



Grenfell Tower Inquiry

Day 113

March 25, 2021

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Thursday, 25 March 2021

1
2 (10.00 am)
3 MR RICHARD BURNLEY (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.
9 SIR MARTIN MOORE—BICK: Now, today we are going to continue
10 hearing evidence from Mr Richard Burnley, so I'm going
11 to check that Mr Burnley is in touch with us and that he
12 can see me and hear me clearly.
13 Good morning, Mr Burnley.
14 THE WITNESS: Yes, good morning.
15 SIR MARTIN MOORE—BICK: Good.
16 I think before we go any further I'd better run
17 through the usual housekeeping details so everyone is
18 clear about the position.
19 Can you please confirm that you're alone in the room
20 from which you're giving evidence?
21 THE WITNESS: I am.
22 SIR MARTIN MOORE—BICK: Thank you.
23 Can you confirm that you have no documents or other
24 materials with you?
25 THE WITNESS: I can confirm that, yes.

1

1 SIR MARTIN MOORE—BICK: And, finally, can you confirm that
2 your mobile phone is in another room and that you don't
3 have any other electronic device with you which is
4 capable of receiving messages?
5 THE WITNESS: No, I don't.
6 SIR MARTIN MOORE—BICK: Thank you very much indeed.
7 Well, the arrangements are the same as they were
8 yesterday. The procedure will be the same.
9 We may need to take a break during the morning if
10 you're still giving evidence when we get to that sort of
11 stage. We will see how we go.
12 Is there anything that you would like to raise with
13 me before you carry on?
14 THE WITNESS: No, I'm fine to go, thanks.
15 SIR MARTIN MOORE—BICK: Good, thank you very much indeed.
16 Now, Mr Millett, before I invite you to put some
17 more questions to Mr Burnley, can I just make it clear
18 to those who are currently in the virtual hearing room
19 that my connection with the virtual hearing was lost
20 right at the end of the afternoon yesterday, but my
21 connection with the rolling transcript was not, and so
22 although I was able to get back into the hearing room
23 after about five minutes, I have been able to follow the
24 transcript and have not therefore missed any of the
25 evidence that was taken while I was away.

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1 So unless you want to go back to any of those
2 questions and answers for other reasons, I don't think
3 it's necessary for you to do so in order to enable me to
4 capture that part of the evidence.
5 So with that introduction, I'll invite you to carry
6 on putting questions to Mr Burnley.
7 Questions from COUNSEL TO THE INQUIRY (continued)
8 MR MILLETT: Mr Chairman, good morning. Members of the
9 panel, good morning. Good morning, Mr Burnley.
10 Mr Chairman, yes, I certainly will do that. I was
11 just going to suggest that, given the number of
12 questions I have, it might be sensible only to take one
13 morning break this morning, and to go on a little bit,
14 perhaps, longer than the normal 11.15 break, so that we
15 only take one break for both the transcriber and for
16 CPs' questions and other questions.
17 SIR MARTIN MOORE—BICK: Yes. Well, we will try and do that.
18 We do have to bear in mind that there is a limit to how
19 long we can expect the transcriber to go on.
20 MR MILLETT: There is.
21 SIR MARTIN MOORE—BICK: But I suspect if it's only a matter
22 of 15 or 20 minutes, that won't be a major problem.
23 MR MILLETT: Thank you.
24 SIR MARTIN MOORE—BICK: I agree if we can combine the normal
25 break with the break for further questions, that would

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1 be the right way to do it.
2 MR MILLETT: I'm grateful, Mr Chairman, thank you.
3 Mr Burnley, good morning.
4 I would like to take you back first, please, to some
5 evidence that you gave yesterday in the transcript for
6 Day 112. Can we have {Day112/147:23}, please. You can
7 see I'm asking you a question as follows, and I'll
8 follow the line of questioning down as far as I need to
9 go, so read with me:
10 "Question: At that stage, did you know — just
11 think about this — that the K15 being sold and which
12 had been sold for a number of years had failed ever to
13 obtain a pass to a test under BS 8414?
14 "Answer: At that point ... yes, no, I'm sure I must
15 have done.
16 "Question: You didn't tell the MPs that, did you?
17 "Answer: But testing products is only part of
18 a product development process.
19 "Question: You were trumpeting the virtues, weren't
20 you, at this dinner of the BS 8414 test, when you knew
21 by this point that for more than a decade K15 had been
22 sold without that product having achieved a pass to
23 a test under BS 8414?
24 "Answer: I'm not sure at that stage I did know
25 that, no.

4

1 "Question: You said you had a moment ago.
 2 "Answer: I said I had what, sorry?
 3 "Question: I thought you told us earlier that by
 4 that stage you must have known that K15, the K15 being
 5 sold, was one that had not passed an 8414.
 6 "Answer: I don't know. I can't remember saying
 7 that."
 8 I want to clarify the questions that I'm asking to
 9 you there, because it is possible that some may regard
 10 those as not clear.
 11 Let me ask you this, then, by way of clarification :
 12 first, did you know at January 2018 when you joined the
 13 Kevin Hollinrake dinner that, until March or April 2015,
 14 the K15 product being sold, and that had been sold since
 15 2006, had not been part of a successful test under
 16 BS 8414?
 17 A. I don't think I did know that, no.
 18 Q. Did anybody at that dinner tell the MPs present that
 19 there were many buildings in the United Kingdom above
 20 18 metres which had cladding systems on them which
 21 contained K15 which had never been part of a successful
 22 test under BS 8414?
 23 A. No, they didn't.
 24 Q. Looking back on it now, given what you now know, are you
 25 able to explain why they didn't?

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1 A. No, I'm not.
 2 Q. Now, the other thing I want to revisit with you from
 3 yesterday was the Fenwick Elliott letter of
 4 13 February 2015. Can we just put that back up on the
 5 screen, please, so that you have it in mind. It's
 6 NHB00008283(sic).
 7 (Pause)
 8 I'm not quite sure why there is a delay in finding
 9 it, but never mind. Let me move on.
 10 I asked you about that, you will recall, yesterday
 11 at {Day112/90:19–22} and you will remember the letter.
 12 It's the letter before action in which Fenwick Elliott
 13 threatened —
 14 A. I remember that, yes, I do.
 15 Q. You said yesterday at the passage I've just referred to
 16 that you don't think you saw it until it had gone, and
 17 you were then copied in.
 18 Let me show you one or two documents about that.
 19 First can we go to {KIN00022227}. This is minutes
 20 of a meeting, KHIL/Insulation on Thursday,
 21 12 February 2015 at 8 o'clock in the morning, again at
 22 Tiel, and you can see that among those present,
 23 including Gene Murtagh, Spencer Murtagh, Peter Wilson,
 24 was yourself, Richard Burnley, do you see that in the
 25 bottom right-hand corner of the list?

