn't it, as a fact, that as at the date of
 18 the Grenfell Tower fire, K15 had never in fact, as sold,
 19 passed even a full system test under BS 8414 with any
 20 type of ACM as the panel?
 21 A. No, I could agree, I don't think we'd ever tested it
 22 with an ACM.
 23 MR MILLETT: Mr Chairman, is this a convenient moment for
 24 a break?
 25 SIR MARTIN MOORE-BICK: Yes, I think it is.

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1 Well, Mr Burnley, I said we'd have a break part—way
2 through the morning. I think we'll take it now, roughly
3 halfway through the morning's evidence.
4 We will come back, please, at 12.05. As with
5 everybody else, I have to ask you not to talk to anyone
6 about your evidence or anything relating to it over the
7 break. All right?
8 THE WITNESS: Yeah, I understand.
9 SIR MARTIN MOORE—BICK: Thank you very much. We will see
10 you a bit later on, then.
11 (11.52 am)
12 (A short break)
13 (12.05 pm)
14 SIR MARTIN MOORE—BICK: Welcome back, everyone. We're going
15 to continue hearing from Mr Burnley, so I'll just check
16 that Mr Burnley can see me and hear me clearly.
17 Mr Burnley, I hope you can?
18 THE WITNESS: I can, yes.
19 SIR MARTIN MOORE—BICK: Good, thank you very much. And
20 I take it you're ready to carry on?
21 THE WITNESS: I am.
22 SIR MARTIN MOORE—BICK: Thank you very much.
23 Then, Mr Millett, when you're ready.
24 MR MILLETT: Yes.
25 Mr Burnley, by 2016, it's right, isn't it, that

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1 Adrian Pargeter had become the head of technical and
2 marketing, and he took that role in —
3 A. That's correct.
4 Q. Yes.
5 Now, I want to ask you about a BS 8414 test, a full
6 system test, that Adrian Pargeter and members of the
7 technical team were undertaking in respect of the
8 low lambda solstice—blown version of phenolic foam which
9 was called K115. Do you remember that?
10 A. I remember the product, yes.
11 Q. Right. Do you remember how and if at all K115 differed
12 from the solstice—blown K15 tested in 2014?
13 A. I don't know how it differed. I would have assumed it
14 was similar, I guess.
15 Q. Right.
16 Do you know how it differed to the 100%
17 solstice—blown product that Kingspan had wanted to
18 produce but were unable to produce?
19 A. No.
20 Q. Let's go to {KIN00007492}, please. This is an email to
21 you, among others, if you look a third of the way down
22 the screen, from Adrian Pargeter dated 9 December 2016,
23 and the title of it is "K115 8414 test". He says:
24 "Guys
25 "Following the latest 8414 pt 1 for K115 we observed

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1 sustained flaming at the top of the rig so knew it would
2 be a fail. We have now received the TC data, and it's
3 not looking good. The insulation layer saw temperatures
4 of 900 degrees. I have attached the data from the test
5 and the report from the previous test for comparison."
6 He then goes on, if you can see below that, to draw
7 some comparisons between the test in 2005 and the test
8 in 2016. At the bullet points, he says:
9 "Our initial thoughts:
10 " ■ Level 1 external thermocouple seems fairly
11 consistent although one thermocouple spiked over 1000
12 degrees in the 2016 test.
13 " ■ Level 2 external thermocouple didn't exceed
14 500 degrees for the whole duration in the 2005 test. In
15 the 2016 test 4 of the thermocouples exceeded this, with
16 one rising as high as 870 degrees.
17 " ■ Level 2 cavity thermocouple didn't exceed 400
18 degrees in 2005 test. In the 2016 test nearly all the
19 thermocouples exceeded this, with some rising as high as
20 1000 degrees.
21 " ■ Level 2 insulation thermocouple didn't exceed
22 400 degrees in 2005 test. In 2016 test nearly all the
23 thermocouples exceeded this, with some rising as high as
24 900 degrees.
25 " ■ We may have just scraped the 15minute criteria

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1 for BR135 (all level 2 thermocouples seem to hit 600
2 degrees around 900 seconds).
3 " ■ The only known difference from first part 1 is
4 obviously the insulation and the fire barriers, original
5 had Stainless Steel 1.5/2mm thick vented barriers which
6 were removed from the market as they did not comply with
7 today's performance requirements, so we effectively
8 replaced them with better performing ones from Siderise
9 (MF batts with intumescent strip)."
10 "From observations the
11 " ■ K115 seemed to continue to burn for longer after
12 the crib was extinguished compared to previous tests and
13 completely disintegrated all the way to the top of the
14 main wall.
15 " ■ The wing wall had to be extinguished.
16 " ■ There were several very loud pops/bangs/pocking
17 noises during the test not heard before. The cladding
18 and insulation came away from the wall all the way to
19 the top on the front face, unlike the first test.
20 " ■ The cladding came away from the wall all the way
21 to the top on the front face, unlike the first test
22 presumably because of the increased temperature.
23 "I have a concern that we just do not really know
24 what product was tested in the first test 10 years ago,
25 so I would like to compare the performance of K115

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1 against K15 as it is today in a known test.
 2 "One option is replicate the above part one test
 3 with K15 which will give best direct comparison but that
 4 leaves us hoping it is worse than K115 and we then have
 5 two failed tests in which to convince the BRE to asses
 6 K115, based on 'it's not as bad'?"
 7 Now, I've read a lot of that to you, Mr Burnley.
 8 Do you accept as a very general point that at this
 9 point — so this is December in 2016 — Mr Pargeter was
 10 keeping you, among others, up to date and in some detail
 11 with the progress of testing K115 and K15 and the issues
 12 that were facing the technical team in respect of those
 13 tests?
 14 A. Well, if you look at the — if you go back to the
 15 previous page, I'm actually copied on the email, so he
 16 is updating a number of people and he is sending it to
 17 me for information.
 18 Q. Yes. Well, did you read this email when you received
 19 it, do you think?
 20 A. It would have been likely that I would have scan—read
 21 it, yes.
 22 Q. Right. Even from a scan read, was it not clear to you
 23 that what was tested in 2005 was not being sold in 2016?
 24 A. It was, but I hadn't realised that we were relying on
 25 the 2005 test to sell the product today, or at that

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1 date. I thought it was just referring to a test that
 2 they had done. They were comparing test results.
 3 Q. What test did you think Kingspan were relying on to sell
 4 the product as it was in late 2016?
 5 A. A valid one.
 6 Q. Well, yes. Which one? When? Date?
 7 A. Yeah, I can't answer that.
 8 Q. No.
 9 A. I don't know.
 10 Q. So from that answer just now, do we take it that you
 11 actually simply assumed that Kingspan were selling K15
 12 into the market in late 2016 on the basis of a valid
 13 test but didn't know which it was or when it had been
 14 undertaken?
 15 A. Yeah, I had no reason to doubt anything that I was being
 16 told. It was other people's responsibility and
 17 I assumed that it was correct.
 18 Q. Let's see how we go with the next few questions.
 19 Was the plan here to subject a standard K15 to the
 20 same part 1 test that K115 had been subjected to and
 21 performed so badly in, in the hope that K15 would
 22 perform worse and then would be able to persuade the BRE
 23 that K115 was better in some way?
 24 A. I know you're referring to something that was said in
 25 that email. I don't know that. You'd probably have to

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1 ask Mr Pargeter that.
 2 Q. Do you know what the possible justification was for
 3 hoping that K15 would perform worse than this very poor
 4 test performance for K115?
 5 A. No, I don't. I mean, my understanding from the 115
 6 testing was this was a new development product that we
 7 were wanting to bring to market and which we knew we
 8 would have to have an 8414 pass, so I was linking this
 9 work to try to bring that product to market and nothing
 10 else.
 11 Q. Since the K15 being sold in 2016 wasn't the same as the
 12 K15 tested in May 2005, are you able to explain how any
 13 extrapolation from the 2005 test could be used to draw
 14 any conclusions about a different product, whether it
 15 was K115 or the K15 being sold in 2016?
 16 A. Absolutely not. I think you can see from my limited
 17 technical knowledge that I wouldn't even attempt to do
 18 that.
 19 Q. Now, if we go to the top of the email chain, you will
 20 see that you sent this email on. If we go back to the
 21 email chain, please {KIN00007492/1}.
 22 A. I saw, I forwarded it to Peter Wilson.
 23 Q. Indeed, the next day, 10 December, and you say:
 24 "Hi Peter,
 25 "Quite some detail attached. There is a call with

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1 the BRE next week to discuss the results. After that we
 2 will arrange to call to discuss the next steps."
 3 Am I right in thinking that that would indicate that
 4 you had read this email, if not word by word, and
 5 digested it word by word, then taken it in sufficiently
 6 to understand what it was talking about?
 7 A. Well, I think I'm saying to Peter there is a lot of
 8 detail there, I'm not saying whether I understand it or
 9 not, but I'm forwarding it to Peter because (a)
 10 I thought he'd be interested and (b) I probably thought
 11 he'd understand it more than I did.
 12 Q. Why is that? Why would he understand it more than you?
 13 A. Well, because he'd been around — I mean, he'd done the
 14 job before me as MD of the UK, and he'd certainly been
 15 around since the product was originally developed.
 16 Q. What was your role in general in the fire testing of
 17 K115 at this time?
 18 A. My role in the fire testing? I had no role in the
 19 fire testing.
 20 Q. I see.
 21 Was there a call with the BRE the following week, do
 22 you remember?
 23 A. There may well have been. I wouldn't have been involved
 24 in that call. I think I'm referring to — I mean, it's
 25 quite likely that I've spoken — I mean, I guess I'm

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1 guessing. I'm assuming I've spoken to Adrian, he's told
 2 me about the email he's sent me, he's said that they've
 3 arranged a call with the BRE, so I'm updating Peter
 4 saying, "Here's an email, there's some information in
 5 it, I believe there's a call with the BRE, after that
 6 the broader group will arrange a call to discuss the
 7 next steps". That —
 8 Q. And —
 9 A. — what I've said.
 10 Q. Yes, I see. And was there a call in which you discussed
 11 the next steps?
 12 A. I don't remember one. There may have been one that
 13 I wasn't involved in, but I don't recall that, actually.
 14 Q. Do you remember what Peter Wilson did in response to
 15 this email?
 16 A. No.
 17 Q. Did you have a discussion with Peter Wilson about the
 18 contents of this email?
 19 A. Not specifically, no.
 20 Q. To your knowledge, did Peter Wilson know that Kingspan
 21 was attempting to extrapolate data from a test that was
 22 undertaken with a different product from the product
 23 being sold on the market at the time?
 24 A. I mean, I don't know. I mean, Peter was my boss, so it
 25 was within his rights to ring any of my team or any of

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1 their teams to ask his own questions, so I don't know
 2 whether he did that or not.
 3 Q. Do you know what the ultimate result of all the testing
 4 of K115 was?
 5 A. From the perspective I mentioned before, we were trying
 6 to bring this product to market, and I think my
 7 understanding was we said, well, we can't take K115 to
 8 market yet, it's not ready.
 9 Q. Was it ever released to the market, do you know?
 10 A. 115, not while I was there, no.
 11 Q. Right.
 12 To your knowledge, was the K15 which was being sold
 13 to the market changed significantly whilst you were
 14 employed or during your time at Kingspan?
 15 A. Not that I'm aware of, no.
 16 Q. No.
 17 I'd like to ask you one or two questions about
 18 class 0.
 19 Did you know that, both before and during your time
 20 at Kingspan, Kingspan claimed that K15 had achieved
 21 class 0?
 22 A. I was told that it had achieved class 0, yes.
 23 Q. Who told you that?
 24 A. I'm not entirely sure. I mean, it could have been one
 25 of a number of people, those people being

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1 Tony Millichap, John Garbutt, Adrian Pargeter.
 2 Q. In what context do you remember being told that K15 had
 3 achieved class 0?
 4 A. I don't remember.
 5 Q. What did class 0 mean to you at the time you were told
 6 that K15 had achieved it?
 7 A. It didn't mean anything. It was probably part of
 8 a series of information I was given, so it was clearly
 9 being used as part of the specification for K15.
 10 Q. Did you yourself ever, either at the time you joined or
 11 later, undertake any investigations of whether the claim
 12 that K15 had achieved class 0 was underpinned by any
 13 test data?
 14 A. I don't know. That wasn't my responsibility, so I had
 15 no reason to.
 16 Q. Were you ever made aware of any continuing problems in
 17 relation to K15 achieving class 0?
 18 A. I don't know whether I'm getting confused. I think
 19 subsequent to — I can't remember the exact time, but
 20 I've seen emails, I think, where Adrian maybe tells me
 21 that there's a problem, but I can't recall exactly.
 22 Q. Were you made aware at any stage of the fact that
 23 fire retardants were being added to K15 in order to help
 24 it achieve class 0?
 25 A. No, not that I recall.

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1 Q. Were you made aware of Kingspan relying on test reports
 2 for class 0 which were in fact undertaken on research
 3 and development products?
 4 A. No, I don't believe so.
 5 Q. Were you aware of the practice of Kingspan testing the
 6 foil facer of the product only and then claiming class 0
 7 for the entire product?
 8 A. I think back when I was the managing director, not, but
 9 I think, either through hearing or reading evidence,
 10 I've read that they were testing it separately.
 11 Q. Right.
 12 Did you ever hear when you were at Kingspan a view
 13 expressed that, in England, for a composite product, you
 14 only had to test the foil facer itself under the
 15 relevant British Standards in order to achieve class 0?
 16 A. I don't believe so.
 17 Q. I'd like to show you an email chain that you were not
 18 copied in on but you may be able to help us with.
 19 {KIN00004168}. It's a long email chain involving
 20 members of the technical team, and Adrian Pargeter as
 21 well, from 27 June 2016. That's at the top of the
 22 screen, the date on which the chain ends.
 23 The subject matter — and I will summarise it — is
 24 that K15 can't achieve class 0. In some cases, the core
 25 has achieved class 2, but the participants in this email

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1 discussion appear to agree that as the foil facer can
 2 achieve class 0, then class 0 will be claimed for the
 3 entire product.
 4 I've summarised the gist of the discussion, I hope
 5 accurately.
 6 If you go to the second email down, you can see that
 7 there is an email to Arron Chalmers dated 27 June 2016
 8 to Dan Ball, Adrian Pargeter, Adrian Brazier, and
 9 others, including Reshma Roodurmun. He says:
 10 "Yeah, does seem a bit of a cheat though doesn't it
 11 claiming Class 0 for just a facer test, when as you said
 12 it's meant to be product as placed on the market. But
 13 like everything in ADB it depends who is interpreting
 14 the wording — like the whole K15 issue and whether
 15 filler material includes the cladding. If a fire
 16 engineer believes the core will affect the facing
 17 performance though should we be claiming Class 0 based
 18 off facer performance alone if 40mm K15 then fails to
 19 get Class 0?"
 20 Above this, we can see that Reshma Roodurmun
 21 responds to Arron Chalmers and says:
 22 "Perhaps it would be better if you had a meeting to
 23 discuss this matter verbally."
 24 Now, you're not copied in on this email chain, but
 25 did you see it at the time? Did somebody send it on to

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1 you, do you think?
 2 A. I don't recall seeing it. So, no, I don't think so.
 3 Q. No.
 4 Did you ever get involved in an oral discussion with
 5 Mr Pargeter or Mr Ball or indeed Mr Chalmers about
 6 claiming class 0 for the facer?
 7 A. I don't think so, no.
 8 Q. Did Adrian Pargeter ever raise with you this "bit of
 9 a cheat" practice or the approach being proposed by
 10 Kingspan to claiming class 0 for the whole product K15
 11 based only on a test on the facer?
 12 A. I don't recall it.
 13 Q. Could we go, please, to {KIN00007445}. Now, this is
 14 an instant messenger chat between two of your technical
 15 team, Peter Moss and Arron Chalmers, on 9 November 2016,
 16 and we saw it in a bit more detail when we were asking
 17 Mr Pargeter about this in December. I'm not going to
 18 read it all out to you again; I just want to show you
 19 a part of it.
 20 If we go to line 24 — so it's about, looking at
 21 your screen, halfway down — you can see that
 22 Arron Chalmers says at 16:33:
 23 "Arron Chalmers 16:33:
 24 "doesn't actually get class 0 when we test the whole
 25 product tho

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1 "LOL!
 2 "Peter Moss 16:33:
 3 "WHAT
 4 "We lied?
 5 "Honest opinion now
 6 "dw
 7 "Arron Chalmers 16:36:
 8 "yeahhhh
 9 "tested K15 as a whole — got class 1
 10 "wheyy
 11 "lol.
 12 "Peter Moss 16:37:
 13 "whey
 14 "Shit product.
 15 "Scrap it.
 16 "Arron Chalmers 16:37:
 17 "But England/Wales is worded in such a way that it
 18 'implies' the facing can give you class 0.
 19 "Scotland is written better, therefore our product
 20 is not class 0 in Scotland haha.
 21 "But don't tell anyone that."
 22 Now, just pausing there, that is what your own
 23 technical team thought of the "bit of a cheat".
 24 Did you know any of this yourself?
 25 A. No, I didn't.

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1 Q. If we go to the top of page 2 of this communication
 2 {KIN00007445/2}, it starts off:
 3 "WHEY.
 4 "Look who knows their shit.
 5 "Arron Chalmers 16:41:
 6 "Yeah all lies mate.
 7 "Peter Moss 16:41:
 8 "Just tickling your balls mate.
 9 "Arron Chalmers 16:41:
 10 "So is class 1 on K7/k12/8
 11 "dan got class 2
 12 "im retesting to hope
 13 "Peter Moss 16:42:
 14 "Fire Performance
 15 "Kingspan Kooltherm K7 Pitched Roof Board is
 16 Class 1.
 17 "Arron Chalmers 16:42:
 18 "BALLS!
 19 "alls we do is lie in here.
 20 "Peter Moss 16:42:
 21 "Aye."
 22 Then it goes on to something more personal.
 23 My question is, obviously these messages were never
 24 intended to see the light of day, but when Mr Chalmers
 25 says, "Alls we do is lie in here", do you agree that

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1 that was an eloquent summary of Kingspan's culture at
 2 the time?
 3 A. First of all, I would say it's a very disappointing
 4 exchange. But no, I do not agree that all we do is lie,
 5 absolutely not.
 6 Q. Now, you had been managing director for some two and
 7 a half years by this point, so this is happening on your
 8 watch.
 9 How can you account for allowing what is going on
 10 and being described by these messages to occur?
 11 A. Well, first of all, you know, I wasn't aware of those
 12 messages and, as I've said, it's a very disappointing
 13 exchange.
 14 Q. Do you accept that a culture of lying about fire safety
 15 of products is particularly serious because you're
 16 taking risks with people's lives and the safety of their
 17 homes?
 18 A. I do agree that a culture of lying is dangerous, but
 19 I don't agree that that was what was evident at
 20 Kingspan.
 21 Q. So are you saying that, notwithstanding the tone and
 22 content of this exchange, robust and rustic though it
 23 may have been, you were completely unaware that this
 24 kind of thing was going on within your technical team?
 25 A. Absolutely.