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1 A. I do, yes.
 2 Q. Then if you go down to the foot of the page, please,
 3 item 9, you will see a heading "NHBC" and it says:
 4 "K15 is under threat in applications greater than
 5 15m in height. Richard Burnley is to look at
 6 classification of K15 as 'combustible'. There are 3
 7 options to resolving this, including testing,
 8 classification or a desktop testing report. While we
 9 have been submitting desktop test reports, NHBC seems to
 10 no longer find this acceptable. We shall engage with
 11 them ..."
 12 SIR MARTIN MOORE—BICK: Mr Millett, I'm sorry to interrupt
 13 you, on my screen — ah, it has now come up. I think
 14 Mr Burnley would have found it very difficult to follow
 15 that.
 16 MR MILLETT: Indeed, Mr Chairman, I'm sorry, I'm reading
 17 from my own screen.
 18 SIR MARTIN MOORE—BICK: We have now got the second part of
 19 the paragraph up.
 20 MR MILLETT: Yes. Let's look at the sentence we want, third
 21 line down, can you see:
 22 "We shall engage with them to try and solve the
 23 issue (as this is a system issue relating to a [non]
 24 combustible cladding rather than an insulant issue) ..."
 25 SIR MARTIN MOORE—BICK: I'm sorry, "to a combustible", not

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1 non-combustible cladding.
 2 MR MILLETT: Yes. Let me start again:
 3 "We shall engage with them to try and solve the
 4 issue (as this is a system issue relating to
 5 a combustible cladding rather than an insulant issue),
 6 with a fall-back legal position if it fails."
 7 Now, do you recall that meeting?
 8 A. Yeah, I do vaguely, yes.
 9 Q. Do you recall any discussion at that meeting beyond what
 10 we see in the note about a letter before action being
 11 sent to the NHBC?
 12 A. Well, I do recall a conversation, and what I remember is
 13 that I was trying to get it resolved on a face-to-face
 14 basis and if not then there was this view that they
 15 would go to a legal position if they needed to.
 16 Q. Was that actually discussed at the meeting, to be clear?
 17 A. I don't think it was discussed in any great detail, no.
 18 Q. Right. I see. In any great detail; but was it
 19 discussed at all?
 20 A. Well, I think it must have been discussed because it's
 21 noted there, there had been a discussion that a fallback
 22 legal position if the conversations and discussions
 23 failed.
 24 Q. I see. Can we then go to {KIN00008298}, please.
 25 This is what appears to be a diary note about

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1 a meeting:
 2 "Subject: NHBC.
 3 "Location: Lync Meeting.
 4 "Start: 13/02/2015 14:30.
 5 "End: 13/02/2015 15:00.
 6 "Show Time As: Tentative.
 7 " ...
 8 "Meeting Status: Not yet responded."
 9 Then the required attendees, you will see the list
 10 there: Peter Wilson, Adrian Pargeter, John Garbutt and
 11 you, among others. Do you see that?
 12 A. I do, yes.
 13 Q. The last attendee there was T Randle, Fenwick Elliott,
 14 and it's a "Lync" meeting. What is Lync? Was it
 15 a platform?
 16 A. I think it was part of the IT platform that they used in
 17 the phone system.
 18 Q. Yes, I see.
 19 Do you remember what that meeting was about?
 20 A. I don't, because I don't think I actually attended.
 21 I think, if we check the dates, that coincided with the
 22 February half-term school holidays, and I believe I was
 23 away on holiday that week.
 24 Q. I see. Did you attend it remotely, as would have been
 25 possible if it was done by —

9

1 A. It would have been possible, but I don't believe I did.
 2 Q. So can we be clear that your evidence is that you don't
 3 recall being at this meeting, and therefore you can't
 4 tell us whether or not the letter before action was
 5 discussed at it?
 6 A. I think I wasn't at the meeting, because I do think it
 7 was the half-term holiday.
 8 Q. I see.
 9 Just then to be clear, to put the final piece of the
 10 jigsaw together, can we have up {NHB00000940}, please.
 11 This is an email from Marc Wilkins at Fenwick Elliott to
 12 Ian Davis and Graham Perrior at NHBC, copied to
 13 Toby Randle, "The use of Kooltherm K15 rainscreen boards
 14 in facades above 18.0m":
 15 "Please see attached correspondence in relation to
 16 the above matter."
 17 This is the email that sent the letter before action
 18 to the NHBC that we saw yesterday. Note the time, 17.27
 19 in the evening, which is obviously later than the
 20 meeting scheduled in the Lync platform document we've
 21 just seen.
 22 You weren't copied in on this email, but you said
 23 you were copied in on the letter anyway, you told us
 24 that yesterday.
 25 Do you remember when you were copied in on that

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1 letter?
 2 A. I remember seeing an email which I was copied on, and
 3 I think it was a copy of the letter that had been sent.
 4 I think I would have received it around 14 or
 5 15 February.
 6 Q. Right.
 7 Let's then pick up on where I wanted to go yesterday
 8 before we broke.
 9 Can we please go to {KIN00004494}. This is an email
 10 chain from 6 September 2017, and if we go to page 8
 11 {KIN00004494/8}, at the bottom, we will see an email
 12 from some people called Murray Consultants. If we have
 13 it blown up, it's dated 8 August 2017, from Aimee Beale
 14 to you, among a large cast of others, and Aimee Beale is
 15 a consultant at Murray Consultants in Dublin.
 16 Who were Murray Consultants, can you tell us?
 17 A. I believe they were an agency who helped Kingspan with
 18 their (inaudible) affairs. PR, a PR agency,
 19 essentially.
 20 Q. Who was responsible at Kingspan for engaging them, do
 21 you know?
 22 A. I don't know.
 23 Q. Right. It says:
 24 "Good morning ...
 25 "Please see attached the first in a series of weekly

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1 media analysis report tracking the developments in the
 2 Grenfell narrative. The attached report looks at key
 3 media issues from Monday 31st of July to Tuesday 8th
 4 August. Going forward we will send the weekly media
 5 reports on Monday mornings."
 6 Is it right, therefore, this kind of document would
 7 arrive from this time on in your inbox every Monday
 8 morning?
 9 A. I think it's right that would have been the case, yes.
 10 Q. As well as to Gene Murtagh, Gilbert McCarthy,
 11 Peter Wilson, John Garbutt and Adrian Pargeter?
 12 A. I would assume so, yes.
 13 Q. If we go to page 1 {KIN00004494/1}, please, third email
 14 down from the top, you can see an email there with red
 15 writing. John Garbutt writes to Adrian Pargeter, you
 16 and Peter Wilson, do you see that? It's dated
 17 6 September 2017, and it's from the Murray Group or
 18 follows on from the Murray Group sending the wider
 19 chain, the summary of the DCLG's test results and
 20 recommendations that took place after the fire at
 21 Grenfell Tower. Mr Garbutt says:
 22 "All
 23 "I think we should write to DCLG in commercial
 24 confidence picking them up on the following points,
 25 though probably less emotively written:

12

1 "Page 1 — ACM with a limited combustibility filler
 2 (category 1 in screening tests) can be used safely,
 3 although this is also dependent on how it is fitted.
 4 — and — Page 5 — ACM cladding with A2 filler
 5 (category 1) can be safe on buildings over 18m with foam
 6 insulation or stone wool insulation "
 7 Then he says this, or somebody says this, and
 8 I think in fact it's — well, we don't know how the
 9 letters in red came to be written. Perhaps you can help
 10 us. Do you remember?
 11 A. No, I've no idea.
 12 Q. No, because it's not clear from the rest of the email
 13 chain is why I ask you, but it says:
 14 "We should point out that whilst they have been
 15 careful to talk about ACMs with and A2 filler, the
 16 subtle difference between an A2 filler and a honeycomb
 17 or other structured metal core will be lost on people
 18 and that they may well get people taking PE and FR ACMs
 19 off buildings and replacing them with a honeycomb panel.
 20 I have already alerted Brian Martin to the Valcan Dubai
 21 honeycomb fail. There will be a temptation to switch to
 22 honeycomb because of weight issues, so people could end
 23 up replacing [one] failed system with another failed
 24 system. We are testing this combination and will
 25 publish it if it fails, do DCLG want that problem on

13

1 their hands. They need to be much less subtle about
 2 explaining the differences between A2 Euroclass panels."
 3 First, do you know or did you know at the time what
 4 the Valcan Dubai honeycomb fail referred to?
 5 A. On that date, I don't think I did.
 6 Q. I was going to ask you whether we could take it from
 7 this email that by that time or at that time you were
 8 aware of a previous test with Vitracore G2 in Dubai that
 9 had failed?
 10 A. I may have been, but I don't recall it.
 11 Q. Right.
 12 I've read to you the part of the red text that says,
 13 "We are testing this combination and will publish it if
 14 it fails". What was that about? What was the purpose
 15 of publishing failed data?
 16 A. Well, I'm not entirely sure.
 17 Q. Right.
 18 A. I need a bit of time just to read — let me read what
 19 he ...
 20 (Pause)
 21 I'm not entirely sure.
 22 Q. Right.
 23 When you received this email, did you puzzle over
 24 that and ask anybody what was meant?
 25 A. Well, I'm sure I would have had a conversation with

14

1 somebody, but I know that Peter Wilson was heavily
 2 involved in this with John, so I probably would have
 3 assumed that Peter was picking this up.
 4 Q. At the end you can see that John Garbutt says, under the
 5 last passage of red text at the bottom:
 6 "If so, we need to agree whether the letter should
 7 be from external lawyers, internal lawyers, a trade
 8 association, or a friendly tap on the shoulder by email
 9 from me or Adrian."
 10 Whose shoulder was to be the recipient of this
 11 proposed friendly tap, Mr Burnley?
 12 A. From my recollection of what I'm reading here, it was
 13 somebody in the DCLG.
 14 Q. Right. Somebody in the DCLG. And indeed the last
 15 sentence says:
 16 "I have a feeling that the latter is the best
 17 approach as we want to remain 'friends' with DCLG."
 18 So does that enhance your —
 19 A. Well, I think I read it the same way that you do.
 20 Q. Right.
 21 Who were these friends? Who was the friendly
 22 shoulder?
 23 A. Well, I think the use of the word "friends" is
 24 misleading. I think what he's meaning is we weren't
 25 trying to be obstructive, we were trying to provide them

15

1 with information.
 2 Q. Right.
 3 Who was it, can you give me the name of
 4 an individual within the DCLG whose shoulder would
 5 receive this friendly tap?
 6 A. I can't, no.
 7 Q. What kind of relationship did Kingspan have with the
 8 DCLG that would accommodate this friendly tap?
 9 A. My understanding is that we didn't have a strong
 10 relationship with DCLG. I think people probably knew
 11 people, but I don't think there was any strong
 12 relationships.
 13 Q. Who knew whom?
 14 A. I can't tell you who knew whom, but the people who would
 15 have had any relationships would have been between
 16 John Garbutt, Adrian Pargeter and Adrian's team.
 17 Q. Right.
 18 A. But I don't think there were many people knew many
 19 people, without sounding very vague, but I don't think
 20 there were many people in Kingspan who knew many people
 21 within DCLG.
 22 Q. Right.
 23 Did you yourself meet anybody from the DCLG at about
 24 this time?
 25 A. No, not that I can recall.

16

1 Q. Did the name Brian Martin ever come up in these
2 conversations about who to talk to by way of a friendly
3 tap on the shoulder or other sorts of approach at this
4 time?
5 A. It's a name I've heard of, but I can't say that I can
6 join it up into that conversation, no.
7 Q. Right. Do you know when you first heard of his name?
8 A. I can't, no.
9 Q. As managing director, you supported this kind of
10 friendly tap on the shoulder approach, did you?
11 A. I think if we were providing information in the right
12 way then I didn't see that there was any reason not to.
13 Q. Why did this tap on the shoulder have to be run past
14 lawyers, as is suggested?
15 A. I'm not sure it was suggested — could we see it again,
16 please? I don't think that's how I read it.
17 Q. Please put the document back up {KIN00004494}.
18 A. I don't think he suggests that it should be run past
19 lawyers, I think he's talking about where it should come
20 from, so —
21 Q. Oh, I see. Yes, I see your point. You're quite right.
22 Either way, isn't it clear from this at the time
23 that the strategy here was that Kingspan would try to
24 influence the Government's advice to the public?
25 A. I would see that a different way. I think what that

17

1 penultimate sentence is showing is that we would be
2 trying to provide the information in the right way, in
3 the right format.
4 Q. Do you know whether anybody at this time had told the
5 DCLG or anybody within the DCLG that Vitracore G2 panels
6 were known to "go up like PE panels"?
7 A. I don't know that, no.
8 Q. I just want to look at two emails with you that were
9 disclosed by Kingspan to the Inquiry at the end of last
10 week, so 19 March.
11 Can we go first, please, to {KIN00025856}. This is
12 an email of 31 May 2018, second email down on that page.
13 Now, we can't see to whom it's sent, but Mark Harris
14 replies to it, copying in Siobhan O'Dwyer and
15 John Garbutt, if we just scroll to the top, which might
16 help you in your recollection.
17 If we scroll to the email itself, 31 May,
18 Gilbert McCarthy wrote:
19 "Spoke to Gene and explained the latest view that
20 Gov has made up its mind already and he was very clear
21 that we need to pull out All the stops to convince the
22 Gov and anyone who wants to listen, as many independent
23 experts and trade associations as possible, that Large
24 Scale Testing for everything above 18 metres is the
25 'Right and only' solution to ensuring maximum future

18

1 public safety. He is adamant that our video footage of
2 DTS Non C is on the Ministers desk asap and if needs be
3 and at the appropriate time it is also on
4 Jeremy Corbyn's desk. We also need to do [everything
5 possible] to bring forward that Vitribond[sic] G2 test.
6 "In parallel we will ensure we have full product
7 offer available in the event we fail to get our message
8 across but prioritise the above with everything we've
9 got to ensure we succeed in convincing Gov that taking
10 their Consultation a step further by ensuring ALL
11 systems above 18 metres is Large Scale Performance
12 tested."
13 My first question about this is: did you see this
14 email or take part in any of the discussion of its
15 contents at the time?
16 A. No, I don't remember seeing the email and I don't
17 believe I took part in any conversations.
18 Q. No. Do you know what the video footage is that is being
19 referred to there?
20 A. I'm not sure that I do, no.
21 Q. Right.
22 Did you know even more generally that the plan here,
23 as expressed by Mr McCarthy, was publicly to undermine
24 the Government's proposed ban on combustible materials
25 over 18 metres?

19

1 A. No, I believe that the message was that we were pushing
2 that all systems that were to be used above 18 metres
3 should go through large-scale testing.
4 Q. Exactly, as opposed to going through the linear route?
5 A. Yes.
6 Q. Yes, and that that had been the plan since August 2017,
7 in fact, hadn't it?
8 A. I'm not sure of the date, but yes, absolutely, all
9 systems to be used above 18 metres should be large-scale
10 tested.
11 Q. Yes. I mean, the priority, above everything, as we can
12 see from this message — tell me from your own
13 knowledge — was to have the Vitracore G2 fail in
14 an 8414 test in order to convince the Government to keep
15 BS 8414 as the standard and sole test for use of
16 combustible materials in high-rise buildings?
17 A. Yes, I think as we agreed yesterday, the plan was to try
18 and — my understanding — build a typical system that
19 could be used that followed the linear route in the way
20 that it would be installed and see if it passed or
21 failed.
22 Q. Yes, and to your knowledge at the time, that strategy or
23 instruction was coming from the very top of Kingspan,
24 Gene Murtagh himself, yes?
25 A. Oh, I can't confirm it came from Gene.