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1 Q. What is your reaction to seeing this document?
 2 A. It's, as I say, incredibly disappointing, and having
 3 seen it, I would want to do something about it.
 4 Q. Yes. But you reject, do you, my suggestion that there
 5 was a culture of lying and dishonesty within Kingspan
 6 even during your time?
 7 A. I do.
 8 Q. Are you telling the Inquiry that the culture at Kingspan
 9 during your time was one of openness, integrity and
 10 plain-dealing?
 11 A. Absolutely.
 12 Q. Right.
 13 Now, immediately after you joined Kingspan in 2014,
 14 you were made aware of certain difficulties about K15
 15 that had grown up as between the NHBC on the one hand
 16 and Kingspan on the other; that's right, I think, isn't
 17 it?
 18 A. Yeah, it was late in -- I think it was late in 2014
 19 I started to be made aware.
 20 Q. Well, let's see. {KIN00010729}. This is an email to
 21 you, and it's from Richard Bromwich on 20 June 2014, and
 22 he says to you:
 23 "FYI as discussed."
 24 Beneath that there is an email from Steve Evans at
 25 NHBC to Richard Bromwich, copied to others, about

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1 Kingspan K15 with high importance.
 2 20 June 2014, you I think had only just joined,
 3 hadn't you?
 4 A. That's correct.
 5 Q. Yes.
 6 If you look at the email which is being sent on to
 7 you by Richard Bromwich, the Steve Evans 16 June email,
 8 he says:
 9 "Dear Richard [that's Richard Bromwich],
 10 "Further to the recent discussions between Kingspan
 11 and NHBC, I would be grateful if you could provide me
 12 with an update on the use of Kingspan K15 on buildings
 13 with a height exceeding 18m as a matter of urgency.
 14 "The latest version of the BBA certificate
 15 (extracted below) makes it clear that only
 16 a construction similar to that tested can be considered
 17 as meeting the requirements of BS8414-1 (K15 backed
 18 directly onto a masonry wall). It is noted that the
 19 additional wording of the earlier BBA Certificate,
 20 whereby advice on alternative constructions could be
 21 sought from Kingspan has now been removed. NHBC has not
 22 been provided with anything further that is based on
 23 BS 8414-1 to prove performance from accredited
 24 independent testing in accordance with BR135
 25 recommendations.

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1 "As such, as a Building Control Body, NHBC Building
 2 Control Services is in a difficult situation. Whilst we
 3 do not wish to prejudice the construction of a large
 4 number of tall buildings in which with K15 is being used
 5 as an insulant, we do not have any suitable basis under
 6 Regulation 7 for the acceptance of the external envelope
 7 design where it moves away from the construction used to
 8 compile the BBA certificate."
 9 Then he says in bold and in red:
 10 "Therefore, I must advise you that, unless
 11 additional test evidence supporting the use of K15 in
 12 constructions which differ from the BS8414-1 test can be
 13 provided before 30th June 2014, NHBC Building Control
 14 Services will need to re-consider its acceptance of K15
 15 in buildings over 18m as fit for purpose."
 16 Now, having read all of that to you, to prompt your
 17 recollection, did you have any discussion with
 18 Mr Bromwich about the subject of this email?
 19 A. I'm thinking that the reason he forwarded this email is
 20 probably because this was discussed between myself and
 21 Tony Millichap, because that's what would suggest from
 22 the way he forwards it.
 23 Q. Indeed. Do you remember the contents of that
 24 discussion?
 25 A. No, I don't. I mean, I think I was just over two weeks

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1 into the company, so this was probably one of a number
 2 of matters around the business that I was being made
 3 aware of.
 4 Q. Can we take it that by this very early stage, as you
 5 say, a couple of weeks into your career at Kingspan, you
 6 were well aware that K15 was being used above 18 metres
 7 in external wall construction systems which differed
 8 from the system that had been tested under the BS 8414
 9 test referred to?
 10 A. No, I hadn't understood that, no.
 11 Q. You hadn't understood that from the email that had been
 12 forwarded to you?
 13 A. I can't say that I did, no. I mean, I can see that it
 14 says it there, but the absolute relevance and importance
 15 I hadn't — it probably hadn't — the penny hadn't
 16 dropped.
 17 Q. When you got this email from Richard Bromwich, what did
 18 you do?
 19 A. I mean, I don't recall. I would imagine I had —
 20 I would have asked him and Tony, "Are you dealing with
 21 it? Do you need any help or support from me?" And
 22 I would think that they'd have politely told me that
 23 they didn't, given that I'd been there two weeks and,
 24 you know, probably couldn't have been much help.
 25 Q. Did it strike you at the time that what the NHBC was

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1 saying was a matter of extreme importance to Kingspan
 2 and, indeed, to the wider public?
 3 A. Well, I could see that it was very important to NHBC
 4 because of the way that the email was written.
 5 Q. Yes. Did it concern you that the additional test
 6 evidence that they were seeking was lacking?
 7 A. It became a concern, and that's part of the reason
 8 I sort of insisted in being involved and going to meet
 9 the NHBC later in the year. I'm not entirely sure at
 10 that stage of that June that, you know, it was as clear
 11 as it probably became.
 12 Q. Did you know from this email, even if you didn't know
 13 much else, that all that a pass under a test conducted
 14 in accordance with BS 8414—I would allow you to do is to
 15 use the insulation product only in exactly the same wall
 16 build-up as that which had been tested?
 17 A. I mean, it sounds very logical to say that. I don't
 18 know whether I ... I mean, I'm having to remember, and
 19 I can't remember, but, I mean, my engineering
 20 background, you would expect that to be likely, yes.
 21 Q. Yes, and therefore you would have realised — is this
 22 right? — that any divergence from the system as tested
 23 would not be covered by the test and would not comply
 24 with the Building Regulations?
 25 A. I wouldn't have been able to join that up to the

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1 Building Regulations, no.
 2 Q. All right, but leaving aside the Building Regulations,
 3 any test configuration or design or ingredients,
 4 components, that differed from the system as tested
 5 would not be covered by the test?
 6 A. No, that's — yeah, that sounds very logical.
 7 Q. Yes.
 8 When you saw this email, would I be right in
 9 thinking that you saw this as bad news from Kingspan's
 10 point of view because you only had test results from
 11 2005?
 12 A. No, I didn't. I think the way I probably would have
 13 interpreted it is it was something that was clearly very
 14 important, and being very new to the company, I was
 15 questioning whether it was something that I needed to
 16 get involved with immediately.
 17 Q. Right.
 18 You told us before, I think, that you spoke to
 19 Tony Millichap about it and possibly Richard Bromwich.
 20 How did you take this concern forward, the concern that
 21 the NHBC had expressed in this email?
 22 A. Again, I can't recall exactly, but it would seem logical
 23 in the way that I think I work, I would have asked them
 24 if they needed any specific help or if they felt they
 25 were going to be able to — I mean, it was in their area

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1 of responsibility, so I would have said, "Do you need
 2 any help from me or are you okay to go on and try and
 3 resolve this issue?"
 4 Q. But Richard Bromwich had escalated it, so to speak, to
 5 you in his 20 June email, hadn't he?
 6 A. Are you referring — that's the one that you showed me?
 7 Q. Yes, the one "FYI as discussed", where he attaches
 8 Steve Evans' email to Richard Bromwich.
 9 Richard Bromwich sends it on to you. So he was putting
 10 this, wasn't he, in your sphere of responsibility?
 11 A. Yeah, I don't think you would refer to that as
 12 escalation, that's confirming a conversation that we've
 13 had and probably providing more background information.
 14 Q. All right. Well, forget escalation. Do you accept that
 15 Richard Bromwich was placing the topic, to use a neutral
 16 word, the subject of the email, in your sphere of
 17 responsibility?
 18 A. He's placing it in my sphere of knowledge. There's no
 19 request for action in the email, and since the work and
 20 what had been — the interactions between the NHBC at
 21 that point were being handled by Richard Bromwich and
 22 his team and Tony Millichap and his team, then it was
 23 being brought to my attention.
 24 Q. Did you take any steps after 20 June 2014 to monitor or
 25 supervise what Tony Millichap and Richard Bromwich were

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1 doing about the additional test data requested by the
 2 NHBC?
 3 A. Well, I'm pretty sure that I would have continued to ask
 4 them if they were making progress in resolving the
 5 problems and issues that existed.
 6 Q. Do you have any specific recollection of doing so?
 7 A. Well, I would imagine — I'm trying to remember, because
 8 in the preparation before Christmas, I did look at some
 9 notes of meetings and things, so I would have thought it
 10 would have been on meetings that it was being discussed
 11 or just for updates on what progress we were making.
 12 Q. What would the commercial consequences have been for
 13 Kingspan had the NHBC reconsidered their acceptance of
 14 K15?
 15 A. Well, in terms of commercial consequences, I don't think
 16 we'd have ever done a calculation to see what the
 17 commercial consequences were. I mean, it would have
 18 meant that K15's use in that application was being
 19 severely questioned.
 20 Q. And what would the commercial consequences, even in
 21 outline, have been for Kingspan had that happened?
 22 A. Well, it's very likely that people would have stopped
 23 using the product.
 24 Q. And the commercial consequences of that?
 25 A. I'm not sure I — I mean, we wouldn't have sold the

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1 product.
 2 Q. Quite, and that would have had —
 3 A. I mean, this was one of 30 or 40 products, so it wasn't
 4 going to — the company wouldn't have shut down.
 5 Q. No, I'm not suggesting —
 6 A. It would have been — it was — you know, it would have
 7 been a problem, but it was — we'd have worked to solve
 8 the problem.
 9 Q. Can we go to {KIN00008841}, please. This is an email
 10 from Ivor Meredith to you, among others, as well as
 11 Tony Millichap, Gwyn Davies and Malcolm Rochefort. It's
 12 dated 21 August 2014, and the subject is:
 13 "Comment required by Monday 5pm [please]:— K15
 14 Update."
 15 There is an attachment which is BCA GN 18, Guidance
 16 Note 18. He says:
 17 "As the key stakeholders for the current Kooltherm
 18 K15 Fire Certification Issues I have taken five to
 19 update you all on the current situation since our last
 20 meeting a month ago".
 21 That month ago would have been something around
 22 20/21 July.
 23 Just pausing there, do you recall being at a meeting
 24 with Ivor Meredith to discuss K15 and the NHBC in
 25 mid-July?

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1 A. I don't recall it, no.
 2 Q. He goes on:
 3 "I have limited the circulation of this email as
 4 there are a couple of questions in red I would like
 5 feedback/agreement on. Once these issues are clarified
 6 I will send a wider update.
 7 "1) NHBC/BCA
 8 "A meeting has been held with the NHBC whom are
 9 still pushing for someone to provide job specific test
 10 data. They are still sanctioning the use of K15 as long
 11 as they get a bespoke letter off KIL which Technical
 12 Projects are turning around in 48 hours on receipt of the
 13 drawings and confirmation of the fire barrier
 14 dimensions. They have also given us an extra 3 months
 15 to get some further assessments on the test data to meet
 16 their needs. We have also requested 2 weeks
 17 notification if they decide to change their stance.
 18 Steve Evans was also involved in the BCA publication
 19 attached which has been driven by them following the
 20 confusion in interpretation of our high rise
 21 regulations. I have highlighted some parts of this
 22 document as it clearly singles out polyurethane as not
 23 being suitable but does not mention PF. We should
 24 consider whether this would be a document we would ever
 25 consider referencing for commercial reasons?"

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1 Now, just pausing there, were you, as managing
 2 director, concerned that Kingspan were sending out
 3 bespoke letters on a 48-hour turnaround confirming the
 4 use of K15?
 5 A. No, I wouldn't say I was concerned. I was aware that it
 6 was being done and the people in the technical teams
 7 were comfortable with, you know, what they were doing.
 8 Q. Did you ask yourself or them how it was that the
 9 technical team could sanction the use of K15 in
 10 build-ups which were different from the build-up that
 11 had been tested, so far as you were aware?
 12 A. I didn't, no.
 13 Q. Why is that?
 14 A. I don't know. I didn't — it wasn't something that came
 15 to my mind to ask them. Again, I mean, you know, this
 16 was — I was working with people who I had no reason to
 17 doubt their integrity and I was relying on their
 18 technical knowledge.
 19 Q. Were you aware that the NHBC had been asking for further
 20 test data from 2013?
 21 A. Well, I think this is August 2014, this is probably when
 22 I was starting to hear that this had been going on for
 23 some time, and, as I subsequently found out, I mean, the
 24 work that the NHBC were putting into this was good
 25 because they were trying to add clarity to some very

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1 difficult to interpret parts of the Building
 2 Regulations.
 3 Q. Do you remember that the NHBC finally got, I would say,
 4 "exasperated" is the word I might choose, but you might
 5 choose a different word, with the lack of evidence from
 6 Kingspan about the use of K15 over 18 metres?
 7 A. No, I think "exasperated" is exactly the word, and
 8 I probably shared it, because I was — you know, as
 9 I was getting more involved between around July/August
 10 and I think when I first went to meet them, you could
 11 sense their frustration, and that's why I was very
 12 keen — because I was — clearly we weren't doing
 13 something that they wanted, and I wanted to hear it for
 14 myself and (a) let them know that I was taking it
 15 seriously and then (b) make sure that we got it sorted
 16 out for them.
 17 Q. Yes.
 18 Now, let's go to {NHB00000922}, please. This is
 19 a letter from the NHBC addressed to Tony Millichap on
 20 5 February 2015, and he says:
 21 "I refer to the progress of discussions concerning
 22 this product, which have been on-going since
 23 December 2013; and which I have recently discussed with
 24 our Standards and Technical Manager, Graham Perrior, and
 25 Senior Area Technical Manager, Steve Evans."

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1 And he is the same Steve Evans as we saw sending the
 2 email of 16 June the year before.
 3 Now, I'll read it to you. It's quite a longish
 4 document, but I'll just read you the key parts of it.
 5 I should just say, before I do that, is this
 6 a letter that you saw at the time, do you think, so
 7 February 2015?
 8 A. Yeah, I mean, I don't recall seeing it, but I'm pretty
 9 sure I would have seen it.
 10 Q. In the second paragraph, he says:
 11 "Kingspan market K15 Rainscreen Board with the claim
 12 that '... it has been successfully tested to BS 8414;
 13 2002, and can meet the criteria within BR 135, which
 14 makes it acceptable for use above 18.0m...' This
 15 wording appears on the front page of the K15 product
 16 literature dated March 2011 which is on your website.
 17 "Being aware that the current BBA certificate for
 18 the K15 product, dated December 2013, does not provide
 19 the necessary evidence to fully support this claim, we
 20 have been requesting evidence from Kingspan, since early
 21 2014.
 22 "We are disappointed that despite commitments from
 23 Kingspan to engage Fire Engineer expertise or carry out
 24 substantial additional testing to demonstrate that
 25 alternative typical wall build-ups are acceptable to

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1 BR 135, to date none of this has come to fruition and no
 2 evidence has been provided to us that demonstrates that
 3 K15 can be used in facades over 18.0m in any other
 4 configuration than that detailed in the current BBA
 5 Certificate."
 6 Just pausing there, is it correct factually, or was
 7 it correct factually, for the NHBC to say that they had
 8 not been provided with the additional test evidence
 9 which they had been asking for which you saw in June the
 10 previous year?
 11 A. I don't know that is factually correct. You'd have to
 12 ask the NHBC.
 13 Q. Well, I'm asking you because you said that you knew that
 14 they were exasperated by the lack of test evidence and
 15 wanted to put it right. I'm summarising your evidence
 16 just a moment ago.
 17 Can you think of any additional test evidence that
 18 had been generated by Kingspan and provided to the NHBC
 19 between June or August 2014 and early February 2015?
 20 A. Not that I can remember. I mean, this was around the
 21 period where I was starting to get involved in meetings
 22 with them, and I think it's also around the period where
 23 Tony Millichap left the business and Adrian got more
 24 involved. But as Tony was leaving and as Adrian was
 25 coming in, the one thing that I had said and we had all

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1 agreed was the only way of moving forward with this is
 2 to do more testing.
 3 Q. Right. So do we take it from that that you can't and
 4 don't disagree with what is being said by the NHBC in
 5 this paragraph, that no —
 6 A. I wouldn't disagree with it, no.
 7 Q. Thank you.
 8 Then it goes on:
 9 "The absence of evidence from Kingspan means we will
 10 soon be faced with having to decline to accept buildings
 11 which are currently under construction and have
 12 specified the K15 product in facades above 18.0m, for
 13 risk management purposes as a provider of defects
 14 liability insurance and in many cases also as the
 15 approved inspector, unless the builders concerned can
 16 provide evidence themselves in accordance with BCA
 17 Guidance Note 18 — Use of Combustible Cladding Materials
 18 on Residential Buildings (copy enclosed).
 19 "The absence of evidence also means we now have to
 20 advise builders registering new developments with us
 21 that if they specify the K15 product for use in facades
 22 above 18.0m, they will have to provide this evidence
 23 themselves in accordance with BCA Guidance Note 18. We
 24 are preparing our communications ..."
 25 Do you remember what the immediate response from

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1 Kingspan was to this letter?

2 A. I know that my response was I need to go and see them.

3 I remember telling Tony, "Look, I want" — I don't know

4 if it was specifically about this letter, but I remember

5 at the time I was going, "I need to go and see them".

6 I mean, I shared their, as you used the word,

7 exasperation. I was exasperated because I didn't

8 understand why we were failing to provide them with

9 information that they found useful.

10 Q. If you scroll down to page 2 of this letter

11 {NHB00000922/2}, you will see that it's signed by

12 Ian Davis, operations director, and in the last

13 paragraph he says that he has copied it to Gene Murtagh

14 in the hope that he can assist and looks forward to your

15 early response.

16 If we go to {KIN00008283} next, please, we can see

17 what the response from Kingspan was.

18 It's a letter from Fenwick Elliott, who are

19 solicitors, aren't they?

20 A. They are, yes.

21 Q. Yes, and it's dated 13 February 2015, written to

22 Ian Davis at NHBC:

23 "We act for Kingspan Insulation Limited.

24 "We refer to the above matter and, in particular,

25 your letter to our client dated 5 February 2015."

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1 So just help me, was this Kingspan's first written

2 response to Mr Davis' letter of 5 February?

3 A. I don't know if this was the first response.

4 Q. Can you remember whether there was any discussion

5 between either you and Mr Davis or anybody else at

6 Kingspan and the NHBC before this solicitors' letter was

7 sent to the NHBC?

8 A. I don't know, but I know when I was preparing at the end

9 of last year, I did see an email that I don't think

10 I was copied on until the end, but I think this letter

11 was drafted up between Tony Millichap and Peter Wilson.

12 Q. Was it you who decided that the response to the NHBC's

13 letter of 5 February was to come from your solicitors?

14 A. No.

15 Q. Do you know whose idea that was?

16 A. I think it was Peter's.

17 Q. Peter?

18 A. Peter Wilson.

19 Q. Did you sign off on this letter?

20 A. No, I don't think I saw it until it actually was on

21 its — had gone, you know, I think it had been sent,

22 I think I was then copied on it.

23 Q. Can you explain what it was that the NHBC was doing that

24 justified this hostile reaction from Kingspan, rather

25 than a measured response from management seeking to

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1 allay the NHBC's concerns?

2 A. No, I think they were exasperated with the lack of

3 information that had been forthcoming, and I was

4 desperately trying to engage with them to fully

5 understand what that was and make sure we put it right.