20

1 Q. Okay. We can see from this email that what Mr McCarthy
2 is saying comes, it appears, from Gene Murtagh, and
3 I just wondered whether that tallied with your own
4 recollection at the time.
5 A. I didn't have a conversation with Gene where he told me
6 that, but yeah, of course I can read what it says in the
7 email.
8 Q. The second email I want to show you, please, is at
9 {KIN00025854}. This is page 1. If we go to the foot of
10 that page you will see an email the day before the one
11 I've just been showing you, 30 May 2018, from
12 John Garbutt to Gilbert McCarthy, and also to
13 Gene Murtagh, Peter Wilson, Siobhan O'Dwyer and
14 Mark Harris, not to you. It seems that Gilbert McCarthy
15 has made a suggestion that the Government should be
16 aware that some A1 and A2 materials are dangerous, and
17 I'm summarising what's below. Mr Garbutt says:
18 "That could end up being counterproductive.
19 Pointing out to MHCLG that G2 is being used to reclad
20 buildings and that it is dangerous will probably lead to
21 it coming out that G2 has failed an 8414 with Xtratherm,
22 because that is the only available evidence out there at
23 the moment, that we know of. That in turn has the
24 potential to dent any confidence we try to give MHCLG
25 about using K15 with A2/1 rainscreens.

21

1 "To get out of this we will need to pin the issue on
2 G2, and to do that we need to have the RW/G2 fail in the
3 bag from next month's test. So, we can't move on G2
4 until we have that test fail to support our case.
5 "NB, G2 is probably being installed on as much K15
6 on 'failed' buildings as any other insulation."
7 Did you see this email or take part in any
8 discussion of its contents at the time?
9 A. No, I don't believe I did.
10 Q. Did you know at the time that the proposed test with
11 Vitracore G2 proposed for 2 July 2018 in Dubai was
12 something that had to fail?
13 A. No, I mean, the way this is written, it reads that way,
14 but my understanding was that we didn't know if it would
15 pass or fail because of the way it was being designed.
16 Q. No. You didn't know whether it would pass or fail, but
17 the intention, the aim, the goal, the need, was for it
18 to fail in order for Kingspan to be able to advance its
19 case to the MHCLG?
20 A. The way John here refers to it in that email is that he
21 is expecting it to fail. That wasn't the view that
22 I had in my mind at the time. I was under the
23 understanding that we didn't know if it would pass or
24 fail.
25 Q. No, I'm going to repeat my question. I accept that you

22

1 didn't know whether it would pass or fail because there
2 are no guarantees in these sorts of things. My question
3 is different. My question is: did you accept at the
4 time, did you know independently yourself at the time,
5 that, as suggested by this email, it was essential to
6 Kingspan's plan that the G2 test would fail?
7 A. I didn't know that, no.
8 Q. And that it was intended to fail?
9 A. No, I didn't know that.
10 Q. You didn't know that. And that it was vital that
11 Kingspan didn't tell the MHCLG what it knew about the
12 risks of failure of Vitracore G2 in an 8414 test because
13 if the MHCLG got hold of that fact or that intelligence,
14 it would show that your proposed test, your plan B as it
15 were, would be worthless as evidence to support your
16 case?
17 A. That was not my understanding.
18 Q. Right.
19 Now, after the July test — you remember that there
20 was a test in July and that it failed?
21 A. Yes.
22 Q. Yes. Do you recall that Kingspan were very quick to
23 mobilise and send the test report far and wide? It was
24 sent to Government, the select committee as we're going
25 to come to, the BBC and other media outlets. Do you

23

1 remember that?
2 A. I don't recall them being quick.
3 Q. Right.
4 Do you recall that the failed July test was the key
5 piece of evidence that you were now going to use to
6 support your campaign to get the Government to retain
7 the use of combustible insulation on buildings above
8 18 metres?
9 A. My understanding was it wasn't the key piece, but it was
10 one of the pieces of evidence.
11 Q. As part of the plan to make it a key piece of evidence,
12 I think you accept, do you, that the test was
13 disseminated far and wide? Whether immediately or not
14 perhaps doesn't matter.
15 A. Well, it was definitely (inaudible) but I can't —
16 I don't actually know how far and wide it was
17 distributed, but it was definitely sent out to people
18 that I think Kingspan wanted to see it.
19 Q. Right.
20 We saw yesterday from the 22 May email that the
21 plan A test, so to speak, the one that had happened in
22 Dubai that had passed — we saw yesterday that you were
23 in on the email telling you that. Did you ever ask to
24 see a test report for that?
25 A. No, I didn't.

24

1 Q. Did you ever see that test, the results of that test
2 known to you, disseminated at all outside Kingspan?
3 A. The first test, the one that passed?
4 Q. Yes.
5 A. I don't know.
6 Q. You don't know.
7 Can you explain why it was that although the results
8 of the failed July test were disseminated far and wide,
9 the May test was kept confidential within Kingspan?
10 A. I didn't know that it had been kept confidential so
11 I can't confirm that.
12 Q. I see.
13 Did you ever ask yourself why it was that the July
14 test was being disseminated far and wide but the May
15 test which had succeeded had not?
16 A. Well, as per my previous answer, I wasn't sure that the
17 first test had been kept confidential, so I wouldn't
18 have made that link.
19 Q. Let's go to your letter of 6 July 2018 to the
20 select committee. This is at {INQ00014076}.
21 Now, this is Kingspan's letter under your hand, as
22 you can see at the bottom of the page there, and I'll
23 just take you through this. It's sent to Clive Betts as
24 the Chair of the Housing, Communities and Local
25 Government Select Committee, dated 6 July, and the

25

1 heading is:
2 "Inquiry into Dame Judith Hackitt's Independent
3 Review of Building Regulations and Fire Safety."
4 You start by thanking him for inviting Kingspan to
5 give evidence to the Housing, Communities and Local
6 Government Select Committee in relation to the
7 Hackitt Review.
8 Just pausing there, it's right, isn't it, that the
9 previous week, 27 June, as a matter of public record,
10 you had actually given evidence to the select committee?
11 A. I did, yes.
12 Q. And in fact were asked questions by, among other people,
13 Kevin Hollinrake, weren't you?
14 A. I was, yes.
15 Q. Yes. And there was also, I think, another party
16 present, somebody from Rockwool, wasn't there?
17 A. Yes, I was on a panel of four people.
18 Q. Yes.
19 Now, we can see that this letter is dated 6 July.
20 In fact, although you can't see it from this page, it
21 runs to some 94 pages, because there's a long attachment
22 to it, isn't there?
23 A. Yeah, I think there was a (inaudible) attachment.
24 Q. Yes. Did you draft this letter yourself?
25 A. I didn't.

26

1 Q. Who did?
2 A. I believe (inaudible) one person involved. I think
3 John Garbutt was involved from the Insulation business,
4 and I think people from Panels, Kingspan Panels, were
5 also involved, but I wouldn't be able to say who.
6 Q. Right.
7 When you signed it, were you just given it to sign
8 or did you play any part in reviewing a draft before you
9 signed it?
10 A. Could we just scroll down so I can see my signature?
11 Because I have a funny feeling —
12 Q. Of course.
13 A. — it may have been added automatically as a ...
14 Q. Yes, there you are.
15 A. I think that's actually an e-signature, so I don't think
16 I actually signed the letter myself, I think it was
17 added electronically.
18 Q. I see. Did you add it electronically?
19 A. No, I didn't.
20 Q. Right. Do you know who did?
21 A. I would — I don't know exactly. I mean, I could
22 imagine it was probably one of the secretaries that
23 worked for the divisional management team in the
24 Insulation business.
25 Q. Did you authorise the person who added your electronic

27

1 signature to do so?
2 A. I don't believe I gave authorisation, no.
3 Q. When did you first see this letter?
4 A. I'm not entirely sure. I can't recall.
5 Q. Did you see it on the day it was sent or afterwards?
6 A. That's a good question. I have a feeling — but I can't
7 confirm, I'd be speculating, and I don't think that's
8 right. I'm not entirely sure I saw it before it went.
9 Q. Right.
10 If you had seen it after it had gone, would that
11 have caused you any concern?
12 A. I mean, first of all, it was not unusual for my name to
13 be added, given my position, and I think particularly in
14 this case, since I was the one that gave evidence, for
15 my name to be on this letter. I'd need to read it
16 through again and get familiar with what it says, and
17 clearly now, even go through all of the attachments.
18 But normally what would happen is I would read the
19 letter, and if I had any concerns about the content of
20 the letter then I would make comment. But the technical
21 stuff inside it, you know, it wasn't my responsibility
22 to know whether that was accurate or not.
23 Q. No, never mind the technical content for the moment.
24 I'm just trying to get to the bottom of whether you
25 actually saw this letter before it was signed by

28

1 somebody else — —
 2 A. And I can't confirm that.
 3 Q. Right.
 4 You're not, I'm assuming, in the business of
 5 frequently, at least, writing letters to chairs of
 6 parliamentary select committees?
 7 A. No, I don't think I'd ever done that before.
 8 Q. No, and can we take it that this was an immensely
 9 important letter from Kingspan because it set out
 10 formally Kingspan's position in relation to the inquiry
 11 into Dame Judith Hackitt's independent review?
 12 A. Yes, and at the time I knew that we were wanting to
 13 provide further evidence to the select committee and
 14 the Chairman of the select committee. I had no reason
 15 to doubt the integrity of either my colleagues that were
 16 involved in drafting the letter or the contents therein.
 17 Q. But would you not have been absolutely keen to make sure
 18 that whatever was being said to Mr Betts carried not
 19 just your signature but your consent?
 20 A. Well, yeah, but I had no reason to doubt my colleagues.
 21 As I've said, I think, it wasn't unusual for that — — not
 22 to somebody on the select committee, but it would not be
 23 unusual for letters to go out in my name.
 24 Q. No, but it might be unusual for a letter of this
 25 importance to go out to a committee of this importance

29

1 in your name if you hadn't first read it.
 2 A. That would be strange, yes.
 3 Q. Did it strike you as strange when you first saw this
 4 that that had happened, if that is what had happened?
 5 A. And that's what I can't confirm. Certainly if I did see
 6 it, it was the day it went out, but I can't recall if
 7 I saw it before it went or after it went.
 8 Q. Right, okay.
 9 Do you know yourself who was responsible for putting
 10 the detailed submission which accompanies this document
 11 together?
 12 A. Again, I would assume it was done by the same people
 13 that drafted the letter.
 14 Q. Right.
 15 Let me just put one or two paragraphs to you so that
 16 I can get your comment.
 17 The second paragraph down in the last part says:
 18 "We believe that Kingspan has carried out more
 19 product and full system fire safety tests than any other
 20 construction material company and are committed to doing
 21 whatever is necessary to address the issues of
 22 transparency, labelling, traceability and
 23 technical/ installation support identified by
 24 Dame Judith Hackitt."
 25 Now, we don't know whether you saw that statement

30

1 under your name before it was made, so I have to caveat
 2 all of my questions with that, so bear that in mind.
 3 But as a statement, it's completely inconsistent with
 4 the idea, isn't it, that you wouldn't be telling the
 5 select committee absolutely everything you knew about
 6 the testing you'd done in May and July?
 7 A. I would have said that that was the view that I held at
 8 that time.
 9 Q. Yes. All right.
 10 Let's look at the next paragraph, last sentence:
 11 "Our position is not about commercial benefit but
 12 about ensuring that building regulations are always
 13 rooted in science and engineering."
 14 Are you able to sit there today and say that
 15 Kingspan's case to the MHCLG that had been up and
 16 running since the September of the previous year was
 17 solely about ensuring that Building Regulations had
 18 a scientific and engineering basis and nothing to do
 19 with Kingspan making money?
 20 A. I believe that was the case, yes.
 21 Q. You really do, Mr Burnley? You really think that the
 22 case being put together by Mr Garbutt and Mr Pargeter
 23 and everybody else at Kingspan in the documents I've
 24 shown you was only about public benefit and had no
 25 element of self-interest at all?

31

1 A. I think given the previous sentence that shows that
 2 actually the product that we were talking about was
 3 very — — a very small part, it was more about the belief
 4 that full-scale testing was the right way ahead to give
 5 people confidence in public safety.
 6 Q. Mr Burnley, I'm sure you would meet me halfway here and
 7 accept that, at least to some extent, Kingspan was
 8 interested in making sure that the testing only went
 9 under 8414 for its own commercial benefit, in other
 10 words in order to make sure it could continue to sell
 11 combustible materials on high-rise buildings?
 12 A. I can't meet you halfway, I'm afraid. I mean, my
 13 personal view is that would not be the case. It
 14 certainly is not my view either.
 15 Q. So you would take the position, would you, that Kingspan
 16 throughout was acting entirely altruistically and not
 17 for its own advantage whatsoever?
 18 A. Kingspan was in no way trying to put commercial benefit
 19 ahead of public safety. That (inaudible) view and
 20 I maintain that.
 21 Q. That wasn't quite my question. My question was whether
 22 there was any element at all of self-interest. You're
 23 I think saying there was no element of self-interest at
 24 all in Kingspan putting forward its case to the MHCLG.
 25 Are you really going to sit there and say that?

32

1 A. That was my belief.
 2 Q. I have to suggest to you that that is quite
 3 an incredible answer. Do you not agree?
 4 A. It's a truthful one.
 5 Q. Now, it's right, isn't it, perhaps help me from your
 6 recollection, the Kingspan Group's 2018 turnover,
 7 according to its 2018 consolidated income statement
 8 contained in its published financial statements for
 9 2018, was €4.3 billion, wasn't it?
 10 A. Yeah, I'm sure it was, yes.
 11 Q. If you'd like to look at it, you can find it online at
 12 page 95 of the annual financial statements for that
 13 year.
 14 A. No, no, I take your word for it, Mr Millett.
 15 Q. 1% of that is €43 million, isn't it?
 16 A. Correct.
 17 Q. Yes. That's not mere pocket change, is it? No one
 18 would give up revenue worth €43 million?
 19 A. I think the comment does say it is less than 1%, just to
 20 be completely —
 21 Q. You're quite right, "significantly less than 1%".
 22 Still, what was it? All right, what exactly was the
 23 above—18—metre market in financial terms to Kingspan?
 24 A. I mean, I no longer work at Kingspan. I'm not sure I'm
 25 entitled to reveal that information.