6 Q. Forgive me, Mr Burnley, but threatening to sue them as

7 your first reaction in response to a letter which had

8 come from an exasperated counterparty was not exactly

9 a way in which you were going to be able to engage with

10 them and fully understand what it was and put it right,

11 was it?

12 A. No, I don't think it particularly was, but I think

13 following this we did manage to get together and find

14 some common ground.

15 Q. Yes, I'm just interested in your first reaction. Can

16 you explain why it was that Kingspan's first reaction,

17 instead of engaging constructively with the NHBC to

18 solve the problem, was to threaten to sue them?

19 A. I can't explain that, no.

20 Q. No. Can you explain why this wasn't your idea, but

21 somebody else's idea?

22 A. Well, I can't explain it, no, but, I mean, Peter Wilson

23 was in a position where, if that's how he wanted to

24 react, then I couldn't have done much about it.

25 Q. When you saw this letter and had seen that Peter Wilson,

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1 it appears without your knowledge, had instructed

2 Fenwick Elliott to send a letter before action, because

3 that's what this is, what did you do?

4 A. I can't remember exactly what I did, but I know that

5 I was very keen to get to see them, because I wanted to

6 try and resolve it face—to—face and, again, understand

7 their exasperation.

8 Q. Now, at this point, as you've told us, you agree that

9 they were exasperated, you agree that that's precisely

10 the right word to use, and you can see that there had

11 been no additional testing done between the June of 2014

12 and the February of 2015 to allay their concerns; why

13 was Kingspan continuing to sell K15 at all during this

14 period as opposed to suspending it pending further

15 investigation?

16 A. Because the belief within Kingspan was it could still be

17 used.

18 Q. But the belief in the NHBC was that that might not be

19 right; isn't that right?

20 A. They were doubting that there was sufficient evidence.

21 Q. Yes, and given that they were doubting that there was

22 sufficient evidence, and given that you hadn't done any

23 additional testing, what was the basis on which you

24 could continue to market and sell K15?

25 A. Because they were willing to engage in conversations

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1 about how we could move forwards. I mean, they'd
 2 signed off on buildings where it had been used, so they
 3 weren't at this point questioning anything about that,
 4 they were saying we've got an issue with lack of
 5 evidence, so we went to see them to understand: what is
 6 it you need to see moving forwards?
 7 Q. At this point — and I say "At this point"; during this
 8 period, June 2014, your early days admittedly, up to
 9 February 2015, when you had been there seven months —
 10 did you yourself take or ask to be taken any steps
 11 independently to verify the test which supported the
 12 continuing of selling K15 into the market?
 13 A. No, I didn't, no.
 14 Q. Why is that?
 15 A. I think as I've said before, because I was relying on
 16 people around me who were far better technically
 17 qualified than I was to decide if the product was
 18 suitable.
 19 Q. Did you ask anybody the question I've just asked you?
 20 A. I don't recall asking that exact question, but I'm sure
 21 conversations were taking place.
 22 Q. As managing director, were you not concerned to have
 23 before you the relevant technical people and ask them
 24 the direct question: look, what is the basis in testing,
 25 what is the test data which supports the continued sale

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1 of K15 in light of the NHBC's concerns?
 2 A. Well, I think the people — so the people above me at
 3 a divisional level I think were having those
 4 conversation, and they were confident that the product
 5 was suitable for purpose.
 6 Q. Did anybody tell you, do you remember, not to worry
 7 about this because there was test evidence which
 8 supported the continued sale of K15?
 9 A. Well, I don't think they used those exact words, but
 10 certainly I was made to believe that it was fit for
 11 purpose, yes.
 12 Q. You were made to believe that it was fit for purpose.
 13 Who made you believe that?
 14 A. I don't know, I can't remember people, but in either
 15 things I read or meetings that I was in, people were
 16 talking about: well, it can be used and so it is fit for
 17 purpose. I was more concerned about trying to provide
 18 evidence to the NHBC about what they wanted to move
 19 forwards.
 20 Q. Yes, I understand that, but until that evidence had been
 21 provided by Kingspan to the NHBC, what did you have in
 22 your hands which justified the continued sale of K15 on
 23 high-rise buildings above 18 metres?
 24 A. Well, we were relying on BS 841 test results.
 25 Q. Which ones?

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1 A. The ones that were outlined in our — well, the ones we
 2 were using and referred to in the routes to compliance
 3 document that was issued later in 2015.
 4 Q. It was issued later in 2015?
 5 A. It was, wasn't it? I think it was June, July, was it?
 6 Q. August 2015.
 7 A. August, okay.
 8 Q. Did anybody tell you between June 2014 and February 2015
 9 that the tests that had been done up to that stage
 10 supported the continued sale of K15? Did anybody
 11 actually tell you that?
 12 A. I'm sure they must have done.
 13 Q. Who was it?
 14 A. Well, I don't recall. I mean, I'm just — I'm sure
 15 that — I was certainly given the reason to believe that
 16 was the case. But I don't remember being called to
 17 a meeting where someone was going to explain to me
 18 exactly the reasons and the rationale behind it. It was
 19 accepted that that was the way.
 20 Q. Just a question or two before the break.
 21 If you go to page 2 in this letter {KIN00008283/2},
 22 this is the Fenwick Elliott letter of 13 February 2015,
 23 on that page you can see that Fenwick Elliott say:
 24 "As regards the specific points made in your letter,
 25 we make the following points in relation to the use of

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1 K15 boards ..."
 2 Then if you look at paragraph 1, first of all:
 3 "Our client's statement that the K15 product 'has
 4 been successfully tested to BS 8414:2002, and can meet
 5 the criteria within BR135, which makes it acceptable for
 6 use above [18]m...' remains true and accurate. In
 7 support of this, our client relies upon fire tests
 8 undertaken. By way of example, we refer you to BRE test
 9 reports numbered 220876 and PN297099."
 10 Now, take it from me, Mr Burnley, that those are the
 11 two reports which Kingspan eventually withdrew in
 12 October 2020, after you'd left Kingspan.
 13 Do you accept on that footing that the assertion by
 14 your solicitors in this letter that the K15 product had
 15 been successfully tested to BS 8414:2002 and can meet
 16 the criteria within BR 135, which makes it acceptable
 17 for use above 18 metres, was not true and not accurate?
 18 A. I think they're making an assertion that, based on test
 19 results, they could make that statement, but I think we
 20 subsequently now — I mean, I think they were removed
 21 after I'd left, but clearly that is not what they think
 22 now. But at the time when I would read that, I would
 23 assume that — given that I wasn't of a technical level
 24 to decide, I read that and believe that to be the truth.
 25 Q. Are you able to tell us who it was who instructed

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1 Fenwick Elliott to make that statement?
 2 A. I'm not, no.
 3 MR MILLETT: If you look at paragraph 2 — Mr Chairman, I'm
 4 about three or four questions away from the end of this
 5 line.
 6 SIR MARTIN MOORE—BICK: Keep going for the moment.
 7 MR MILLETT: If you look at paragraph 2 of your letter on
 8 page 2 here, it says:
 9 "Cladding systems comprise a number of different
 10 components. Such cladding systems as a whole are tested
 11 and assessed against the acceptance criteria of BR135:
 12 not their individual components. As we understand the
 13 position, your concern is that a cladding system which
 14 includes (among numerous other components) Kingspan's
 15 K15 boards has failed a fire test. With respect that
 16 patently does not mean that K15 boards as a whole,
 17 whether (1) taken individually or (2) as part of any
 18 other cladding systems are unsuitable, and to make that
 19 leap and suggest that it does is plainly not a fair,
 20 sensible or appropriate conclusion to draw from the test
 21 undertaken. Indeed, it is a very surprising one."
 22 Now, that was a complete travesty of NHBC's own
 23 position, wasn't it?
 24 A. Can you explain why you think it was a travesty?
 25 Q. Well, let me put it differently.

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1 NHBC were not saying, were they, that because K15
 2 had failed a test, K15 was unsuitable. What they were
 3 saying was that they couldn't bless any system using K15
 4 which differed from the system as tested in 2005.
 5 A. I think the point that was made here in paragraph 2 is
 6 a point that Kingspan have maintained consistently,
 7 which is you should test the system as a whole and not
 8 individual components.
 9 Q. Well, and the point that Fenwick Elliott are attributing
 10 to NHBC is not in fact the point that NHBC was making,
 11 was it?
 12 A. I'm not entirely sure, I'd need — I'm not sure of the
 13 reference to where they say that Kingspan's K15 board
 14 has failed a fire test.
 15 Q. It's in the middle of paragraph 2 of the second —
 16 A. I can see it, but what are they — so —
 17 Q. I think you have made the point. It's not actually
 18 an allegation that NHBC have made. NHBC were
 19 complaining simply that they couldn't bless any system
 20 using K15 which differed from the system as tested in
 21 2005.
 22 A. I'm sorry, I didn't — could you — what was the
 23 question there?
 24 Q. I'll put it one more time.
 25 What Fenwick Elliott are doing, in complaining that

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1 NHBC were saying that K15 shouldn't be used because it
 2 had failed, was not the point that NHBC was making. The
 3 point that NHBC was making was that they themselves,
 4 NHBC, could not sanction, could not bless, a system
 5 which incorporated K15 in a configuration or with
 6 components that differed from the system tested in 2005.
 7 A. Okay. I've read it differently. I think the point that
 8 they were trying to make was: you can't single out K15,
 9 it is the system that has failed, and therefore to
 10 specifically single out the Kingspan K15 product for the
 11 system that had failed was not correct.
 12 Q. And some people might see this letter as evidence that
 13 Kingspan had, through its solicitors, attributed to the
 14 NHBC a groundless argument that NHBC weren't in fact
 15 making in order that Kingspan could then use it to
 16 concoct a basis for litigation. Would you agree with
 17 that?
 18 A. No, I think the general purpose of this letter was to
 19 try and encourage them to get together, which as I've
 20 said all along was what I was trying to do, to sit down
 21 around a table and find out how we move it forwards.
 22 Q. It's right, isn't it, that Kingspan never told the NHBC
 23 that the 2005 test was done on a version of K15 that
 24 wasn't being sold in the market in 2015?
 25 A. I don't think at this stage we had told them. I don't

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1 know at what stage we did.
 2 Q. Do you remember yourself ever telling them or anybody
 3 else at Kingspan ever telling them that?
 4 A. I don't recall.
 5 MR MILLETT: Mr Chairman, is that a convenient moment?
 6 SIR MARTIN MOORE—BICK: Yes, I think it is.
 7 We will have a break now for lunch, Mr Burnley. We
 8 will come back again at 2.05, please. Again, please
 9 remember not to talk to anyone about your evidence or
 10 anything relating to it over the break. We will see you
 11 at 2.05.
 12 THE WITNESS: Yeah, I understand.
 13 SIR MARTIN MOORE—BICK: Thank you very much.
 14 (1.05 pm)
 15 (The short adjournment)
 16 (2.05 pm)
 17 SIR MARTIN MOORE—BICK: Good afternoon, everyone, and
 18 welcome back. We are about to resume hearing evidence
 19 from Mr Richard Burnley.
 20 Mr Burnley, good afternoon, can you see me and can
 21 you hear me?
 22 THE WITNESS: Yes, I can.
 23 SIR MARTIN MOORE—BICK: Good, thank you very much. And are
 24 you ready to carry on?
 25 THE WITNESS: I am, yes.

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1 SIR MARTIN MOORE-BICK: Very good, thank you very much. In
 2 that case I'm going to invite Mr Millett to continue
 3 putting questions to you.
 4 Yes, Mr Millett, when you're ready.
 5 MR MILLETT: Thank you very much, Mr Chairman.
 6 Mr Burnley, after the letter before action that you
 7 or Kingspan sent to the NHBC, it's right, isn't it, that
 8 you met the NHBC I think on two occasions, 5 March 2015
 9 and then 18 June 2015?
 10 A. That's correct.
 11 Q. Yes. If we go to {NHB00000977}, we will see a note of
 12 the first of those meetings. This is an NHBC generated
 13 note of the meeting on 5 March 2015, and from the NHBC
 14 you can who was present: Ian Davis, Steve Evans and
 15 Graham Perrior, as well as Dave White and John Lewis,
 16 and then from Kingspan we can see that you attended,
 17 together with Tony Millichap and Ivor Meredith.
 18 If we go down to item 1, action 1, we can see what
 19 the first discussion was, and the rest of the actions
 20 under that.
 21 Now, it will be striking to those looking at these
 22 documents that we finished with a letter before action
 23 on 13 February from your solicitors, and the next thing
 24 we see is a meeting on 5 March.
 25 What happened between 13 February, when your

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1 solicitors wrote their letter before action, and this
 2 meeting?
 3 A. Well, I don't remember the exact timing, but I know that
 4 around the time that obviously that letter was sent, we
 5 were trying to arrange this meeting. So I think all
 6 that happened was that we set up this meeting to go and
 7 sit down and for me to meet them and understand the
 8 problems.
 9 Q. Looking at the terms of action 1, it says:
 10 "Details of test programme (wall typologies,
 11 timescales/duration and sequencing) to be provided to
 12 NHBC.
 13 "Who: Kingspan (TM/IM) [that's Tony Millichap,
 14 Ivor Meredith].
 15 "By: 13 March."
 16 Do you see that?
 17 A. I do.
 18 Q. Do you know whether that was done?
 19 A. I know it was done. Did we meet the timeline? I don't
 20 know. I mean, I know that there were — this was where
 21 we were talking about what we were going to test to give
 22 them their evidence. So I know it was done, I just
 23 can't confirm if it was done by 13 March.
 24 Q. Okay.
 25 If you look at item 3 that says:

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1 "NHBC to discuss widening/amending scope of options
 2 for demonstrating compliance stated in BCA Guidance
 3 Note."
 4 What was that in relation to, do you know?
 5 A. I'm not entirely clear. I mean, I can only read it as
 6 it's written so ... but obviously it's an action for
 7 Steve Evans, I think, at the NHBC.
 8 Q. Right.
 9 Do you remember any discussion at this meeting along
 10 the lines of NHBC wishing to widen the routes to
 11 compliance with Approved Document B?
 12 A. Only insofar as what's written there.
 13 Q. I see. You don't have any independent recollection
 14 of —
 15 A. I don't.
 16 Q. I see.
 17 Do you have any recollection of this question being
 18 discussed internally within Kingspan, the widening or
 19 amendment of scope of options for demonstrating
 20 compliance?
 21 A. No, not involving me.
 22 Q. Was there an element of compromise here that you were
 23 discussing, namely Kingspan would do more testing as had
 24 been requested, and NHBC, for their part, would look at
 25 how to widen the scope of application?

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1 A. I don't know that it was compromise. I mean, you could
 2 see it that way. But it was more about — there was
 3 clearly gaps in evidence that they required to make them
 4 comfortable in the use of the product, and then it was
 5 whether, from their perspective, the evidence which
 6 wouldn't be for exactly the systems being used in
 7 a building, they would then be able to interpret it as
 8 systems that could be read from that as being
 9 acceptable, is I think what that is aimed at. But that
 10 was with them, not with us.
 11 Q. Well, you say, "that was with them and not with us".
 12 The NHBC was to discuss the widening/amendment scope of
 13 options, and the "who" there is "NHBC (SE)", that's
 14 Steve Evans, by the end of March.
 15 Do you remember with whom the NHBC was to have those
 16 discussions?
 17 A. I don't know, but I do seem to recall that I think
 18 Mr Evans was involved with the BCA document, so I don't
 19 know whether that was the link. I think that's my
 20 recollection.
 21 Q. Right.
 22 Do you remember why the NHBC was proposing
 23 a discussion of widening or amending the scope of
 24 options for demonstrating compliance?
 25 A. I don't, no.

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1 Q. Did you see this as a way of influencing NHBC's national
2 policy?
3 A. No, I don't think we were trying to influence their
4 policy at all. I think the purpose of the meeting,
5 going back to the word that you introduced, I think
6 I was wanting to understand their exasperation and come
7 up with a plan of work that Ivor and Tony could deliver
8 on to make them happy that we were actually meeting
9 their needs.
10 Q. Before this meeting, in light of that answer you've just
11 given us, had you taken any steps to get to the bottom
12 of why it was that there had been no plan of work yet
13 identified and conceived, and why there had as yet been
14 no further testing done, as had been asked for by the
15 NHBC since at least the previous June, if not before
16 that?
17 A. No, I mean, this was when — I think around this time
18 was also when it was brought to my knowledge that there
19 were concerns around Ivor Meredith's workload and the
20 work he was doing, and so we were also — I was trying
21 to understand: well, what extra resource do we need to
22 look into providing to help get through the volume of
23 work.
24 Q. You see, some months have gone by — we have gone over
25 this a bit already, and we are now in early

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1 March 2015 — during which you knew, as you told us,
2 that the NHBC were exasperated. Did you come to this
3 meeting with a plan already in place to conduct the
4 testing that the NHBC had been asking for?
5 A. Well, my plan, which I think I explained to Ivor and
6 Tony before we went in, I said, "Look, what I'm hearing
7 is — you know, I can see what we've got in terms of
8 communications with them, I want to understand what it
9 is they need from us", and the conversations were more
10 about the future than the past, so the testing that they
11 wanted done to give them the evidence to be able to
12 sign off on buildings.
13 Q. I see.
14 What was the relevance of item 3 then, the
15 discussion by the NHBC of widening or amending scope of
16 options for demonstration of compliance?
17 A. Well, I think as I've said, because of the numbers of
18 combinations of materials that could be used in
19 a system, so different types of materials, different
20 thicknesses, you just couldn't test every single
21 possible construction that could theoretically be used,
22 so we were trying to perform tests that would give them
23 confidence to use those results on as broad a range of
24 build-ups as possible, but then they would need to feel
25 that, you know, that was something they could do, and

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1 I think that was the premise of that comment.
2 Q. Widening and amending scope of options for demonstrating
3 compliance would benefit Kingspan, wouldn't it, because
4 it would mean you wouldn't have to have a test for every
5 single build-up?
6 A. Well, I mean, given the number of build-ups that could
7 possibly be, you couldn't test every single build-up,
8 so —
9 Q. Exactly.
10 A. — it helped the industry.
11 Q. Well, it helped the industry, but it also helped
12 Kingspan, surely, because if the scope of options for
13 demonstration of compliance was widened, Kingspan
14 wouldn't have to do a test and produce a test result for
15 every single build-up that was going to be applied in
16 the real world.
17 A. Well, it would help Kingspan insofar as they were part
18 of the industry. I don't believe that it was the single
19 reason for doing it.
20 I mean, you just can't possibly test thousands and
21 thousands of make-ups, build-ups. It's just
22 impractical.
23 Q. Now, did you know whether the NHBC was discussing
24 widening the scope of compliance with anybody other than
25 you?