33

1 Q. All right. I was just interested to know, if the money
 2 was so inconsequential to Kingspan, why it was that, as
 3 far back as September 2017, Kingspan were of the view
 4 that it was imperative that they obtain a regime of
 5 BS 8414 testing, and why Mr Murtagh was able to express
 6 himself in the terms that he did as seen in the
 7 Gilbert McCarthy email we saw from this morning.
 8 A. I mean, I can't answer that specific question. What
 9 I can answer is from a personal perspective, given the
 10 relatively small nature of the revenue that you've just
 11 talked about in relation to the rest of the business
 12 that I was responsible for, that's why I can confidently
 13 sit here and say that, from my personal view, it was of
 14 no significant commercial benefit. It was about public
 15 safety. It was about full—scale testing to show that
 16 products and systems could be used in that application.
 17 Q. Let's go to page 4 of this document {INQ00014076/4},
 18 please, it's probably a better place to start to give
 19 you a bit more familiarity with what I'm going to show
 20 you, given what you have told us just now about how this
 21 document came into being.
 22 This is part of the 94—page attachment to this
 23 document, it's a long technical piece, and it sits under
 24 the heading "Failed A1/A2 Large Scale Fire Tests". It
 25 says:

34

1 "Kingspan has evidence of three failed large scale
 2 fire tests where the cladding system was made up of A1
 3 and A2 products. The tests are detailed below and
 4 supporting documentation is enclosed."
 5 Then there are three tests.
 6 Test 1 was one done with A2 ACM with Fujairah
 7 Rockwool foil—faced mineral fibre, and in the last
 8 paragraph it is said that it wouldn't be typical in UK
 9 construction but would be allowed under Government's
 10 proposals.
 11 Test 2 was one done in Australia in March 2018,
 12 Alpolic solid core A2 panel with Rockwool mineral fibre.
 13 If you turn the page to page 5 {INQ00014076/5}, you
 14 can see at the very foot of the screen in front of you,
 15 underneath the graph, that the letter says:
 16 "The Australian test is also not typical of
 17 construction in the UK because the insulation is within
 18 the steel wall framework and sheathed in a steel sheet
 19 to protect it from the fire."
 20 So the first test and second test, not
 21 representative.
 22 Then we get the third test, test 3, which you can
 23 just see poking out at the bottom of the screen there,
 24 and can we turn that up:
 25 "This is a test which was carried out at Exova in

35

1 Dubai on July 2nd 2018."
 2 Pausing there, do you remember that when you gave
 3 evidence to the select committee on 27 June 2018, that
 4 test of course hadn't yet happened but was planned?
 5 A. That would be correct, given the chronology, yes.
 6 Q. Yes.
 7 Then it goes on:
 8 "The test was commissioned by Kingspan. The system
 9 was comprised of Rockwool DuoSlab (which is rated A1)
 10 and Vitracore G2 (which is rated A2). The construction
 11 of the test rig was a replica of the Ministry of
 12 Housing, Communities and Local Government tests
 13 conducted immediately after the tragedy at
 14 Grenfell Tower. The test failed on the basis of
 15 thermocouple data which is detailed in the enclosed
 16 preliminary report from Exova.
 17 "Enclosed are brochures detailing Rockwool DuoSlab
 18 and Vitracore G2 as well as PDFs of the sectional
 19 drawings of the test rig."
 20 Et cetera.
 21 If we just turn the page to page 6 {INQ00014076/6},
 22 to make sure we're not missing anything on that page,
 23 you see what's set out:
 24 "... classification, test reports and full video
 25 footage and these will [be] forwarded to the Committee

36

1 as soon as they are received."

2 Then it says this:

3 "Despite failing this BS 8414 test, the products

4 used in this system are A1 and A2 and would therefore be

5 automatically permitted under current Building

6 Regulations and the Government's proposals on banning

7 the use of combustible cladding. This evidence supports

8 Kingspan's view that cladding systems should be subject

9 to large scale tests (as complete systems in their

10 intended configuration) in order to meet the objective

11 of fire safety."

12 My first question on this is: when, whenever it was,

13 you saw this letter, did you read the detail about

14 test 3?

15 A. Yes, I'm sure (inaudible).

16 Q. Can you explain why there is no reference in this part

17 of the letter to the fact that although the Vitracore G2

18 had an A2 rating, it was known by Kingspan to perform

19 like a PE panel or, to use the words, "go up like a PE

20 panel"?

21 A. The point that they're trying to make is that it is

22 classified as A2 and therefore would be used in the

23 market as A2.

24 Q. Yes. Can you explain why there was no reference,

25 however, to the fact that it was known to behave like

37

1 a PE panel?

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

3 Q. No.

4 We can see that there's no reference here to the

5 fact that Kingspan had deliberately selected

6 Vitracore G2 so that it could have a fail in the bag, as

7 it were, because it had already failed an 8414 test.

8 A. I'm sorry, could you repeat the question, please?

9 Q. Yes. It wasn't really a question, so you're quite

10 right.

11 You will accept, I think, looking at this, that

12 there isn't a reference here to the fact that Kingspan

13 had deliberately selected Vitracore G2 because it had

14 a track record of failing an 8414 test?

15 A. Well, my understanding at the time was that they were

16 trying to represent a system that could be selected by

17 designers that would follow the linear route and that

18 had been installed as it would be installed on a site.

19 Q. Yes.

20 When you saw this letter, did you realise that it

21 was not revealing the fact that Kingspan knew that

22 Vitracore G2 had a track record of being part of

23 a failed 8414 test?

24 A. No, I didn't make that connection.

25 Q. Right, you didn't make that connection.

38

1 Do you accept that the letter should have said that,

2 it should have referred to the fact that the

3 Vitracore G2 being selected had been selected precisely

4 because it was known to have a track record of failure

5 in an 8414 test?

6 A. I don't know that I do. I think what they were trying

7 to (inaudible) — I think as I just said in another

8 answer was that they were trying to pick products that

9 were classified that under the linear route could be

10 used in a design.

11 Q. There are plenty of A2 products which would comply, but

12 there aren't plenty of products which, although they

13 would comply, would be known to be at risk of failure in

14 an 8414 test; that's right, isn't it?

15 A. I think I agree.

16 Q. Yes, and so why didn't Kingspan, under your hand, reveal

17 to the select committee that, although it had selected

18 an A2 classified product, G2 Vitracore, it had selected

19 G2 Vitracore itself because it had a known track record

20 of failure within an 8414 test?

21 A. I don't know other than my previous comment.

22 Q. Right.

23 I would suggest to you that by not telling the

24 select committee that Kingspan had deliberately selected

25 Vitracore G2 as the panel for that reason, Kingspan was

39

1 only giving the select committee half the picture.

2 A. I'm not sure I do agree. I still maintain that the

3 point of that test was that it was products that were

4 classified and marketed as A1 or A2 and therefore

5 followed the linear route. The point was not to single

6 out in that document a product that we felt didn't meet

7 the classification given. I don't know what

8 correspondence took place between Kingspan and the

9 manufacturer of that panel to represent their concerns.

10 Q. If you had wanted to give the select committee the full

11 picture, I would suggest to you that you would and

12 should have said to them, "We have deliberately selected

13 Vitracore G2 because, although it is classified as A2,

14 look, see how badly it performs in an 8414 test". Why

15 didn't you do that?

16 A. I would suggest that through a different route that's

17 what they're trying to do with issuing that information.

18 Q. No, you see, the one thing that's missing, I have to

19 suggest to you, which is crucial, is material to the

20 select committee's knowledge, is knowing that it was

21 possible to have an A2 panel deliberately selected for

22 inclusion in an 8414 test which would cause the

23 8414 test to fail.

24 A. I think we're agreed that that is the point.

25 Q. And why not say so?

40

1 A. Well, because there are products that you could select
 2 that can be classified to meet the linear route that
 3 will fail in an 8414 test of that system.
 4 Q. Then why not tell the select committee that what you had
 5 done was deliberately select Vitracore G2 in order to
 6 obtain a fail which you had now successfully done and
 7 thereby demonstrated your case?
 8 A. I must apologise that we're at odds. I think what we're
 9 doing at the time was selecting a system made up of
 10 a number of components that failed the test.
 11 Q. Now, do you accept, looking at what I've read to you,
 12 that this letter did not tell the select committee that
 13 there had been an earlier test, namely the one on
 14 22 May, which had been designed with deliberate
 15 imperfections intended to achieve poor performance but
 16 which had in fact passed?
 17 A. No, they didn't raise that, but it's an important point
 18 that clearly by designing systems it was — you know,
 19 you couldn't guarantee whether it would pass or fail.
 20 Q. Mr Burnley, why did this letter under your hand not
 21 refer to the successful May test?
 22 A. Because I'm not sure it's relevant to that third test
 23 that they're highlighting. The third test was to show
 24 that products that are available on the market that are
 25 classified as being A1 or A2 and satisfy the linear

41

1 route can fail a test when tested as a system —
 2 Q. Why not tell —
 3 A. (inaudible) about the system test, not the individual
 4 components.
 5 Q. Why not tell the select committee that the Dubai test
 6 was a fallback test, a plan B, that had only become
 7 necessary because the first test, the May test, with all
 8 its intended design imperfections, had succeeded?
 9 A. I can't answer that question.
 10 Q. You said a moment ago that the May test was irrelevant.
 11 Did you yourself decide or take any part in deciding not
 12 to refer to the May test in this letter to the
 13 select committee?
 14 A. No, I didn't.
 15 Q. You didn't.
 16 When this letter was written, and again with the
 17 caveats that I referred to earlier, was it an oversight
 18 not to refer to the May test or was there a deliberate
 19 decision, do you know?
 20 A. I don't know.
 21 Q. By referring to the July failure but by making no
 22 mention of the May success, were you not giving
 23 an unfairly incomplete picture to the select committee
 24 about the behaviour of linear route systems, or the
 25 linear route to compliance?

42

1 A. No, I think we were pointing out an inconsistency that
 2 it was wrong to assume that all systems made up with
 3 products that met the linear route could be assumed that
 4 they would pass a large-scale test.
 5 Q. Yes.
 6 Now, you said earlier that the May test was
 7 irrelevant. Was it not relevant for the
 8 select committee to know that even a system containing
 9 linear route compliant products but with in-built
 10 intended design flaws could pass a BS 8414 test?
 11 A. I'm sorry, can you repeat that again?
 12 Q. Was it not relevant for the select committee to know
 13 that a system containing linear route compliant products
 14 but with in-built design flaws could pass?
 15 A. I don't know that I'm technically qualified to pass
 16 comment.
 17 Q. Well —
 18 A. And I'm not sure why anybody would deliberately design
 19 it with in-built flaws in a system going on a public
 20 building, or any other building.
 21 Q. If — I'm sorry, do you want to continue your answer?
 22 A. No, I think I'd finished.
 23 Q. If you were making a fair and balanced presentation to
 24 the select committee, you would have told them about
 25 both the May test and the July test, wouldn't you?

43

1 A. I don't believe so, because I think the third test we
 2 were trying to show that a system made with products
 3 that followed the linear route could fail.
 4 Q. Right.
 5 A. It was wrong to assume that products automatically
 6 following the linear route would pass. We believed that
 7 all systems that were to be used at that height should
 8 follow a large-scale test.
 9 Q. So far as you are aware, the non-disclosure of the fact
 10 of and results of the May test — is this right? — was
 11 not an accident, not an oversight, but the result of
 12 a deliberate decision by Kingspan not to reveal it?
 13 A. I don't believe that was the (inaudible), no.
 14 Q. Let's look at a more recent letter. Can we look,
 15 please, at {KIN00024978}.
 16 Now, this is a letter written in January of this
 17 year, so quite some time after you left Kingspan, and
 18 it's sent to Mr Clive Betts MP, still as Chair of the
 19 select committee, and it's signed by Ralph Mannion, if
 20 we look at page 3 {KIN00024978/3}. He is the managing
 21 director of Kingspan Insulation UK and Ireland.
 22 Now, I don't expect you have seen this letter
 23 before, but if you have, please tell me.
 24 A. I don't believe I have.
 25 Q. Can we go, please, to paragraph 2.3 on page 2

44

1 {KIN00024978/2}. It says in that paragraph, halfway
 2 down, just read with me:
 3 "The May 2018 Test was not shared with the
 4 Select Committee because it was not relevant as it did
 5 not illustrate the public safety point that Kingspan was
 6 seeking to explain ..."
 7 And it goes on. I'll just read the rest to you for
 8 completeness:
 9 "... it is not in doubt that some systems comprising
 10 only A1/A2 materials will meet BR 135 requirements when
 11 tested to BS 8414, the point of public safety is that
 12 not all such systems will meet those requirements."
 13 Now, I want to focus with you on the part of that
 14 sentence where it says:
 15 "... wasn't shared with the Select Committee because
 16 it was not relevant as it did not illustrate the public
 17 safety point that Kingspan was seeking to explain ..."
 18 Were you part of the decision—making that led to the
 19 decision not to share with the select committee the
 20 May 2018 test for the reason this letter says.
 21 A. No, I wasn't.
 22 Q. Right. Can you tell us about that decision? Do you
 23 know when it was made, by whom it was made?
 24 A. No, I wasn't involved in it so I can't pass comment.
 25 Q. No, all right.

45

1 Do you accept that it was relevant for the
 2 select committee, when considering the linear route to
 3 compliance and whether or not to continue to allow that
 4 as the primary route to compliance, as opposed to
 5 requiring BS 8414 testing for all systems for use above
 6 18 metres, to know about the May test and the fact that
 7 it had succeeded notwithstanding introduced design
 8 imperfections?
 9 A. No, I believe I'm probably repeating an answer I've
 10 given before, so forgive me, but I believe — I mean,
 11 there are plenty of systems that do follow the linear
 12 route that would pass the test. I think as — actually,
 13 it says it quite succinctly in that last part of that
 14 paragraph: not all such systems will meet those
 15 requirements. I think that was the point. It wasn't
 16 the point that there are plenty that will, it was the
 17 point that some won't. But you can't therefore link
 18 the — following the linear route would therefore mean
 19 that it would pass a large-scale test.
 20 Q. I think we're slightly at cross-purposes. Let me try it
 21 once more.
 22 Was it not relevant for the select committee to know
 23 about the May test precisely because it undermined the
 24 public safety point Kingspan were seeking to explain?
 25 A. No, I don't agree with that.

46

1 Q. Right.
 2 Isn't the truth here that you lent your name or at
 3 least your name somehow appeared on a letter to the
 4 select committee which concealed the existence of the
 5 May test and its successful result because the May test
 6 and its successful result seriously undermined
 7 Kingspan's case that combustible materials should not be
 8 banned?
 9 A. No, I don't believe that to be the case.
 10 Q. And that by giving them the results of the July test but
 11 not revealing the May test, you were only giving the
 12 select committee half the picture?
 13 A. No, I don't believe that's the case.
 14 Q. And that Kingspan, in doing so, was setting out to
 15 mislead the select committee?
 16 A. No, that's not the case.
 17 Q. Now, do you know who it was at Kingspan who decided that
 18 it was you who should give evidence to the
 19 select committee, both orally and by appending your name
 20 to this letter?
 21 A. I'm not completely sure, no. I think it was Peter that
 22 told me.
 23 Q. Right.
 24 Given that you had only worked for Kingspan for some
 25 four years at this point, and there were a number of