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1 A. No. No, I wouldn't have been part — that was their
2 business.
3 Q. If you go a little bit further down page 1, under "Other
4 points to note", you will see item 6:
5 "Test result on Trespa panel disputed with BRE.
6 Timescale for resolution not known."
7 This was in relation to a large-scale fire test
8 undertaken on 19 March 2014, the previous year in other
9 words, which the BRE had deemed a fail. That's right,
10 isn't it?
11 A. I believe so.
12 Q. It says there that the timescale for the resolution of
13 that was not known. In fact, do you accept there wasn't
14 actually a timescale for resolution; the BRE had said
15 that the test was a fail and that was that, wasn't it?
16 A. No, I think at this stage Tony was still in role, so
17 I believe Tony was — I mean, I can't confess to seeing
18 communications, but my understanding was that Tony was
19 still contesting it with the BRE.
20 Q. I see.
21 Can we go to {KIN00002538}, please. This is your
22 email of 6 March 2015, in other words the next day after
23 this meeting, to Tony Millichap and Ivor Meredith, among
24 others, including Peter Wilson, and you say:
25 "Dear All,

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1 "I believe the actions stated are an accurate
 2 representation of what was agreed. The meeting lasted
 3 2.5 hours and there was a lot of circular conversation
 4 around test results, options to get test results,
 5 options of meeting the guidance note and the fact that
 6 this is a cladding system issue not just an insulation
 7 matter. Having said that I had the distinct feeling
 8 that NHBC want to work with Kingspan in finding some
 9 better way of assessing whether specific systems meet
 10 the building regulations and achieve the necessary fire
 11 standards."

12 Do you agree that you were at this point familiar
 13 with the issues of fire testing K15?

14 A. I was familiar with some issues, yes.

15 Q. What issues were those?

16 A. Well, the issues around the importance of BS 8414 and it
 17 being a reliable test to use as evidence for the use of
 18 K15.

19 Q. Why did you feel that the NHBC wanted to work with
 20 Kingspan?

21 A. I think the purpose, from memory, the purpose of this
 22 first paragraph, is to basically stand down the
 23 solicitors and say, "Look, we're going to resolve this
 24 amenably and around the table". I think that's why
 25 I wrote that in — it's in quite a deliberate way

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1 I think I've written it.

2 Q. Yes, and is that why you sent it to Mr T Randle at
 3 Fenwick Elliott?

4 A. Yes.

5 Q. I see.

6 A. Or am I just replying to the people on the — I think
 7 I'm just replying to the note below, actually, which is
 8 I've replied to everybody.

9 Q. My question again: why did you think that the NHBC
 10 wanted to work with Kingspan? What was in it for them?

11 A. I don't know that there was anything in it for them. My
 12 feeling from the meeting was that they weren't saying,
 13 "That's it, we no longer want to talk to Kingspan or
 14 discuss things with you", they wanted to find a way
 15 forward. They were looking for some information.
 16 I believed we could come up with a test programme that
 17 would give them that.

18 Q. Was there any discussion or any sense that you got
 19 during the discussions that the NHBC had a concern that
 20 they had approved the use of Kingspan K15 on many
 21 buildings in different configurations and needed their
 22 guarantees retrospectively validated in some way?

23 A. No, I would agree with the second part I think of what
 24 you've said there, which is they wanted validation, but
 25 I wouldn't say they'd made us aware of concerns about

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1 what they'd done.

2 Q. Right. This wasn't, was it, just that the NHBC were
 3 happy to talk to you because otherwise they were worried
 4 about being sued?

5 A. No, that wasn't even a topic of conversation. It was
 6 far more, "Let's sit down around the table and sort
 7 it" — I mean, they were frustrated, I was there,
 8 Ian Davis was there, and we were trying to get the
 9 troops, as it were, to, you know, sort things out.

10 Q. Yes, absolutely, I see that.

11 I just want to ask you: was there any sense in which
 12 you felt that you might be able to take advantage of the
 13 fact that things might get a bit difficult for the NHBC
 14 if it came out that they had approved or insured
 15 buildings with K15 on them which did not correspond to
 16 the 2005 test build-up?

17 A. Absolutely not, no.

18 Q. Right.

19 Now, as you confirmed a few moments ago in your
 20 evidence, we know that you met the NHBC again on
 21 18 June 2015, didn't you? I'll show you the note, it's
 22 {NHB00001136}. It's an email sent by Ivor Meredith to
 23 Graham Perrior at the NHBC, copied to Dave White,
 24 Ian Davis, and others at the NHBC, as well as to you and
 25 to Adrian Pargeter. Notice that the solicitors have now

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1 fallen away. He says:
 2 "Hi Graham,
 3 "Further to today's meeting I attach our list of
 4 Projects that we are currently or have in the past had
 5 discussions on.
 6 "Can I ask that you help us understand which
 7 projects are on your radar, which ones are NHBC BC
 8 services and which are covered by your Warranty also
 9 most importantly which are pre 2014.
 10 "If you could help complete the columns highlighted
 11 in red we would be very grateful. As discussed if you
 12 can also advise from your list which jobs and cladding
 13 types [you're] shortly looking to make a negative
 14 decision on and whether there is any additional
 15 information that will allow you to sign off the systems
 16 we can look to see if it is possible to obtain this
 17 information."

18 Then you can see underneath it a matrix across the
 19 page by way of a number of headings that Mr Meredith has
 20 proposed that the NHBC should fill out. Do you see
 21 that?

22 A. I do.

23 Q. Project number, date query received, et cetera.
 24 Underneath that he says:
 25 "Once you produce your summary report if you could

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1 make this available to us so we may concentrate on the
 2 more urgent construction types.
 3 "From this matrix (headers copied above) you can
 4 also see:—
 5 "'projects of concern'— jobs where we have received
 6 all the build information and we feel that this
 7 construction would fall outside of acceptability based
 8 on our learnings from the testing in the last
 9 12–18 months. As we have not received or reviewed all
 10 the project information this is not a conclusive list."

11 Just pausing there, "projects of concern", when did
 12 you yourself first learn that K15 was on many buildings
 13 where the build—up was "outside of acceptability", as
 14 Mr Meredith puts it?

15 A. I don't recall this email. It would suggest this would
 16 be the date where I would have been made aware of
 17 projects of concern.

18 Q. Was this the first time, on seeing Mr Meredith's letter,
 19 that you became aware that there were such projects,
 20 projects of concern?

21 A. Well, this is a description he's using, I guess, for
 22 projects with the NHBC.

23 Q. Are you saying that it was only on receipt of this email
 24 from Mr Meredith that you learnt that there were
 25 projects where the construction would fall outside the

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1 acceptability based on what had been learnt on the
 2 testing in the previous 12 to 18 months?

3 A. Well, I don't recall the email so it feels like it's the
 4 first time I'm reading it.

5 Q. Right.

6 Do you remember any discussion before this time,
 7 18 June 2015, about projects of concern such as those
 8 described here?

9 A. No, but what does ring true with me is the comment he
 10 makes above in the third paragraph, where he's talking
 11 about — we were trying to satisfy them with information
 12 on systems, so where he says "to sign off the systems we
 13 can look" — "the cladding types [you're] shortly
 14 looking to make a negative decision on". So they had
 15 cladding types where they were saying, "We're not sure
 16 about this", so we were trying to put those into the
 17 test programme. That does ring true, I remember that.

18 Q. Right. But if projects of concern hadn't rung a bell
 19 with you before you received this email, were you not
 20 immediately very concerned by what you read when you did
 21 get this email?

22 A. Well, again, I'm saying I don't recall reading this
 23 email.

24 Q. I mean, you were managing director at the time. This
 25 email comes to you from Ivor Meredith. I've assumed

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1 that you would have read it and read it carefully at the
 2 time. Is that a wrong assumption on my part?

3 A. Well, I would say it's not to me, I'm copied in on it,
 4 which tends to mean it's there for information.

5 As I say, since I was cc'd I would have scan—read it,
 6 and what I'm seeing is things that relate back to the
 7 meeting that we'd had.

8 Q. You're copied in on it because it's not to you, but
 9 you're copied in on it because the sender wanted you to
 10 read it; is that a fair assumption or is that a mistake?

11 A. I don't know that he is saying he wants me to read it;
 12 he is providing it for information.

13 Q. Right. But to get the information, you would have had
 14 to read the email; yes?

15 A. That's correct.

16 Q. So I'm proceeding on the basis that you did read the
 17 email.

18 So my question again: when you did read the email,
 19 as I'm assuming you would have done, were you not
 20 concerned to read that there were projects of concern
 21 where constructions would fall outside the scope of
 22 acceptability?

23 A. On the basis that "projects of concern" is in speech
 24 marks and it's around the meeting that I'd attended,
 25 then I'm — I think I've read into that that I know what

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1 it's referring to, and I don't think it's projects of
 2 concern as you're making it out to be.

3 Q. When you received this email, did you, as managing
 4 director, take any steps to investigate how it could
 5 have occurred that there were such projects of concern
 6 as described?

7 A. No, because at the time this — I think by now
 8 Tony Millichap had left, so this would fall under the
 9 technical team, which was led by Adrian Pargeter and
 10 Ivor was obviously involved.

11 Q. Did you have a discussion with Adrian Pargeter to make
 12 sure you knew what he was doing and he knew that you
 13 were aware and were supervising what he was doing in
 14 this respect?

15 A. I'm sure we would have discussed it on an ongoing basis,
 16 yes, along with a number of other matters that were of
 17 importance.

18 Q. Right.

19 A little lower down {NHB00001136/2} you can see it
 20 says:
 21 "'Letter Written' — these are for projects where
 22 a letter of comfort has been written as we have been
 23 advised that the project has already been signed off
 24 pre Jan 2014 and all that is all that is required to
 25 satisfy yourselves. Please note we have only written

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1 these when we are happy with the constructions that have
2 been retrospectively confirmed to us as we were not
3 originally involved in the contract."

4 Were you not concerned at the time when you read
5 this, even if only for information, that Kingspan had
6 been writing letters of comfort for the use of K15 which
7 were not an independent expert desktop extrapolation,
8 but simply Kingspan's own opinion?

9 A. Well, I can't remember the exact timing, but these
10 letters of comfort were something that Adrian did bring
11 to my attention, Adrian Pargeter. And again, I can't
12 remember the timing, but he said, "Look, we have been
13 doing this on occasion, I'm not sure that we are
14 properly qualified to do that", and so, again, I can't
15 remember the timing, but I think we stopped doing them
16 at some point in that year.

17 Q. Right.

18 Now, let's move to NHBC's technical guidance notes.
19 This takes us into the summer of the following year,
20 2016.

21 Can we go to {KIN00002297}. This is an email chain
22 from the July of 2016. At the top of the email chain
23 you can see there is one from Gwyn Davies to
24 Justin Davies and Philip Heath.

25 If we go to page 1 and over to page 2, so bottom of

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1 page 1, you see that the third email in the chain is on
2 8 July 2016 from Adam Heath to Adrian Brazier,
3 Adrian Pargeter and others. In it, you can see that
4 Adam Heath gives an update to numerous members of the
5 team about his attendance at an NHBC façades conference
6 which happened on the previous day.

7 If we go over to page 2 {KIN00002297/2}, he says
8 this:

9 "Yesterday at the NHBC facades conference (at which
10 NHBC, DCLG, BRE and Exova presented) NHBC unveiled a new
11 technical note which will be expanded in the future as
12 more test evidence becomes available. Basically they
13 have taken all the test evidence available in the market
14 featuring combustible insulations (6 Kingspan,
15 2 Xtratherm, 1 Celotex) to come up with 3 standard wall
16 build ups that they deem automatically compliant. They
17 all have a number of caveats and any deviation from one
18 of these 3 wall types will still require supporting
19 evidence in line with BCA TGN 18."

20 If we go back to page 1 {KIN00002297/1} and look
21 a little bit higher up, we can see that Adrian Pargeter,
22 who, among other people, receives this email, sends this
23 on to Gwyn Davies, Roy Weghorst and John Garbutt the
24 same day, 8 July 2016, and he says this:

25 "Gents

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1 "Interesting development from NHBC, they have
2 effectively eased the passage of compliance for
3 a selection of combustible insulation brands (K15
4 included) in three select build ups in high rise
5 rainscreen applications.

6 "Overall, I feel this is good news, as it shows
7 a shift in thinking and an acceptance of combustible
8 insulation and I am sure is a direct result of our
9 testing and campaigning on this issue. However the bad
10 and annoying news is that it also allows [Celotex] and
11 Xtratherm (after relatively little effort) to ride in on
12 our shirt tails and will put significant pressure on us
13 in these select applications."

14 What had occurred, do you know, in the 12 months or
15 so before July 2016 for the NHBC suddenly to start
16 approving combustible insulation over 18 metres, as
17 these two emails I've just shown you demonstrate?

18 A. Well, I think from the second page of this — I mean,
19 they're referring to test data, aren't they? So they've
20 assessed test data. I think — were they referring to
21 six Kingspan, some from Celotex and — I can't see it.
22 But I think they're referring to test programmes that
23 must have been carried out by Xtratherm, Celotex and
24 Kingspan, and they've used that to come up with their
25 views.

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1 Q. Yes, Mr Burnley, I read that to you, and I can read that
2 as well as you can. Really I'm asking you: from your
3 own knowledge and involvement as managing director of
4 Kingspan at the time, are you able to add anything to
5 what we can read on the page here?

6 A. No, I mean, it's the first time I think I've seen this.
7 No, I mean, I'm reading it with you, so that's how
8 I read it.

9 Q. As far as Kingspan is concerned, do you know what
10 testing Adrian Pargeter was referring to there?

11 A. I can't remember now.

12 Q. I think you confirmed this earlier: none of the testing
13 that Kingspan had done had involved a test using ACM
14 panels.

15 A. That's right.

16 Q. Yes. Are you able to tell us why the NHBC accepted ACM
17 as a rainscreen material on one of the acceptable
18 systems?

19 A. I'm not, no.

20 Q. What campaigning is being referred to there? What's the
21 campaigning?

22 A. Just to go back to the previous question, I note now it
23 refers to the ACM panel at least Euroclass B, and again
24 that's jogging my mind, this comes back to the point
25 I made this morning about not pure PE core but with

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1 a mineral content.
 2 I'm sorry, what was your follow-up question?
 3 Q. That's noted.
 4 My question was — perhaps I should just show you
 5 the email. If you go back to page 1 {KIN00002297/1},
 6 Adrian Pargeter's email refers to "testing and
 7 campaigning", do you see, three lines up from the bottom
 8 of the text there?
 9 What is the campaigning that he is referring to
 10 there?
 11 A. I don't know.
 12 Q. You don't know.
 13 A. Well, I mean, I can try and interpret it. I mean, the
 14 testing is the BS 8414 programme. I assume by
 15 campaigning he means the meetings that we've had with
 16 various people, including the NHBC, to explain the test
 17 results.
 18 Q. Given what you knew by this point — this is now
 19 July 2016 — about the fire testing of K15 historically,
 20 were you concerned that K15 would be used in build-ups
 21 that had not been tested and passed a test under BS 8414
 22 to the criteria under BR 135 and for which no desktop
 23 study had been prepared?
 24 A. So I don't think at this stage my understanding of the
 25 historical testing was any better than it had been.

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1 I was definitely forward facing and was focused on the
 2 more recent testing and the programme that — or what at
 3 the end of Tony's tenure and then Adrian's tenure was
 4 focused on, you know, specifically around things like
 5 the meeting I'd had with the NHBC.
 6 Q. Now, I want to turn to the position that pertained after
 7 the Grenfell Tower fire on 14 June 2017. The first
 8 thing I want to ask you about is Kingspan's campaign.
 9 The first document I want to show you in that is at
 10 {KIN00002379}. This is an email from Adrian Pargeter to
 11 John Garbutt, Peter Wilson, you and Richard Bromwich
 12 dated 11 September 2017. If we can pick the chain up on
 13 the next page, page 2 {KIN00002379/2}, at the top, we
 14 can see that this email, also to you as the primary
 15 recipient, says this:
 16 "All
 17 "It seems NHBC are taking a very hardline over
 18 desktop studies leaving virtually no room for manoeuvre.
 19 This will cause serious problems in current buildings
 20 getting approval and virtually demand a full scale test
 21 on even minor variations, making anything insured
 22 through them practically impossible to get combustible
 23 insulation on. We have requested a face to face meeting
 24 but they are not interested.
 25 "Not heard if any other insurers are taking the same

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1 stance.
 2 "Regards
 3 "Adrian."
 4 Then Peter Wilson asks a question, if you go to the
 5 bottom of page 1 {KIN00002379/1}:
 6 "Adrian,
 7 "Have they any position on the grade of cladding?"
 8 Then Adrian Pargeter responds:
 9 "Hi Peter
 10 "They are saying limited combustibility for
 11 insulation and cladding or tested solution."
 12 Then John Garbutt responds, if you scroll up page 1
 13 a bit, to Adrian Pargeter and others, including you:
 14 "We need to show them that that could also fail and
 15 force them to a position of everything must be tested.
 16 They might compromise then.
 17 "When is the RW/honeycomb test scheduled in?"
 18 Then at the top of the page, Mr Pargeter responds:
 19 "Hi John
 20 "That is earmarked for Dubai but had nothing
 21 concrete from Janet yet on dates, I called her this
 22 morning for an update but no reply as yet."
 23 Now, you saw this email at the time; can I assume
 24 that you read it?
 25 A. You can, yes.

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1 Q. What was being planned, do you know?
 2 A. I'm sorry, what are you referring to when you're talking
 3 about something being planned?
 4 Q. Well, what was it that was planned? What was earmarked
 5 for Dubai, for example?
 6 A. I think Adrian is referring — I think that is — "That
 7 is earmarked for Dubai" is referring to "When is the
 8 RW/honeycomb test scheduled in?"
 9 Q. What was that?
 10 A. That appears to be a honeycomb cladding panel. I assume
 11 "RW" refers to Rockwool.
 12 Q. Right. Is that what you understood at the time you
 13 received this email?
 14 A. I don't recall, but that's what I would understand from
 15 it now.
 16 Q. By honeycomb test, you say honeycomb is a cladding
 17 panel, do you know which type of or brand of cladding
 18 panel that was a reference to?
 19 A. No, I don't.
 20 Q. You saw, and I read to you, John Garbutt's suggestion:
 21 "We need to show them that that could also fail and
 22 force them into a position of everything must be tested.
 23 They might compromise then."
 24 Who is the "they" there?
 25 A. Is he referring to the NHBC? Was that who was referred

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1 to in the emails below?
 2 Q. Yes, it was.
 3 A. Then I assume he is referring to the NHBC.
 4 Q. I see.
 5 When it refers to, "We need to show them that that
 6 could also fail and force them to a position of
 7 everything must be tested", what did you understand
 8 Mr Garbutt was suggesting by saying "We need to show
 9 them that that could also fail"?
 10 A. Well, I believe it refers to a point I think I made
 11 previously about: you can't possibly test everything.
 12 There are too many combinations to actually test all
 13 thicknesses, all combinations of frameworks and
 14 insulation thicknesses, fixing types, cladding panel
 15 types, thicknesses, colours. So it's — you've got to
 16 try and find a way of being able to bridge test results
 17 with systems that would fall under those results and
 18 being able to be approved by them.
 19 Q. What could fail? What did you understand Mr Garbutt to
 20 be suggesting by a failure there? What is it that could
 21 fail, to your understanding?
 22 A. Can we put the email back up again? I'm really sorry.
 23 Q. Absolutely, it's page 1 of the email we were on
 24 {KIN00002379/1}.
 25 A. Yeah.

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1 Q. "We need to show them that that could also fail and
 2 force them to a position of everything must be tested."
 3 A. Can we go to the email below? From the top of my head,
 4 I don't know what he is talking to. It's obviously
 5 something referred to in an earlier email.
 6 Q. Certainly we can scroll back down again. If we go
 7 backwards down the email chain, I'm happy to do that for
 8 you. The next one, the one to which this is a response,
 9 is below that. You can see Adrian Pargeter,
 10 11 September, 17.37:
 11 "Hi Peter
 12 "They are saying limited combustibility for
 13 insulation and cladding or tested solution."
 14 And that's a response to:
 15 "Have they any position on the grade of cladding?"
 16 And that's a response to the one we started with,
 17 the NHBC taking a hard line on desktop studies.
 18 So my question again, going back please to page 1
 19 and the second email down on that page, "We need to show
 20 them that that could also fail and force them to
 21 a position of everything must be tested", what did you
 22 understand the "that" was in the "that could also fail"?
 23 A. I don't think that I can tell you what "that" refers to.
 24 Q. Let's move on then to {KIN00022252}. This takes us
 25 slightly later in 2017, September 2017. These are the

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1 minutes of a KHIL/Insulation meeting on Wednesday,
 2 27 September 2017, and you can see that it was at Tiel.
 3 Now, Tiel is in the Netherlands, isn't it?
 4 A. It is, yes.
 5 Q. What does KHIL stand for?
 6 A. I believe it's Kingspan Holdings ...
 7 Q. International?
 8 A. Could be. Limited.
 9 Q. All right. Doesn't matter.
 10 You can see who was there: Peter Wilson,
 11 Gene Murtagh, Andrew Carpenter, you, Spencer Murtagh,
 12 John Garbutt, Phil Heath and some others, and
 13 Gwyn Davies apologises for being absent.
 14 If you scroll a little bit down you come to page 2
 15 {KIN00022252/2}, please, under "Fire", point 7 on
 16 page 2:
 17 "It was agreed that in the event of fires in
 18 buildings with fibre, we need to point out that there is
 19 fibre in those buildings where we can prove it.
 20 Furthermore, we need to do all we can to dispel the myth
 21 of 'non-combustible'. Regarding the likely UK
 22 tightening, it's imperative that we obtain a regime
 23 which allows pre-certification OR a passed test."
 24 Now, the person there with responsibility to action
 25 what is discussed in the text I've just read to you is

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1 JG. Is that John Garbutt?
 2 A. Yes, it is, yeah, I think so.
 3 Q. Can you explain the motivation behind the first sentence
 4 there, that you "need to point out that there is fibre
 5 in those buildings where we can prove it"? What was
 6 that about? What was the motivation behind having to do
 7 that?
 8 A. Well, I can — I can't recall exactly, but I would
 9 suggest it's meaning that, you know, there are fires in
 10 buildings that have fibre insulation.
 11 Q. Was this designed to undermine public confidence even in
 12 man-made mineral fibre as the insulation product?
 13 A. I don't believe so, no.
 14 Q. What was the point of pointing out that there was fibre
 15 in those buildings?
 16 A. Well, for that point I think I just said, which is that,
 17 you know, you can have — if a system is designed badly
 18 then you can still have fires.
 19 Q. What was the "myth of 'non-combustible'"?
 20 A. Not entirely sure I know what he means by that.
 21 Q. Right. I mean, did you understand at the time that
 22 non-combustible materials are just that,
 23 non-combustible, they don't burn?
 24 A. Yeah, it's a measure — from memory, I did some prep on
 25 this for the select committee on it, it's a reference to

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1 the organic content in the product.
 2 Q. Right. You did some prep on this for the
 3 select committee. We may have to come to that later on
 4 in your evidence, I think.
 5 Did somebody give you a technical teach—in or a bit
 6 of training on what non-combustible, limited
 7 combustibility, combustible meant?
 8 A. Well, no, I understand what combustible and
 9 non-combustible means and I understand how people
 10 interpret it.
 11 Q. At the time of this meeting, 27 September 2017, so
 12 nine months or so before you gave evidence to the
 13 select committee, what did you understand was meant by
 14 the myth of non-combustible that had to be dispelled?
 15 A. I think as I've just said, I don't quite understand what
 16 he means by the myth.
 17 Q. Right. Well, you were at this meeting. Did this just
 18 pass you by and you left it without understanding it, or
 19 did you actually ask at the meeting, "Well, what do you
 20 mean by 'myth of non-combustible', what's this about?"
 21 A. Well, I don't know whether the word "myth" was used in
 22 the meeting or whether it's been written by the person
 23 writing the minutes and the actions.
 24 Q. Do you recall a discussion at this meeting about
 25 dispelling the myth of non-combustible or words to that

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1 effect or the gist of —
 2 A. I think what it's referring to is the linear route of
 3 non-combustibility versus using systems that have
 4 materials that aren't non-combustible.
 5 Q. Right.
 6 In the last sentence, where it says:
 7 "Regarding the likely UK tightening, it's imperative
 8 that we obtain a regime which allows
 9 pre-certification ..."
 10 What was meant by pre-certification?
 11 A. I don't recall.
 12 Q. "... OR a passed test", it says. Was that a success
 13 under a BS 8414 test?
 14 A. I would assume so, yes.
 15 Q. You say you would assume so; do you have no recollection
 16 of this meeting whatsoever?
 17 A. Well, not this specific meeting — when was it? Can you
 18 remind me when it was? Can we go back to the top?
 19 Q. Yes, 27 September 2017. It was in the wake of the fire
 20 and you're discussing —
 21 A. Yeah.
 22 Q. — moving forwards, non-combustible and a potential UK
 23 tightening. I'm putting to you the note because you
 24 were at the meeting and I'm seeking to explore what else
 25 you can tell us about what happened at the meeting.

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1 A. Well, yes, I mean, I — can I remember this specific
 2 meeting? I can't remember this specific meeting,
 3 I'm afraid.
 4 Q. Do you remember anything about somebody saying at the
 5 meeting that it was imperative that Kingspan obtain this
 6 regime?
 7 A. Well, I remember the conversation about the fact that we
 8 were pushing for testing to BS 8414. I really can't
 9 recall what it means by pre-certification.
 10 Q. What was John Garbutt tasked with doing as a result of
 11 these discussions?
 12 A. Well, I can only go on what's written there.
 13 Q. Right, I see.
 14 A. I didn't — I mean, John Garbutt reported to
 15 Peter Wilson, as I did, so he didn't report to me.
 16 Q. Maybe, but as you can see from the minute, JG was given
 17 the action as a result of what the text says. My
 18 question was: what was he asked to do, do you know?
 19 A. Only insofar as what it says in that action point.
 20 Q. Do you mean by that you can read off the page as I can,
 21 or can you help me beyond that?
 22 A. I can't. I mean, we're talking about a meeting that was
 23 three and a half years ago, and I remember the time
 24 of — I mean, of course I remember this time because it
 25 was incredibly sensitive, but I don't remember — other

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1 than what it says on that paper there, I can't go into
 2 any more detail about what John was requested to go and
 3 do.
 4 Q. Standing back from the detail and forgetting about the
 5 note of the minute, cast your mind back. It's late
 6 September. The fire at Grenfell Tower had happened only
 7 a handful of months before that. You have a meeting
 8 with all these top brass in Holland. Right? What was
 9 the big thing that Kingspan needed to do in relation to
 10 K15?
 11 A. Well, stepping back from the detail, this was a regular
 12 monthly business review meeting, so where all the
 13 divisional — sorry, all of the regional managing
 14 directors would be going through their business results
 15 for the previous month, and then the departmental heads
 16 would then go through, on a divisional basis, things
 17 that they were working on, and that's — clearly when
 18 we'd had a discussion about fire, that is the action
 19 that was taken down for John Garbutt. So this is —
 20 I mean, there were other things going on around K15 not
 21 necessarily discussed in this meeting.
 22 Q. Right. You see, it doesn't sound as if what's discussed
 23 under paragraph 7, "Fire", here left much of
 24 an impression on you. Is that really right?
 25 (Pause)

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1 A. No, that's not right. I mean, what I — we're referring
 2 to a meeting that was three and a half years ago. At
 3 that time, I was specifically focused on K15 and I was
 4 working on a great deal of things, or certainly helping
 5 Adrian, and there was lots going on. This is something
 6 specific here that was falling on to John Garbutt.
 7 Q. Yes, but you were managing director at the time. We can
 8 see that the text of this is written in pretty urgent
 9 and strident terms, "we need to do all we can to dispel
 10 the myth of 'non-combustible' ... it's imperative that
 11 we obtain a regime which allows pre-certification",
 12 which is why I ask the question: do you not have any
 13 recollection at all about what it really was that
 14 Kingspan had to do in relation to K15 at this point,
 15 two months or so after the Grenfell Tower fire?
 16 A. But this is specifically — I mean, you're referring to
 17 K15, but this is talking about fibre and
 18 non-combustible, whereas — and this was not my meeting,
 19 I was attending a meeting — I think this meeting is
 20 chaired by — the KHIL meetings were chaired by
 21 Peter Wilson, so I'm there as an attendee, not as the
 22 person chairing the meeting.
 23 Q. Well, you're there because you're the managing director.
 24 Are you seriously telling us that you can remember
 25 nothing about this meeting in respect of K15 and fire

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1 beyond what is written in this minute?
 2 A. I can tell you that I — in that meeting there, I can't
 3 tell you what was discussed about K15. I can imagine,
 4 but I'm not — you know, it's not documented. You're
 5 trying to link K15 with an action for John Garbutt, and
 6 I'm saying I can't do that.
 7 Q. Do you agree that after the Grenfell Tower fire,
 8 Kingspan launched a campaign to lobby the Government in
 9 relation to the use of combustible materials on
 10 high-rise buildings?
 11 A. I'm sorry, you broke up at the start of that sentence.
 12 Could you just repeat it again for me, please?
 13 Q. Yes, of course.
 14 Do you agree that after the Grenfell Tower fire,
 15 Kingspan launched a campaign to lobby Government in
 16 relation to the use of combustible materials on
 17 high-rise buildings?
 18 A. Yeah, I've seen evidence to that effect.
 19 Q. And do you remember that Kingspan retained the services
 20 of the Murray Group, who are a PR firm, I believe?
 21 A. I know they used Murray, did they use it for that as —
 22 yes, probably, they were their external affairs agency.
 23 Q. What about Portland Communications, does that ring a
 24 bell with you?
 25 A. I believe they were involved as well, yes.

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1 Q. What about Grayling, another PR firm, does that ring
 2 a bell with you?
 3 A. Grayling were involved, yes.
 4 Q. Did you yourself play any part in the decision to mount
 5 a political engagement strategy after the Grenfell Tower
 6 fire?
 7 A. I wouldn't have said I played a part in it, no. I was
 8 aware that it was going on.
 9 Q. Right.
 10 What was Kingspan's goal in mounting such
 11 a political engagement plan?
 12 A. My understanding is that the belief was that we wanted
 13 to get systems used in façades tested to BS 8414 as
 14 a way of proving that people could be confident in the
 15 use of that system.
 16 Q. Whose ultimate decision was it to launch the political
 17 engagement plan?
 18 A. I'm not entirely sure.
 19 Q. Let's look at some documents.
 20 {KIN00008120}. Now, this is a document which seems
 21 to be dated August 2017 from the file data, although we
 22 can't see that it actually bears an express date. It's
 23 called "Kingspan, Political engagement plan".
 24 Have you seen this document before?
 25 A. I don't think so.

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1 Q. Am I to take it that this right now is the first time
 2 you've ever seen this document?
 3 A. I don't know, I can't recall.
 4 Q. Right.
 5 A. I remember there was a plan produced. I didn't know it
 6 was a — necessarily a document.
 7 Q. Right. Well, "Political engagement plan" appears to be
 8 the name of the campaign that was waged by Kingspan to
 9 lobby Government; do you accept that?
 10 A. No, I mean, I think this — well, I think this was
 11 a proposal by an external company. I don't think this
 12 was our plan, I think this was proposed.
 13 Q. Indeed, and you are right that it was an external
 14 company. It seems to have been drafted by a company
 15 called Portland.
 16 A. Okay.
 17 Q. And they're a PR — well, you tell me: what was
 18 Portland's relationship with Kingspan in late summer
 19 2017, Mr Burnley?
 20 A. Well, I'm not sure that we had a relationship with them.
 21 I certainly didn't — I wasn't familiar with them.
 22 I think they were — I think there was a brief pulled
 23 together of some engagement that we wanted to try to do,
 24 and they were one of the companies that engaged to see
 25 if they could do that work.

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1 Q. Right.
 2 Let's look a little further into the document and
 3 see if you are familiar with it or what it's saying.
 4 If we go to the second page, please, page 2
 5 {KIN00008120/2}, we can see in red letters "Overview",
 6 and then it says this, and I'll read it to you:
 7 "It's time to get our message out to the people that
 8 matter.
 9 "In the first instance, initial outreach should be
 10 made by Kingspan and not by Portland. It looks better.
 11 We will draft letters and emails on your behalf, we will
 12 ensure each one is tailored to the recipient, and we
 13 will prepare you adequately for each and every meeting
 14 that you are granted. Portland will be the engine room.
 15 "We must be realistic though: some people will not
 16 want to meet you and they will not want to be lobbied.
 17 But there is still immeasurable value in getting
 18 Kingspan's manifesto in front of these decision-makers.
 19 We want them to read it. We need them to read it. And
 20 that's why it's vital that our messages are punchy,
 21 memorable and easy to understand.
 22 "Following initial contact, there will be
 23 a programme of follow-ups and that's where we hope to
 24 use our network of contacts: to nudge, where
 25 appropriate. And while we cannot promise you access, we

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1 will pull every string to ensure that your messages
 2 reach the key people.
 3 "Finally, there is still a discussion to be had
 4 about approaching the public inquiry. We don't know the
 5 inquiry's terms of reference and we don't know if
 6 Kingspan will be asked to give evidence."
 7 Now, first of all, is the text that I've just read
 8 to you something that you have only just seen today,
 9 now, for the very first time?
 10 A. I can't recall, but it's clearly not written by
 11 Kingspan.
 12 Q. Well, that may be a matter of debate, but it appears to
 13 be written by Portland, I'll grant you that.
 14 Can you tell us how this document came to be
 15 generated?
 16 A. Well, my vague recollection is that this was probably
 17 the document used by Portland in a pitch around the
 18 brief for some work that Kingspan wanted doing.
 19 Q. Were you involved in going out into the PR market and
 20 identifying PR firms or comms firms to be able to assist
 21 Kingspan with its manifesto, for want of a better word?
 22 A. No, I wasn't. That's definitely not one of my areas of
 23 expertise.
 24 Q. Whose was it?
 25 A. I think it was done by people from both the Insulation

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1 business and the Panels business. From the Insulation
 2 business I think it would have been John Garbutt.
 3 Q. Right.
 4 Did you yourself have any discussions with
 5 John Garbutt or anybody else within Kingspan about
 6 retaining the services of external PR and communications
 7 consultants?
 8 A. No, I'm pretty sure I didn't.
 9 Q. Right. I see. Well, let me see how far we go with this
 10 document.
 11 In the first sentence you see that Portland say,
 12 "It's time to get our message out to the people that
 13 matter", and then you see references later to the
 14 decision-makers and key people.
 15 Can you help me, who were they? Who were these
 16 people that matter?
 17 A. I can only assume they're referring to Members of
 18 Parliament and anybody else that they were going to
 19 identify as key stakeholders.
 20 Q. As a document, do you agree, just on the basis of the
 21 overview, that this was a plan being proposed to
 22 Kingspan to obtain access to and to exert influence over
 23 individuals in a position to exercise decision-making
 24 powers which had been entrusted to them in the public
 25 interest?

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1 A. No, I think the purpose of the work that we were wanting
 2 done was to get us in front of people to try to put our
 3 point of view forward.
 4 Q. All right.
 5 Let's go to page 3 {KIN00008120/3}. Here is a list
 6 of names, all of which have "MP" after them.
 7 Do you know how this list came to be compiled? It
 8 starts with Nigel Adams, the Conservative member for
 9 Selby and Ainsty, and goes down through a list of names,
 10 and includes in the middle, as you can see,
 11 Kevin Hollinrake, the Conservative member for Thirsk and
 12 Malton, as well as others?
 13 A. I can't, but what I'm seeing is there's a number of MPs
 14 who have — where there are Kingspan plants within their
 15 constituency, and then it looks like some of the others
 16 are referred to at the bottom with other sort of roles
 17 in other sort of committees and groups of people.
 18 Q. Indeed. It's pretty targeted, actually, as you
 19 identify. The MPs selected are cross-party and
 20 identified precisely because there is a Kingspan site
 21 within the constituency; yes?
 22 A. Yeah, that would appear to be the case, yes.
 23 Q. Yes. Kevin Hollinrake has a double asterisk because, as
 24 you can see at the foot of the screen, he was a member
 25 of the DCLG select committee.

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1 A. Yeah.
 2 Q. If we go to page 4 {KIN00008120/4}, you can see
 3 "Group 2 — Key decision-makers", and here are some very
 4 familiar names. I needn't read them out, but they
 5 include the Secretary of State for Communities and Local
 6 Government, Home Secretary, Dame Judith Hackitt herself,
 7 and the action notes, if you look at the bottom:
 8 "■ Portland to draft letter requesting a meeting.
 9 "■ Kingspan to approve and send.
 10 "■ Portland to provide follow up to secure meetings.
 11 "■ Portland to provide briefing notes ahead of
 12 meetings."
 13 The document goes on in this sort of vein, but
 14 I just want to show you an email from Grayling to
 15 Kingspan at {KIN00008117}. If you look at the second
 16 email down, it's an email dated 5 February 2018 to
 17 Siobhan O'Dwyer, John Garbutt, Mark Harris and
 18 Tony Ryan, from a gentleman at Grayling called
 19 Thomas Anelay, and if you go to the text, it says:
 20 "Please find attached an updated letter to
 21 Clive Betts, a key messaging document and stakeholder
 22 list which details next actions.
 23 "Regarding the key messaging document, it would be
 24 very helpful if you could let us know of any feedback,
 25 technical mistakes we might have made and if you could

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1 provide any proof points to support the argumentation.
 2 One of the key arguments that we need to win with
 3 political stakeholders is that combustible materials are
 4 no more dangerous than non-combustible materials when
 5 improperly installed. We've attempted to provide some
 6 lines on this but feel the argument needs to be
 7 stronger.
 8 "Regarding the stakeholder list, we've used the
 9 Portland one as the basis but added some more MPs,
 10 tiered them, and added next steps. The next steps are
 11 also tiered by urgency. If you could have a look at the
 12 Kingspan actions column and in particular send us any
 13 further feedback on the meetings you've already held
 14 that would be most appreciated. We will then collate
 15 everything together. You will see that there is an
 16 officials tab and a 3rd party tab — we're compiling
 17 names to add to these now."
 18 Just pausing there, do you remember whether Grayling
 19 replaced Portland, or maybe Portland didn't get the job
 20 but Grayling did? How did it work, do you remember?
 21 A. I don't know, I can't recall.
 22 Q. If we go to {KIN00008118} in native form, please, we can
 23 see the spreadsheet that Grayling had prepared.
 24 (Pause)
 25 Yes, there it is. You can see at the very top there

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1 is a list across the page, the name, party, position,
 2 Kingspan site, emails, follow-ups, Grayling action,
 3 Kingspan action, et cetera. Then you can see the list
 4 of names in the second column from the left and their
 5 tiering in the column on the left and their position
 6 respectively.
 7 Have you ever seen this document before?

8 A. I don't believe so, no.
 9 Q. Right.
 10 If we look at it, just at a glance, you can see the
 11 efforts that had been made to contact MPs and
 12 stakeholders by telephone, by email and by letter to
 13 follow up with them, to get meetings with them,
 14 basically a lobbying exercise.
 15 Do you remember yourself that this exercise had
 16 taken place or was taking place?
 17 A. I mean, I was aware of something going on, but
 18 I don't — I mean, just looking at ... I mean, as
 19 I heard yesterday, there appears to have been quite
 20 a significant amount of things going on without my
 21 knowledge.
 22 Q. Yes, you say, "I was aware of something going on".
 23 Let's just look a little bit more closely at that.
 24 Can I ask you to go to {KIN00022667}, please. This
 25 is an email dated 23 January 2018 from Mark Harris to

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1 a number of people at Kingspan, including
 2 Adrian Pargeter and you. The subject is
 3 "Kevin Hollinrake Dinner". Attachments, "Westminster
 4 Jan 2018".
 5 Now, Kevin Hollinrake, as we saw from that list in
 6 the Portland Communications list, was an MP; yes?
 7 A. That's correct.
 8 Q. Mark Harris writes as follows, "Hi Jim" — now, we think
 9 we know who it went to, but that doesn't matter:
 10 "As requested please find attached a copy of the
 11 slides that you missed last week. It was a great
 12 pleasure to have dinner with you and the other MPs.
 13 "We found the debate very informative and in
 14 particular it helped to refocus our effort away from
 15 concentrating purely on the technical arguments for high
 16 performance 'combustible' containing facades to focusing
 17 on getting the public to understand the full range of
 18 benefits of our large scale tested systems. Hopefully
 19 our passion and genuine belief in the acceptability &
 20 equivalence in performance of our façade systems to
 21 systems to those containing so-called non-combustible
 22 materials came through loud and clear.
 23 "Our argument, in a nutshell, boils down to the
 24 necessity to test all façade systems to the large scale
 25 test BS 8414 — a very robust test methodology that has

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1 stood the test of time and clearly demonstrated the
 2 failure of the system used on Grenfell Tower in the BRE
 3 tests done on behalf of DCLG. Systems that pass the
 4 test are safe — systems that don't are not —
 5 irrespective of whether the system contains combustible
 6 material or not.
 7 "Please let me know if you have any further
 8 questions.
 9 "Kind regards,
 10 "Mark."
 11 Now, that dinner, were you there?
 12 A. Yes, I was.
 13 Q. You were? Where did it take place?
 14 A. It was at the Houses of Parliament.
 15 Q. How many MPs were present?
 16 A. I think there were two or possibly three. I think it's
 17 in one of my witness statements. I think I recalled the
 18 dinner and made comment to who I thought was there.
 19 Q. Who were they?
 20 A. The two that I can recall being there were
 21 Kevin Hollinrake and I believe who this is addressed to,
 22 Jim Shannon.
 23 Q. Jim Shannon.
 24 Who identified those particular MPs as the MPs with
 25 whom dinner should be had?

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1 A. I don't know.
 2 Q. How did you get access to that group of MPs?
 3 A. I don't know.
 4 Q. Who arranged access to those MPs?
 5 A. Again, I don't know. I was just invited along to the
 6 dinner.
 7 Q. Who invited you along to the dinner?
 8 A. I think it was Mark Harris and Tony Ryan.
 9 Q. Did it come as a surprise to you that you were being
 10 invited to a dinner with MPs at the House of Commons?
 11 A. Yes, it was. It wasn't something I was familiar with
 12 doing.
 13 Q. When you were invited by Mark Harris to go to this
 14 dinner, did you ask him what it was for?
 15 A. I think he probably told me and just explained it was to
 16 talk about the full-scale testing.
 17 Q. Why would you want to be talking to MPs about full-scale
 18 testing, Mr Burnley?
 19 A. Well, to discuss our point of view and explain what we
 20 thought was the validity of full-scale testing.
 21 Q. Who paid for the dinner?
 22 A. Well, I don't know. I assume we did.
 23 Q. Yes.
 24 A. I mean, I don't know is the truth, actually.
 25 Q. Who from Kingspan other than you were present?

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1 A. There was myself, Adrian Pargeter, Mark Harris, and
 2 I can't remember whether Tony Ryan was there or not.
 3 I think he may have been.
 4 Q. Did anyone from Kingspan speak, address these MPs?
 5 A. I think Mark Harris did. I can remember he showed
 6 a video and spoke briefly.
 7 Q. He showed them a video. Did he show them anything else?
 8 A. Not that I recall.
 9 Q. What was the video of?
 10 A. I think it was just to show them what a BS 8414 test
 11 looked like.
 12 Q. Was it a BS 8414 test done by Kingspan or was it any
 13 8414 test?
 14 A. I'm pretty sure it would have been one of ours because
 15 we'd have been able to show one that we'd done, but
 16 I think it was more about showing the robustness of the
 17 test.
 18 Q. Right.
 19 A. You know, it was to show that it wasn't a lab-scale
 20 test, it was a full — you know, it's a built wall being
 21 tested.
 22 Q. Right.
 23 At that stage, did you know — just think about
 24 this — that the K15 being sold and which had been sold
 25 for a number of years had failed ever to obtain a pass

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1 to a test under BS 8414?
 2 A. At that point ... yes, no, I'm sure I must have done.
 3 Q. You didn't tell the MPs that, did you?
 4 A. But testing products is only part of a product
 5 development process.
 6 Q. You were trumpeting the virtues, weren't you, at this
 7 dinner of the BS 8414 test, when you knew by this point
 8 that for more than a decade K15 had been sold without
 9 that product having achieved a pass to a test under
 10 BS 8414?
 11 A. I'm not sure at that stage I did know that, no.
 12 Q. You said you had a moment ago.
 13 A. I said I had what, sorry?
 14 Q. I thought you told us earlier that by that stage you
 15 must have known that K15, the K15 being sold, was one
 16 that had not passed an 8414.
 17 A. I don't know. I can't remember saying that.
 18 Q. Right.
 19 Are you able to explain why, even if you didn't know
 20 by that point, others at that meeting, who had the means
 21 at the very least to that knowledge, I would suggest,
 22 did not tell those MPs that for more than a decade K15
 23 had been sold without K15 having ever achieved a pass
 24 under BS 8414?
 25 A. No, I can't answer that.

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1 Q. Can you tell us when this Damascene moment of yours came
2 when you realised that BS 8414 was the only safe test?
3 A. Well, I don't think it was a moment for me. It was —
4 I mean, I think when we were talking to the NHBC, the
5 conversations I'd had with Tony Millichap and then with
6 Adrian Pargeter, it became clear that 8414 was a clear
7 way of providing evidence that a system could pass the
8 Building Regulations. I don't know if it was a specific
9 moment. It was clearly the way of providing evidence to
10 people that, you know, it could meet the
11 Building Regulations.
12 Q. When did you have that realisation? When did it become
13 clear, in your words, that 8414 was a clear way of
14 providing evidence that a system could pass the
15 Building Regulations?
16 A. I mean, I can't give you an exact date.
17 Q. This dinner, it was a private dinner, wasn't it,
18 I imagine?
19 A. Yes, insofar as it was in a room and there weren't other
20 people passing around us.
21 Q. Was anybody there to take a record of what was said,
22 what passed between you and these MPs?
23 A. I don't believe there were minutes taken, no.
24 Q. Do you know why that is?
25 A. No, I can't answer that.

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1 Q. Would it be fair to describe this dinner as or as part
2 of a plan by Kingspan to seek political support for your
3 attack on the linear route to compliance?
4 A. No, I don't believe so, I think we were trying to
5 demonstrate the robustness of BS 8414.
6 Q. To MPs?
7 A. To the people present. I don't think there were just
8 MPs present. I can't remember. There was — I honestly
9 can't remember who else was there.
10 Q. Well, this is a dinner, and you told us that there were
11 three MPs present. Let's just be clear, was anybody
12 else present? There were the people from Kingspan, the
13 three MPs. Was anybody else present?
14 A. I don't think so. I don't think so.
15 Q. No. So I put the question again: would it be fair to
16 describe this dinner as or as part of a plan by Kingspan
17 to seek political support for your attack on the linear
18 route to compliance?
19 A. No, I don't believe it would be fair to say that, no.
20 Q. So what was the purpose of this dinner?
21 A. To explain the robustness of BS 8414 and that full-scale
22 testing was a route that we believed could show that
23 systems could be used to meet the Building Regulations.
24 Q. No, that was the case message that you wanted to get
25 across. My question was: what was the purpose of this

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1 dinner with these MPs?
2 A. Exactly what I've just said, that's what I went along
3 with as the understanding.
4 Q. Why with MPs? What was the purpose of having dinner
5 with MPs, Mr Burnley?
6 A. For the exact reason I've just said.
7 Q. To seek political support. Not scientific support, not
8 popular support, political support. That's right, isn't
9 it?
10 A. Well, it's not the reason that I was given.
11 Q. What reason were you given?
12 A. Because we were trying to push the robustness of the
13 British Standard test, and that all systems that were
14 going to be used should be tested on a full-scale test.
15 Q. The truth is, isn't it, that this is Kingspan accessing
16 political power in order to seek to improve its own
17 commercial position in the aftermath of the
18 Grenfell Tower fire? That's the reality, isn't it?
19 A. No, I don't agree with that.
20 MR MILLETT: Mr Chairman, is that a convenient moment for
21 the break?
22 SIR MARTIN MOORE-BICK: Yes, I think it is.
23 Well, we'll have a short break now, Mr Burnley. We
24 will come back at 3.30, please, and as I said to you on
25 many occasions now, please don't talk to anyone about

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1 your evidence or anything relating to it over the break.
2 All right?
3 THE WITNESS: Of course. I understand.
4 SIR MARTIN MOORE-BICK: 3.30, then. Thank you very much.
5 (3.16 pm)
6 (A short break)
7 (3.30 pm)
8 SIR MARTIN MOORE-BICK: Welcome back, everyone. We're going
9 to continue now with Mr Burnley's evidence.
10 Mr Burnley, I hope you can see me and hear me, can
11 you?
12 THE WITNESS: Yes, I can.
13 SIR MARTIN MOORE-BICK: Good, thank you very much. Anything
14 you need to raise before we carry on?
15 THE WITNESS: No, no, I'm fine to keep going.
16 SIR MARTIN MOORE-BICK: Thank you very much.
17 Well, then, when you're ready, Mr Millett.
18 MR MILLETT: Mr Chairman, thank you very much.
19 Just going back to the Kevin Hollinrake dinner in
20 2018, Mr Burnley, you have established who was there
21 from Kingspan and who the MPs were, more or less. Was
22 anybody else there at all?
23 A. Well, I think there was, but I can't remember who they
24 were. That's why I think I was a little bit vague when
25 I answered before. There wasn't just Mr Shannon and

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1 Mr Hollinrake. There was definitely at least one other
 2 person that wasn't a Kingspan employee.
 3 Q. Was that other person an MP, do you remember?
 4 A. I wish I could remember.
 5 Q. I don't want to suggest things but —
 6 A. No.
 7 Q. — let me see if I can help.
 8 Was that person from a Government department?
 9 A. I think it was a lady.
 10 Q. A lady? Right.
 11 A. In fact, I'm sure it was a lady.
 12 Q. Right.
 13 A. I just haven't — I know when I prepared before
 14 Christmas I tried to look at stuff that I'd been
 15 provided with by Kingspan, but there was no record of
 16 any of it, so I'm going from memory.
 17 Q. Right. Was a gentleman called Brian Martin there?
 18 A. I don't recall so, no.
 19 Q. What about a gentleman called Bob Ledsome, does that
 20 name ring a bell?
 21 A. No.
 22 Q. What about a gentleman called Neil O'Connor?
 23 A. No, definitely not, it doesn't ring any bells.
 24 Q. A lady, all right.
 25 I would like then to move to a different topic,

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1 a little bit later in March 2018, {KIN00004637}.
 2 This is an email chain from March 2018, early
 3 March 2018. You can see from the top of the email chain
 4 on the screen in front of you that it ends with an email
 5 from John Garbutt to Mark Harris and Adrian Pargeter on
 6 5 March 2018.
 7 Can we go, please, to page 3 {KIN00004637/3}. The
 8 email at the foot of the page, or halfway down the page,
 9 is 2 March 2018, from Mark Harris to Adrian Pargeter,
 10 John Garbutt, Gilbert McCarthy and others. It's dated
 11 2 March 2018, and the subject is "Ulster Tests/MHCLG
 12 Select Committee Lobbying".
 13 Now, I must be very clear with you, Mr Burnley, you
 14 were not copied in on any of the emails in this chain.
 15 Have you seen it before?
 16 A. I don't believe so, no.
 17 Q. Right. Did you not see this when you were preparing
 18 your witness statements or —
 19 A. I really don't think so.
 20 Q. Right. Let's see how we go.
 21 It's right, isn't it, that Gilbert McCarthy is the
 22 current managing director of Kingspan Group's insulated
 23 panels business in the UK?
 24 A. Yes — well, yeah, broader geography, I think. I think
 25 he has more —

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1 Q. UK, Ireland —
 2 A. But certainly as part of his role, yes.
 3 Q. Yes, UK, Ireland, Western Europe and Australia, in fact,
 4 I think.
 5 A. Okay. Yeah, that's correct.
 6 Q. Mark Harris, at that time was he still the divisional
 7 building technology director at Kingspan?
 8 A. Kingspan Panels, I believe he was —
 9 Q. Panels, yes.
 10 A. — in the Panels business —
 11 Q. Yes.
 12 A. — yes.
 13 Q. He starts the email by saying:
 14 "It's clear that Kevin Hollinrake is still pretty
 15 lukewarm about our draft letter/arguments to address
 16 MHCLG select committee and MP concerns."
 17 Pausing there, Mr Burnley, can you help us about
 18 what the draft letter is to which Mr Harris is referring
 19 there?
 20 A. No, I can't.
 21 Q. Right.
 22 Do you remember whether Kevin Hollinrake was asked
 23 to assist in the preparation of or giving comments on
 24 a draft letter or draft set of arguments to be directed
 25 at MHCLG?

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1 A. No, I would doubt it.
 2 Q. Right.
 3 Going on with the text of this:
 4 "The major 'evidence gap' is his concern about
 5 fire spread with 'combustibles' in relation to poor
 6 installation — he seems to believe that poor
 7 installation is a major problem with 'combustible'
 8 systems but not with 'non-combustible'. In other words
 9 he, and members of the Select Committee, need to see
 10 evidence to persuade them that poor installation is
 11 an issue with both systems.
 12 "Following discussion with Roy, Tony & Adam I have
 13 a simple proposal that could address this issue and give
 14 us the evidence we need to demonstrate that
 15 non-combustible systems are as 'fail-safe' as many
 16 presume."
 17 Pausing there, the case to demonstrate
 18 non-combustible systems are not as failsafe as many
 19 presume, that was, wasn't it, the argument, the case,
 20 that you wanted to get across to Kevin Hollinrake and
 21 the others at the dinner in January; is that right?
 22 A. No, no, we were trying to get over the point that you
 23 should test all systems, irrespective of the linear
 24 route, to BS 8414.
 25 Q. Yes, but isn't demonstrating that non-combustible

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1 systems are not as failsafe as many presume the other
 2 side of the same coin?
 3 A. I don't think it is, no, I think it's — well, you could
 4 say it's half full, half empty, but I think it's more
 5 about anything that passes BS 8414 is a system that can
 6 be used.
 7 Q. Going on:
 8 "1. Gather evidence to demonstrate that fire spread
 9 in cavities is potentially dangerous irrespective of
 10 cladding type. A good example is the statement in
 11 BR 135 ..."
 12 Then it's set out there.
 13 "2. Further ISO 13785—1 tests at Ulster University
 14 to demonstrate similar performance of K15 vs RW
 15 [Rockwool] when tested without cavity barriers — this
 16 would involve a repeat of the original tests —
 17 "a. 100mm K15 with ACM without cavity barriers and
 18 flashing at top of rig &
 19 "b. Duorock with A2 ACM as above.
 20 "There's little doubt that flames will appear at the
 21 top of the rig during the test and the time differential
 22 between K15 and Duorock may not be significant.
 23 "I think this evidence will be critically important
 24 in persuading Kevin Hollinrake to become an advocate of
 25 our view and very useful in lobbying activities

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1 elsewhere to demonstrate that —
 2 "■ So called 'deemed to satisfy' systems can have
 3 rapid fire spread if cavities are not protected
 4 (for example as a result of poor installation).
 5 "■ Fire spread in cavities is similar with mmmf
 6 [man-made mineral fibre] and K15 — i.e. lack of
 7 cavity barriers in high performance rigid insulation
 8 systems that pass BR135 requirements is not an enhanced
 9 risk vs non-combustible — the critical issue is the
 10 correct design and installation of all systems.
 11 "I understand that you have testing planned in
 12 Ulster week commencing 12th March. I strongly recommend
 13 that this additional testing is squeezed into the
 14 programme if at all possible."
 15 So it looks as if — and I'm taking it that you
 16 hadn't seen this email before — there is a plan to
 17 compare Rockwool and K15 when tested without
 18 cavity barriers to demonstrate that fire spread can be
 19 similar. That's what it appears from this email, among
 20 other things.
 21 Would you agree with that?
 22 A. Yeah, that's that second bullet point, I think, isn't
 23 it?
 24 Q. Yes.
 25 Were you aware at the time, not having seen this

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1 email specifically, of the proposals set out in this
 2 email?
 3 A. No.
 4 Q. Is it right that Adrian Pargeter still reported to you
 5 at this time, early March 2018?
 6 A. Yes, he did, yeah.
 7 Q. Did Adrian Pargeter discuss the proposals set out in
 8 this email with you at all?
 9 A. He didn't discuss these proposals. I mean, we
 10 certainly, in separate conversations, would have talked
 11 about the medium-scale tests that were on the other page
 12 that Ulster University were doing, because we did
 13 a large amount of work to try to see if they could be
 14 used for the 13785 — I think it's at the bottom of the
 15 previous page — to see if they could be used as
 16 an indicator of whether a system would pass BS 8414.
 17 Q. I see. So you had conversations with Adrian Pargeter
 18 about the Ulster University tests but nothing else in
 19 this email; is that right?
 20 A. I mean, that's the first time I've seen it, so go ...
 21 definitely didn't talk about point 1. I was aware of
 22 the work — so Adrian and I would have talked about work
 23 that was going on at Ulster University, but not
 24 specifically those repeats of original tests.
 25 Q. Can you explain why Adrian Pargeter only discussed part

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1 of and not all of the matters set out in this email with
 2 you?
 3 A. No, I can't.
 4 Q. Right. Was that a failure on his part to report to you
 5 fully?
 6 A. I don't think so. I think he'd have — we would have
 7 been talking about things that he felt would have been
 8 important and that I needed to know about.
 9 Q. Why did you not need to know about everything in this
 10 email, particularly the effort to demonstrate that
 11 non-combustible systems are not as failsafe as many
 12 presume?
 13 A. I can't answer that question.
 14 Q. Now, if we could scroll up, please, to the bottom of
 15 page 1 {KIN00004637/1}, we can see an email on
 16 4 March 2018 from John Garbutt at 22.10. This is to
 17 Adrian Pargeter again, as well as others, Mark Harris,
 18 Roy Weghorst and Tony Ryan:
 19 "Looking at the videos of the original tests the
 20 flames only got as high as the cavity barrier in the
 21 A2/PF tests.
 22 "So I think you are going to need to create some
 23 'draw' to get the flames to get above the barrier or
 24 rig. So, will we get a greater draw are narrower gaps
 25 or wider gaps between panels? Clearly the flashing will

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1 have to be absent.
 2 "Would we be better using FR or A2 for this test
 3 Roy? Which would give most fuel to get the flames up
 4 there?"
 5 We can see Mark Harris responds to this, if we
 6 scroll up further into page 1, 5 March, next day:
 7 "Hi John,
 8 "I think we definitely have to use the A2 ACM — an
 9 important message of this test could be that you can get
 10 excessive fire spread in cavities in rain screens that
 11 are compliant with the linear route. Thereby
 12 demonstrating the importance of installing cavity
 13 barriers & testing the full system to demonstrate they
 14 work in the actual rain screen build up. In addition it
 15 demonstrates that getting the installation right is just
 16 as important with so called non—combustible/limited
 17 combustible systems as it is with 'combustible' systems
 18 that pass BS 8414."
 19 Again, my question is: did you know that this
 20 discussion along the lines set out in the Garbutt/Harris
 21 exchange I've just read to you was going on at the time?
 22 A. No, I don't believe so.
 23 Q. Was that not a topic that you should have been involved
 24 in?
 25 A. I don't know. Having just seen it, I don't know.

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1 I don't think so.
 2 Q. Was this not part of planning testing to demonstrate
 3 that you can get excessive fire spread in cavities even
 4 where the structure is compliant with the linear route,
 5 or even where the products used are compliant with the
 6 linear route, I should say?
 7 A. Well, there was concern within Kingspan that products
 8 that could be used through the compliant linear route
 9 could actually fail an 8414 test.
 10 Q. Yes, and that's what this is talking about and obtaining
 11 evidence to be able to demonstrate that fact to the
 12 MHCLG, no?
 13 A. It looks that way but, I mean, I'm not sure that I would
 14 have added much credence to the conversation.
 15 Q. Maybe not, Mr Burnley, but was this not within your
 16 sphere of responsibility as managing director with
 17 Mr Pargeter reporting to you?
 18 (Pause)
 19 A. Well, that's a difficult question to answer. Is it of
 20 interest to me? Yes.
 21 Q. Why were you left out of the loop, do you know?
 22 A. No.
 23 Q. Do you agree with me that you should not have been left
 24 out of the loop, but should at least have been copied in
 25 on this for information, if only for information?

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1 A. Possibly, yeah, possibly.
 2 Q. You see, you were at the dinner with Kevin Hollinrake,
 3 and the topic of this email run is "MHCLG
 4 Select Committee Lobbying". Can you explain why you
 5 were not kept in the loop, given the topic?
 6 A. Well, I don't see the connection between this and the
 7 dinner that we had with the MPs.
 8 Q. The connection is that the case message is the same.
 9 Because so—called non—combustibles, when used in an 8414
 10 test, that test may fail, your case is that everything
 11 should be tested. That's the case that you wanted to
 12 get across to Mr Hollinrake, and that's the same case,
 13 I'm suggesting to you, that Mr Garbutt and Mr Harris are
 14 discussing to be put across to the MHCLG.
 15 A. No, that's a fair point.
 16 Q. Sorry?
 17 A. That is a fair point.
 18 Q. Yes, and as a fair point, can you explain why it was
 19 that you were kept out of this loop?
 20 A. No, I can't.
 21 Q. Now, I want to ask you about a second email chain, this
 22 time in April 2018, {KIN00004658}. What comes up on the
 23 screen is the last email in that chain, as is always the
 24 case, and it ends, as you can see, with an email from
 25 Adrian Pargeter to Adrian Brazier and Adam Heath on

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1 13 April 2018, and the title, the subject, is, "Linear
 2 Route Action Plan".
 3 If you go to page 4 {KIN00004658/4}, we can see at
 4 the bottom of that page an email from Mark Harris to
 5 John Garbutt, Adrian Pargeter, Nick Jenkins of
 6 Booth Muir and others, copied to Gene Murtagh and
 7 Gilbert McCarthy. I'll show you some of this.
 8 Again, I should make it very clear to you that you
 9 are not copied in on these emails at all, and indeed are
 10 not sighted on them, you're not sent them.
 11 In this email, Mark Harris refers to a meeting which
 12 has taken place to look at issues relating to the linear
 13 route, and he says this:
 14 "The objective of the discussion was to look closely
 15 was to look closely at potential issues related to use
 16 of the linear route to compliance — in other words
 17 provide evidence to demonstrate that the linear route
 18 approach has weaknesses and full scale testing is
 19 essential for all systems. We reviewed evidence
 20 currently available and discussed how we can generate
 21 evidence for use in both the political arena and with
 22 the Hackitt Review team."
 23 Now, again, do you accept that was the basic case
 24 message that we saw you wanted to impart to the MPs at
 25 the Kevin Hollinrake dinner back in January?

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1 A. It's linked to the message. I mean, the message —
 2 I have to maintain my vivid memory — recollection of
 3 that dinner was around the robustness of 8414 testing.
 4 Q. Right. But you can see that they're linked?
 5 A. They are linked without a doubt, yeah.
 6 Q. In fact, we can see that if we look on in the email. If
 7 you go over the page {KIN00004658/5}:
 8 "Notes and actions as follows —
 9 "1. Data from failed BS 8414 tests. We are aware
 10 of at least 2 BS 8414 tests comprising only non/limited
 11 combustible materials that have failed to meet BR135
 12 criteria. Key reasons for the failures are believed to
 13 be associated with the A2 cassette
 14 type/robustness/geometry and/or the combustibility of
 15 the mineral fibre insulation system (binder
 16 content/presence of polyethylene adhered aluminium
 17 foil). However, we do not have access to the reports or
 18 any rights to make this information public. Actions —
 19 Test Alucopanel A2 material in bomb calorimeter to
 20 determine heat release (NJ has sample). Also test
 21 Vitracore A2 honeycomb in bomb calorimeter. This
 22 testing is for information only at this stage.
 23 "2. BS 8414 Test Proposal (Dubai)."
 24 This is very important, I want you to focus on this
 25 very closely:

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1 "KIL has 3 upcoming slots at Exova in Dubai and has
 2 agreed to make a slot on 10th May available for a test
 3 on a system comprised of materials 'deemed to satisfy'
 4 BR 135. Discussion during the meeting identified the
 5 following test proposal for a configuration that has the
 6 potential to fail BR 135 criteria —
 7 "a. BS 8414 Part 2.
 8 "b. Mmmf [man-made mineral fibre] duoslab
 9 insulation.
 10 "c. 38ram ventilated cavity.
 11 "d. Alucobond A2 ACM cassettes (with 'weak'
 12 structural specification).
 13 "e. Cavity barriers included.
 14 "Actions — NJ to create drawing of A2 cassette
 15 assembly that could perform poorly.
 16 "Also arrange fabrication.
 17 "Detailed test specification to be developed and
 18 agreed by all."
 19 Then there is something about arrangement of tests
 20 and budgets.
 21 Now, just looking at that, the plan there was that
 22 the build-up that Kingspan were going to test in Dubai
 23 at that point was to show problems with "deemed to
 24 satisfy" systems, in other words the linear route, and
 25 to do that they would use Rockwool, Duoslab and

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1 Alucobond A2 ACM cassettes. I'm putting to you that as
 2 a fair summary of what the proposal is.
 3 Now, my question is: although you weren't copied in
 4 to this email chain, were you aware at this point, early
 5 to mid-April 2018, of this linear route testing being
 6 proposed?
 7 A. No, yeah, I was aware that we were doing a test,
 8 literally as it says there on a system comprised of
 9 materials that were deemed to satisfy, ie let's do
 10 a test on a build-up of materials that could be picked
 11 by a designer and then installed on a building. That
 12 was my understanding.
 13 Q. Right. Now, let's just examine that.
 14 When did you first come by that understanding, that
 15 that was what was proposed?
 16 A. I mean, I can't tell you exactly. It was around this
 17 time. I mean, it was, you know, around the time of this
 18 test being done. The test was due in May, so it would
 19 have been April/May time.
 20 Q. Right. Let's be a bit more specific.
 21 Before this email chain was generated, so between
 22 9 and 13 April 2018, did anybody have a conversation
 23 with you about a proposed test to take place in Dubai
 24 along the lines of that described in paragraph 2 of the
 25 email in front of you on the screen?

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1 A. It was discussed with me in a meeting, I'm sure, but it
 2 wasn't specifically, "Oh, I need to tell you about this
 3 test", it would have been as part of the, "This is the
 4 upcoming test programme, these are what we've got set up
 5 to be tested", and this would have been one of those
 6 tests.
 7 Q. Right.
 8 Who told you about the test programme and this test
 9 as part of that test programme?
 10 A. Well, I don't recall, but it would have been either
 11 Adrian Pargeter or John Garbutt.
 12 Q. And did they show you any documents relating to the
 13 proposals?
 14 A. No, no, they wouldn't have done that.
 15 Q. What was the context in which they told you about the
 16 proposed Dubai test?
 17 A. Well, insofar as — you know, I would have known that
 18 there would have been slots booked to carry out tests in
 19 our testing programme, and it would have been talked
 20 about this as being one of those slots.
 21 Q. Were they telling you this to keep you in the loop, in
 22 other words for information, or were they telling you
 23 this to get your approval?
 24 A. No, they were telling me to keep me in the loop, because
 25 it was coming out of the Insulation UK budget, I think,

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1 from memory.
 2 Q. Was that something over which you had ultimate control?
 3 A. I wouldn't have said so particularly .
 4 Q. Well, it's not a question of particularly . I mean,
 5 either you did or you didn't. Did you —
 6 A. I wasn't making the decisions on what the test — I was
 7 discussing with Peter Wilson a number of slots that we
 8 had, Peter was signing off the cost, but I wasn't
 9 responsible for picking the make-up of the systems that
 10 were being tested.
 11 Q. Did anybody tell you when they did tell you about this
 12 what the make-up of the test in Dubai was proposed to
 13 be?
 14 A. I can't recall . If they did, they wouldn't have gone
 15 into great detail .
 16 Q. Did anybody tell you, regardless of the detail , that the
 17 test being proposed for the linear route testing , as we
 18 see is the subject matter of this email , was to contain
 19 certain deliberate design imperfections?
 20 A. No, I don't believe that's the case.
 21 Q. Now, although you were told, you say, about this
 22 proposed test, we can see that you're not copied in on
 23 this email and, indeed, none of the emails that are
 24 generated in April on this subject . Why was that?
 25 A. I can't explain that.

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1 Q. Should you have been copied in on it, even if only for
 2 information?
 3 A. Well, I think some of the detail there, having read that
 4 for the first time, it poses — I mean, I would like to
 5 read it again in more detail, but it does pose some
 6 questions, doesn't it?
 7 Q. It certainly does.
 8 A. Why —
 9 Q. It certainly does. Whether you're the right person to
 10 answer them or not is another matter.
 11 My question is a broader one: given the questions
 12 that this email poses, can you explain why somebody made
 13 a decision not to copy you in on it?
 14 A. No, I can't.
 15 Q. Let's look at the last paragraph, please, on page 6
 16 {KIN00004658/6}. I'll skip forward to that:
 17 "I thought we had an extremely useful session this
 18 morning with actions that could deliver some very
 19 valuable evidence to support the need for full scale
 20 testing of all systems and demonstrate that materials
 21 that are 'deemed to satisfy' the linear route do not
 22 automatically meet BR135 criteria when tested full scale
 23 to BS 8414."
 24 That's precisely the point, isn't it , with which you
 25 had been involved in seeking to have the dinner with

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1 Kevin Hollinrake?
 2 A. I still don't believe that's the case. I believe the
 3 reason for the dinner was to talk about the robustness
 4 of 8414, because at that stage I don't think we felt
 5 they understood what the test looked like or how
 6 significant a test it was.
 7 Q. Right.
 8 Again, we have gone over old ground a little bit
 9 already on establishing the link between the subject
 10 matter of the dinner and the subject matter of these
 11 emails. Looking at the topic there, do you accept that
 12 this is something that you should have been kept in the
 13 loop on?
 14 A. I think I should have been provided with more
 15 information than I clearly had.
 16 Q. Right. Okay.
 17 Let's go up the email chain the next day and look at
 18 a little bit more, 10 April 2018, if we go to page 3
 19 {KIN00004658/3}, we can see that there is an email from
 20 Nick Jenkins, 10 April 2018, to Mark Harris and he
 21 starts by saying:
 22 "OK this represents a real challenge however we have
 23 made some good progress today."
 24 Just above the foot of the page:
 25 "BS 8414 Test Proposal (Dubai).

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1 "To utilise the test slot booked by KIL on 10th May
 2 available for a test on a system comprised of materials
 3 'deemed to satisfy' BR 135. AP has advised that we need
 4 to get the full set of panels and components to
 5 Pembridge to be packaged for air freight to Dubai by the
 6 end of the day on Friday 13th April this week. This
 7 represents a challenge but is not impossible.
 8 "a. Drawings preparation started today ..."
 9 Then if you continue over the page {KIN00004658/4}:
 10 "b. We have some Alucobond A2 in stock ..."
 11 C is about Rockwool in stock at Pembridge, d is
 12 about Siderise and it says this:
 13 "d. Siderise have recommended we use the
 14 Envirograph cavity barrier products. These meet regs
 15 requirements but their performance is expected to be
 16 poor. We will not utilise panel inserts but attempt to
 17 cut the cavity barriers to suit the geometry of the
 18 panels this will further weaken their performance.
 19 "e. The panel system as drawn is expected to
 20 perform badly in spite of being A2 as it relies on
 21 bonded stiffeners and extrusions for its structural
 22 stability . The panel is not fixed on its vertical edges
 23 and the bonded connection are expected to deteriorate
 24 and fail quickly in the BS8414 test. The way the
 25 internal corner is detailed will allow the flames to

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1 bypass the vertical cavity barriers and attack the
 2 cavity of the wing wall.
 3 "f. The vertical joint is ventilated and the fire
 4 will enter the assembly through this baffled joint.
 5 "g. The horizontal joint is ventilated and the fire
 6 will enter the assembly through this baffled joint."
 7 Now, on the face of it, just looking at that, do you
 8 agree that it appears that Kingspan were planning to
 9 construct the Dubai test rig to maximise the chances of
 10 it not passing the 8414 test?
 11 A. Well, I think you can read it that way; however, I would
 12 say that what they're trying to do, and it comes back to
 13 the point I think that was referred to as a view of
 14 Mr Hollinrake, which is that systems can be installed
 15 badly on site, and therefore I think what they're trying
 16 to demonstrate is that products that existed on the
 17 marketplace that would be deemed to satisfy the linear
 18 route could be used in a design and installed badly and
 19 perhaps not pass BS 8414.
 20 Q. Indeed, and that by rigging the test up in this way,
 21 constructing it in this way — let me be a bit more
 22 neutral — to maximise the chances of failure of the
 23 test in order to prove the point.
 24 A. Yeah, and I think — well, the million-dollar question
 25 is: how realistic of a system that would be designed and

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1 used is this?
 2 Q. Well, never mind the million-dollar question, even if
 3 that is the right figure. It's a simpler question than
 4 that: do you accept that, on the face of this email,
 5 Kingspan were planning to construct the Dubai test
 6 system so as to enhance as far as possible the chances
 7 that that test would fail?
 8 A. That wasn't my understanding.
 9 Q. And that the failed test would then be used to persuade
 10 MPs of the dangers of mineral wool when tested in a full
 11 system test under BS 8414 so as to prove your case that
 12 Rockwool or other mineral wool is no more safe than K15
 13 even though it's deemed to be non-combustible?
 14 A. That wasn't my understanding.
 15 Q. What was your understanding?
 16 A. That they were trying to design a system made from
 17 materials that could be deemed to meet the linear route,
 18 which could be chosen by a designer and installed on
 19 a building, and that that wouldn't necessarily pass the
 20 BS 8414 as they were installed.
 21 Q. Who led you to believe that?
 22 A. Well, I would imagine it's come from my understanding
 23 from conversations with Adrian Pargeter and
 24 John Garbutt.
 25 Q. Did anybody tell you that the system that they were

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1 building was deliberately set up so as to introduce
 2 weaknesses in it —
 3 A. No, definitely not.
 4 Q. — enhancing its failure?
 5 A. Definitely not.
 6 Q. Right.
 7 Again, is this an email that you should have been
 8 sighted on?
 9 A. Well, this one more than the one I think you showed me
 10 earlier, because I'd like to understand why it's written
 11 how it's written.
 12 Q. Well, exactly, thank you.
 13 Do I take it from that that, at the time, you did
 14 not know that Kingspan's testing strategy for the
 15 purposes of the linear test for the MHCLG involved
 16 designing a system that contained deliberate design
 17 imperfections?
 18 A. I don't believe that's the case.
 19 Q. So you don't believe that that is the case? You don't
 20 believe that it did contain deliberate design
 21 imperfections?
 22 A. Can you ask me the question again, maybe in a different
 23 way, please?
 24 Q. Okay.
 25 Adrian Pargeter has told this Inquiry that the test

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1 which was carried out in May 2018, which was the subject
 2 of these emails, contained deliberate design
 3 imperfections. You have no reason to dispute that,
 4 I assume?
 5 A. No, no, I think it was designed — well, my
 6 understanding is it was designed to mimic products in
 7 a system that could be used in the real world.
 8 Q. I'm sorry, I think you need to answer my question. I'll
 9 try it one more time.
 10 You don't disagree with what Mr Pargeter has told
 11 us, I assume, namely that the design of the test that
 12 was eventually undertaken in May 2018 in Dubai contained
 13 a limited number of deliberate design imperfections?
 14 Now, that's what he has said and we have been through
 15 that in a number of different ways with him. I am
 16 assuming that you don't disagree with him on that?
 17 A. Well, I think I do, because that's not the understanding
 18 that I had.
 19 Q. No, what was the understanding you had? Did you
 20 understand at the time that there would be no
 21 deliberately introduced design imperfections?
 22 A. Well, the thing is, we didn't know whether it would pass
 23 or fail, is the first thing, and the way that the system
 24 was designed was to — my understanding was that the way
 25 the system had been designed was to mimic the way that

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1 materials could and were used on site.
 2 Q. And to that end, contained a number of intentional
 3 design imperfections? Did you know that?
 4 A. Well, that's a more neutral way of saying it, I think,
 5 yes.
 6 Q. Did you know that, Mr Burnley?
 7 A. Did I know that?
 8 Q. Did you know —
 9 A. No, I didn't. I didn't. No, my understanding was that
 10 we were designing a system with material that would
 11 follow the linear route to compliance, and that we were
 12 going to build a system as it would be built in a normal
 13 building.
 14 Q. I'm going to try one more time.
 15 Did you know that the system as being designed
 16 contained a number of deliberate design imperfections —
 17 A. No.
 18 Q. — in order to enhance its chance —
 19 A. No.
 20 Q. Thank you.
 21 Can we go on with the email {KIN00004658/4}.
 22 If we go down a bit further, we can see underneath
 23 g:
 24 "Assuming sign off of drawings tomorrow ..."
 25 Various things are to happen, and then it says

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1 underneath that:
 2 "Also looking to source some Vitracore G2 via
 3 a contact in Dubai. This would be another deemed to
 4 satisfy product that we feel [would] perform poorly as
 5 part of a system."
 6 Then at the end, at the very foot of the page, do
 7 you see, he says:
 8 "Everything is going to have to go like clockwork
 9 for all this to work but is all possible."
 10 Now, this is April 2018. I think we know that
 11 Adrian Pargeter still reported to you at this time,
 12 didn't he?
 13 A. He did, yes.
 14 Q. Did he discuss any of these plans with you, specifically
 15 the plan to test possibly with Vitracore G2, another
 16 deemed to satisfy product that he felt or it was felt
 17 would perform poorly as part of a system?
 18 A. I don't think I recall that, no.
 19 Q. Right.
 20 (Pause)
 21 If we go up to the next email up, page 2
 22 {KIN00004658/2}, we can see Nick Jenkins' email on
 23 11 April 2018. This is Nick Jenkins in response to
 24 an email from Adrian Pargeter that I haven't shown you
 25 but I don't think I need to.

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1 In the third paragraph, he says:
 2 "Regarding the Dubai tests please find attached the
 3 drawings for review and sign off. The assembly is
 4 currently detailed with a blockwork wall, it will in
 5 fact be an SFS wall. I have introduced as many weak
 6 features/details as possible to ensure it has the best
 7 chance of performing poorly whilst at the same time
 8 retaining the panel modules and cavity barrier
 9 arrangement associated with all tests to date."
 10 Did you know that the plan here was to have a system
 11 designed "to ensure that it has the best chance of
 12 performing poorly"?
 13 A. No, I didn't.
 14 Q. Are you able to explain why it was, on your watch as
 15 managing director of Kingspan Insulation, that your team
 16 was planning to provide a test or set of test results to
 17 MPs which had been undertaken with the best chance of
 18 performing poorly?
 19 A. No, I can't answer that question.
 20 Q. Now, I want to ask you some questions about your own
 21 knowledge. Clearly you weren't sighted on these emails
 22 and knew little, if anything, as you have told us, of
 23 the design imperfections.
 24 Are you able to tell us from your own independent
 25 recollection when the test the subject of this run of

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1 emails in April 2018 took place?
 2 A. No, I'm not.
 3 Q. Are you able to tell us from your own recollection what
 4 the outcome of that test was?
 5 A. No, I'm not.
 6 Q. Do you know whether this was the only test that Kingspan
 7 carried out in furtherance of their linear route testing
 8 plan?
 9 A. I don't know.
 10 Q. Let me give you a little bit of background then to help
 11 you.
 12 When Mr Pargeter gave evidence to the public inquiry
 13 in December last year, before you started to give your
 14 evidence, Mr Pargeter told the Inquiry that the system
 15 test referred to in this email, the others in this run
 16 still on the screen, was carried out in Dubai on
 17 2 July 2018 and referred to by you when you signed your
 18 letter of 6 July 2018 to the select committee as test 3.
 19 Then what happened is that in December 2020 we had
 20 a number of letters from Kingspan's solicitors, and then
 21 on 14 January 2021, this year, Mr Pargeter volunteered
 22 a fifth witness statement saying that in fact there were
 23 two linear tests, and that the test the subject of this
 24 email run was actually carried out on 22 May 2018, which
 25 in the event passed.

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1 Now, I've given you a bit of background there.
 2 My first question against that background is: do you
 3 recall a system test being carried out on 22 May 2018
 4 which passed?
 5 A. No, I don't.
 6 Q. Do you remember being involved in any discussions about
 7 setting up that test?
 8 A. No.
 9 Q. Do you recall being involved in any discussion about the
 10 result of that test?
 11 A. No, I don't.
 12 Q. Do you remember being involved in any discussions about
 13 whether or not to obtain a report for that test?
 14 A. No, I don't.
 15 Q. Can we go, please, to {KIN00025503/2}. This is an email
 16 of 8 June 2018, so this is after the 22 May test, but
 17 the subject matter is a budget for two tests at Exova in
 18 Dubai, £78,813, as you can see from the foot of the
 19 screen there.
 20 Do you remember being involved in authorising
 21 a budget for the tests the subject of that email?
 22 A. Well, the budget would have been set up annually and
 23 the — we used an average cost for a test of about
 24 £40,000, so that's not abnormal. So this would be part
 25 of a budget that would have been set aside for this.

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1 Q. I see. So did you have any involvement yourself in
 2 sanctioning budget spends on either the test in May,
 3 which you can't recall or don't know about, perhaps, or
 4 the test in July?
 5 A. No, I mean, I would have been involved in the budget
 6 planning process to agree with Peter Wilson and the
 7 divisional finance director what amount of money we were
 8 setting aside for fire testing, but then it would be up
 9 to Adrian and his team to co-ordinate using that money.
 10 Q. I follow. So can we take it that your involvement was
 11 to set an overall budget, what, at the beginning of the
 12 financial year, and then for the teams themselves to
 13 draw down on it?
 14 A. Yes, it was normally set up before the end of a calendar
 15 year for the following calendar year.
 16 Q. I follow, I understand.
 17 Can we go to {KIN00024929}, please. This is
 18 an email sent by Adrian Pargeter on 22 May 2018 and the
 19 subject is "Non com test", if you look at that. You can
 20 see that the recipients of that email include you. Do
 21 you see that?
 22 A. I do, yeah.
 23 Q. As well as John Garbutt and others, Peter Wilson,
 24 Mark Harris, et cetera. I'll just read it to you. He
 25 says:

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1 "Guys
 2 "I have had confirmation from the guys in Dubai that
 3 the A2/RW test was a pass, peak temps around 400 and no
 4 flaming from the ACM.
 5 "A new Plan B is to get the G2 out to [Dubai] where
 6 we can convert from Cassette to flat panel, similar
 7 sizes to DCLG testing, Nick has confirmed there is
 8 enough material to do this.
 9 "The next test slot we can use is 24th June for
 10 start of build and burn 2nd of July. This is the
 11 fastest way we can get another test.
 12 "If all in agreement I recommend we proceed ASAP."
 13 Now, the recipient list there is different from the
 14 list of recipients of the April emails that we looked
 15 at, which discussed deliberately weakening the test.
 16 Can you explain why you are included in this email run
 17 but were not included in the March or April emails that
 18 we saw earlier?
 19 A. No, I can't, but importantly Peter Wilson's involved in
 20 this one, and I know that for this series of tests in
 21 2018, Peter was more closely involved.
 22 Q. Yes, but can you explain why you were involved or
 23 included on this email chain but not included in the
 24 ones in April?
 25 A. No, I can't.

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1 Q. Right.
 2 Now, it looks from this email that Adrian Pargeter,
 3 would it be fair to say, expected that you as one of the
 4 recipients knew what this was about?
 5 A. Yes, you can assume that.
 6 Q. Yes. I mean, did you know what this was about when you
 7 received this email or did it come as something of
 8 a bolt from the blue?
 9 A. Well, I knew we were doing this test on materials that
 10 complied with the linear route.
 11 Q. Right. So you knew that there was a test but didn't
 12 know more than that; is that the effect of your
 13 evidence, or did you know more?
 14 A. Well, no, I think we've covered this. I knew that there
 15 was a test designed as we've discussed previously.
 16 Q. Are you able to tell us why Gene Murtagh and
 17 Gilbert McCarthy, who were included in the March and
 18 April emails, are not included on this email?
 19 A. Well, I would say because Adrian Pargeter was from the
 20 Insulation business, and actually what is a bit of
 21 a cultural thing is that in the Panels business I did
 22 note that people generally copied Gilbert and Gene into
 23 everything. What Adrian is doing is copying
 24 Peter Wilson in, who was closely involved in these
 25 tests, as the head of the — the global head of the

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1 Insulation business.
 2 Q. Did you yourself have a conversation with either
 3 Gene Murtagh or Gilbert McCarthy about the May test
 4 passing?
 5 A. No.
 6 Q. Do you know from your own knowledge whether in some
 7 other way they were made aware that this test had
 8 passed?
 9 A. I don't know, no.
 10 Q. When Adrian Pargeter said the "test was a pass, peak
 11 temps around 400 and no flaming from the ACM", did you
 12 understand how well it had passed? Did you get any
 13 feeling for how far it had cleared the hurdle?
 14 A. No, I mean, only from what's written in that email you
 15 can see.
 16 Q. What was the reaction within Kingspan on learning that
 17 this test had passed?
 18 A. I don't think there was any huge reaction. It was one
 19 of a number of tests that we were doing.
 20 Q. Was there any degree of surprise or perhaps frustration
 21 within Kingspan that after having gone to so much
 22 trouble to set this test up and spending money on it, it
 23 had passed?
 24 A. Well, no, because that was always a possibility, it
 25 could have passed, it could have failed.

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1 Q. Right.
 2 Are you aware of whether there was any investigation
 3 of why the test had passed?
 4 A. No, I'm not aware.
 5 Q. Now, if we go back to the email {KIN00024929}, you can
 6 see in the third line:
 7 "A new Plan B is to get the G2 out to [Dubai] where
 8 we can convert from Cassette to flat panel ..."
 9 Did you understand what Mr Pargeter meant by "the
 10 G2" there?
 11 A. Well, I don't know that I would have done, but from the
 12 previous email you've shown me, it's referring to that
 13 other product, the Vitracore.
 14 Q. Indeed, but did you know that when you saw this email?
 15 A. I wouldn't have done, no, I don't think so.
 16 Q. Can we take it that when you did see this email, you
 17 knew not only that there had been a May test and that it
 18 had passed, but that a plan B was now required involving
 19 G2?
 20 A. Yeah, that's absolutely what you can read into that
 21 email, isn't it?
 22 Q. Yes. And from that, did you understand that because the
 23 May test had succeeded, you now needed a second test
 24 which did not succeed?
 25 A. Yeah, that's what it looks like, yes.

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1 Q. Yes, sorry, what you said was both inaudible to me and
 2 inaudible to the transcriber. Could you repeat your
 3 answer?
 4 A. Yeah, I'm sorry. I would say, yes, that is what you can
 5 read into that, yes, correct.
 6 Q. Is it what you understood at the time, just to be clear?
 7 A. I think probably it was, yes. I think, yeah, that —
 8 which is not in agreement with what I said earlier, but
 9 reading that, it does look like we're going to do
 10 another test. So from that email, I would have read
 11 into that, yes.
 12 Q. Yes, and the purpose of the test was to use the result
 13 in order to lobby Government in order to present
 14 Kingspan's case on the ban on combustible material; yes?
 15 A. We were trying to provide evidence that using the linear
 16 route didn't necessarily give you a system that would
 17 pass BS 8414.
 18 Q. Yes.
 19 Now, I just want to ask you a little bit more about
 20 the plan B mentioned here.
 21 The G2 referred to is the Vitracore G2 honeycomb
 22 material that in fact was used, wasn't it, in the July
 23 test?
 24 A. Yeah, I don't know.
 25 Q. And the plan A test was the test that had taken place

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1 that very morning, 22 May, with the Alucobond A2 panels.
 2 A. Right.
 3 Q. I'm telling you that, but do you accept that?
 4 A. I accept that, yes, absolutely.
 5 Q. Okay.
 6 Now, do you know whether the test under plan B which
 7 eventually was carried out on 2 July, as this email
 8 indicates it might be, was also intentionally weakened?
 9 A. I don't know.
 10 Q. Do you know why Vitracore G2 was selected for use in the
 11 plan B test?
 12 A. I think it made comment to it in an email that you
 13 showed me before, but I wouldn't have known, no.
 14 Q. I said earlier that I would come back to the G2 or
 15 Vitracore. I showed you the email of 10 April 2018 at
 16 {KIN00004658} not very long ago, and we saw that he had
 17 described the Vitracore as "another deemed to satisfy
 18 product that we feel would perform poorly as part of
 19 a system". Do you recall that?
 20 A. I do, yes, that's the one I was just referring to.
 21 Q. Yes.
 22 Did you have any understanding yourself — well,
 23 were you aware at the time — I'm sorry, let me ask this
 24 question a slightly different way.
 25 When you got the 22 May email we just looked at,

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1 were you aware that there was a view within Kingspan
 2 that the Vitracore G2 panels would perform poorly in
 3 a BS 8414 large-scale test?
 4 A. No, I wouldn't have said I did.
 5 Q. Right.
 6 Now, I want to show you an extract from
 7 Adrian Pargeter's fifth witness statement, which is at
 8 {KIN00024975}.
 9 To be fair to you, this is a statement that
 10 Mr Pargeter volunteered to the Inquiry in January. It's
 11 signed on 14 January this year. That means that it was
 12 produced by him and provided to the Inquiry after you
 13 had started giving your evidence and so you will not
 14 have seen it. So if there is anything else in this
 15 witness statement that you think you want to see when
 16 answering my question, then please do so and we can look
 17 at it.
 18 If we go specifically to paragraph 2.8 on page 4
 19 {KIN00024975/4}, I just want to show you what he says
 20 there about the July test. Because you haven't seen
 21 this statement before, at least you may not have done —
 22 well, I should ask you: it went into the public domain
 23 yesterday; were you following Mr Pargeter's evidence
 24 when he was giving it?
 25 A. Only in — at lunchtime and late yesterday, because

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1 I was actually at work yesterday, so no, I didn't see
 2 much of it.
 3 Q. I understand. Did you go on the website and look at his
 4 witness statement?
 5 A. I haven't, no, not this one. I've seen his previous
 6 ones.
 7 Q. Okay. Let's just look at the whole paragraph then. He
 8 says this:
 9 "The July test [that's July 2018] was carried out on
 10 a system incorporating A2 rated limited combustibility
 11 Vitracore G2 flat cladding panels, A1 rated
 12 non-combustible Rockwool Duoslab synthetic fibre
 13 insulation, and Siderise RH25 90/30 horizontal and
 14 Siderise RV 90/30 vertical cavity barriers. The system
 15 tested in the July test closely replicated the DCLG
 16 tests numbered 2, 4 and 6, with extra panel joints and
 17 therefore gaps in the wing wall. If anything the system
 18 was more robust than that tested by the DCLG because the
 19 Vitracore panel edges were folded over, thus protecting
 20 the core of the panels from the fire. We decided to
 21 carry out this test because we suspected (no more) that
 22 a system utilising the Vitracore G2 panels might not be
 23 able to pass a large-scale test even when part of
 24 a robust design."
 25 Now, I've shown you all of that. I just want to

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1 focus on the last sentence there:
 2 "We decided to carry out this test because we
 3 suspected (no more) that a system utilising the
 4 Vitracore G2 panels might not be able to pass ..."
 5 Were you aware that Mr Pargeter, and possibly others
 6 at Kingspan, suspected that a system using Vitracore G2
 7 panels might not be able to pass a large-scale test?
 8 A. I wouldn't necessarily say specifically about the
 9 Vitracore panels, but what I would say is that I was
 10 aware that we were trying to design the test with
 11 products that would meet the linear route to compliance.
 12 Q. Yes, that's not what he is saying here. I understand
 13 what you're saying about that, but I'm specifically
 14 putting to you this question. He says:
 15 "We decided to carry out this test because we
 16 suspected (no more) that a system utilising the
 17 Vitracore G2 panels might not be able to pass
 18 a large-scale test."
 19 Did you know that?
 20 A. Well, I don't recall knowing that.
 21 Q. Do you know why Adrian Pargeter and others sanctioned
 22 a second test in Dubai when they suspected that the
 23 Vitracore G2 panels might cause that test to fail?
 24 A. No, I can't answer that.
 25 Q. Were you yourself aware of the performance of

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1 Vitracore G2 in previous fire tests?
 2 A. No, I wasn't.
 3 Q. Did you know — I can take this I think quite shortly —
 4 that Adrian Brazier of Kingspan had been looking for or
 5 chasing down Vitracore G2 since about August 2017?
 6 A. No, although I did see a comment in one of the emails
 7 you've shown me saying that they were trying to track
 8 them down.
 9 Q. Yes. Did you know that it had come from Australia?
 10 A. I think that does ring a bell, actually, but that again
 11 may have come from the email you've just shown me.
 12 MR MILLETT: I'm going to have to stop because I have been
 13 a bit slow on the uptake, but I think our Chairman has
 14 disappeared from the screen. That's happened about
 15 five minutes ago, perhaps.
 16 I think I will have to ask the remaining panel if we
 17 can break and recover connection so that the Chairman
 18 can come back. I note the time, but it's important that
 19 the Chairman is here.
 20 Mr Burnley, I think I will take matters into my own
 21 hands.
 22 Other members of the panel, Mr Akbor, Ms Istephan,
 23 if we can call a break now —
 24 MR AKBOR: Yes, that's fine.
 25 MR MILLETT: — and find the Chairman, then we can get him

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1 back.
 2 Mr Burnley, I'm sorry about this. We're going to
 3 have to take a pause for the moment. I'm sorry that the
 4 pause may go on longer than 4.30, which is when we were
 5 going to break anyway, but if we can stop now and find
 6 the Chairman, we will come straight back as soon as we
 7 can.
 8 THE WITNESS: I understand.
 9 MR MILLETT: Thank you very much. So we will stop now.
 10 (4.25 pm)
 11 (A short break)
 12 (4.38 pm)
 13 SIR MARTIN MOORE-BICK: Well, hello again, everyone.
 14 I managed to get back into the virtual hearing. I don't
 15 know what happened exactly, except that my computer
 16 turned itself off, entirely unexpectedly. But never
 17 mind, our technicians have managed to re-establish the
 18 connection, and I think perhaps the first thing I should
 19 do is to apologise to Mr Burnley for having interrupted
 20 his evidence in such a peremptory way.
 21 Mr Burnley, you can see me and hear me, can you?
 22 THE WITNESS: Yes, I can.
 23 SIR MARTIN MOORE-BICK: Well, there you are. I was the
 24 victim of a technological glitch. I don't quite know
 25 exactly what happened or why, but these things do

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1 sometimes happen.
 2 As a result, it's now already 4.40, and we weren't
 3 going to manage to finish your evidence this evening,
 4 I'm afraid, in any event. So I think the sensible thing
 5 is for us to take a break at that point and ask you to
 6 come back tomorrow. I'm sorry about that, because I am
 7 sure you would have liked to have got away today, but as
 8 some slight consolation, I think I can tell you that
 9 there is a very, very good chance that you will be out
 10 sometime before lunch tomorrow, if that helps you in
 11 making any arrangements you need to make.
 12 THE WITNESS: No, it does, thank you, that's very helpful.
 13 SIR MARTIN MOORE-BICK: All right, good.
 14 So there it is. The usual instruction, please:
 15 don't talk to anyone about your evidence or anything
 16 relating to it overnight.
 17 We will look forward to seeing you at 10 o'clock
 18 tomorrow.
 19 THE WITNESS: Yes, absolutely, I understand.
 20 SIR MARTIN MOORE-BICK: As far as everyone else involved in
 21 the hearing is concerned, again, I apologise to you for
 22 the breakdown. My connection has now been restored, as
 23 you can see, but we've reached a point at which, as
 24 I explained to Mr Burnley, the sensible thing is to stop
 25 for the day.

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1 So we will break there and resume tomorrow morning
 2 at 10 o'clock.
 3 See you all then. Thank you very much.
 4 THE WITNESS: Thank you.
 5 (4.40 pm)
 6 (The hearing adjourned until 10 am
 7 on Thursday, 25 March 2021)
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