47

1 other very highly, in fact more highly, qualified people
 2 at Kingspan who could speak with much greater detail of
 3 the knowledge of fire testing than you, were you
 4 surprised to have been selected to give evidence in
 5 front of the select committee?
 6 A. I was a little, yes.
 7 Q. Yes.
 8 I want to show you an email chain which was
 9 disclosed to the Inquiry on 10 March this year, so
 10 within this month, {KIN00025512}. It's an email chain
 11 from 13 June 2018, and it's about the imminent
 12 select committee hearing.
 13 If we look at the first email in the chain, you can
 14 see that it's from John Garbutt in response to Tony Ryan
 15 on that day.
 16 If we go below that, we can see that the second
 17 email down is an email from Tony Ryan to John Garbutt
 18 and Siobhan O'Dwyer, and he says:
 19 "John,
 20 "I think we need to 'show up' these MPs and show
 21 them that without technical competency they'll end up
 22 making the wrong decision."
 23 Then if we go a little bit lower down than that, we
 24 can see at page 2 {KIN00025512/2} there is an email
 25 chain starting on 12 June from Tony Ryan to

48

1 John Garbutt, which ends with the email I've just shown
 2 you, and it says:
 3 "John,
 4 "I know Richard was subjected to media training
 5 today and is preparing for the select committee hearing.
 6 Richard's name was bounced around a number of times as
 7 we anticipated that a MD or CEO would be called but as
 8 we now know it's a Kingspan representative that is
 9 required to attend.
 10 "Personally, I think this is so important that we
 11 need someone who's been very close to the various issues
 12 over the last few months and who's on point with all the
 13 evidence we have. This person needs to be technically
 14 excellent and demonstrate their knowledge of testing in
 15 a way that portrays Kingspan as absolute leaders in fire
 16 testing etc. Therefore I think you'd be more suited to
 17 represent Kingspan.
 18 "This is a chance that we cannot risk. I'm sure
 19 Richard could deliver but I think you are better
 20 positioned to do this.
 21 "...
 22 "Kind regards,
 23 "Tony Ryan."
 24 Then we have John Garbutt's response, 13 June:
 25 "Hi Tony

49

1 "Richard is going to be very good. He knows enough,
 2 but not too much, which is helpful. The worst thing he
 3 could do is a deep dive on detail. He needs to talk to
 4 the MPs at their level of understanding."
 5 Then we can see how this then unfolds. If you go
 6 above that, please, on the screen, Siobhan O'Dwyer comes
 7 back:
 8 "John, you can be there by his side too though,
 9 right?"
 10 Scrolling up to the top {KIN00025512/1},
 11 John Garbutt to Siobhan O'Dwyer:
 12 "Behind rather than beside but we're told that
 13 Richard referring to me would [be] frowned upon and
 14 would not look good."
 15 Then the second email is the email I showed you:
 16 "I think we need to 'show up' these MPs and show
 17 them that without technical competency they'll end up
 18 making the wrong decision.
 19 "You could brand yourself as a Kingspan Director
 20 which is true and accurate.
 21 "I'm not doubting Richard, but it just made sense in
 22 my mind that you'd do it and thought I'd voice my
 23 opinion."
 24 Now, we can see what others were saying behind the
 25 scenes.

50

1 First of all, can I assume that you knew nothing of
 2 these discussions?
 3 A. No, not at all. The first time I saw it was two
 4 evenings ago.
 5 Q. Yes, two evenings ago?
 6 A. Yes, two evenings ago.
 7 Q. So before you resumed your —
 8 A. I saw some — well, I don't think I saw these top
 9 emails, but I saw I think the bottom emails when
 10 Mr Pargeter gave evidence.
 11 Q. I see, I see.
 12 Now, in light of your answers that you have given us
 13 this morning about the 6 July letter, would it be
 14 fair — and I'm sorry to be blunt about this,
 15 Mr Burnley, but let's look at it fairly and squarely —
 16 to say that you were set up by others at Kingspan as
 17 Kingspan's useful idiot, who knew the case message,
 18 could speak very articulately to it, but not the fact
 19 that it rested on flimsy evidence?
 20 A. I don't believe that's the case, no. If that had been
 21 the case then I wouldn't have accepted the invitation to
 22 go.
 23 Q. When you were preparing to give your evidence before the
 24 select committee and had the training that's been
 25 referred to here, was there any discussion of how you

51

1 should present matters so as not to compromise your
 2 position in the public inquiry?
 3 A. No, it was more about training about how to clearly and
 4 succinctly answer questions, the mechanics of it, not
 5 the content.
 6 Q. Right.
 7 Was there any discussion at all during this training
 8 exercise or indeed any of your preparation up to giving
 9 the evidence before the select committee about making
 10 sure that the message you were putting across didn't
 11 undermine Kingspan's position in the public inquiry?
 12 A. No, it was not — nothing to do with undermining
 13 Kingspan's position. There was discussion about the
 14 messaging and that was around full-scale testing.
 15 Q. Right.
 16 Can I show you {KIN00002540}, please. This is
 17 a letter from the MHCLG, Rachel McLean. It's dated
 18 31 July 2018, as you can see, and it's addressed to
 19 Gene Murtagh, chief executive at Kingspan in Ireland,
 20 and it looks to be a response to the 6 July letter. It
 21 says:
 22 "In your letter of the 6th of July to the Chair of
 23 the Housing, Communities and Local Government
 24 Select Committee you refer to evidence of cladding
 25 systems constructed from products rated A1 and A2

52

1 failing to achieve the standards required by the
 2 British Standard (BS) 8414 large scale system test.”
 3 Then in the next paragraph you can see that there is
 4 a bit more detail, and there is a reference there to
 5 what was test 3 done in July 2018. Can you see that?
 6 A. I can, yes.
 7 Q. First, do you know whether — well, have you ever seen
 8 this letter before?
 9 A. I don't recall that I have, no.
 10 Q. Right. Do you know whether you yourself ever received
 11 a response from Clive Betts or anybody else on the
 12 select committee to your 6 July letter?
 13 A. No, I don't. I don't think I did.
 14 Q. Right. Did you ever seek to pursue a response?
 15 A. No, I didn't.
 16 Q. Right. Can we take it that this letter I'm showing you
 17 now was the response or perhaps a response to that
 18 letter?
 19 A. Well, given it refers to the same (inaudible) as the
 20 letter that was in my name, I'm assuming this is the
 21 response to that letter.
 22 Q. Yes. We have rather assumed the same thing, but
 23 thank you for confirming that to the best of your
 24 knowledge.
 25 Do you know why the department wrote to Gene Murtagh

53

1 rather than to you?
 2 A. No, I can't answer that.
 3 Q. If you look down at the third paragraph in the letter,
 4 after having referred to the July test, it says:
 5 "The Ministry of Housing, Communities and Local
 6 Government is taking forward work as quickly as possible
 7 to establish whether there is a public safety risk in
 8 relation to this cladding, and to determine any action
 9 that should be taken to ensure public safety. It is of
 10 the highest priority for Ministers that we establish
 11 whether there is a risk to public safety. Based on your
 12 colleagues' contact with the Department to date, I know
 13 that you are committed to ensuring maximum public safety
 14 and to assisting us with our investigation."
 15 Do you know whether Gene Murtagh responded to this
 16 letter?
 17 A. No, I don't know.
 18 Q. Now, we've seen, as I've shown you, that Gene Murtagh,
 19 among others, was linked in on, copied in on, in fact as
 20 a direct recipient of the April 2018 emails referring to
 21 the proposed tests.
 22 To your knowledge, did Mr Murtagh ever respond to
 23 the department or to Clive Betts telling them to ignore
 24 the July 2018 Dubai test or telling them that there was
 25 a test done in May 2018?

54

1 A. I don't know.
 2 Q. Do you know from your own knowledge that Gene Murtagh
 3 knew about the test, about the plan to introduce
 4 deliberate design imperfections into the May test, not
 5 to tell the select committee about the May test when it
 6 succeeded, the plan to use G2 Vitracore as the selected
 7 material in the July test, and the concealment of that
 8 fact from the select committee?
 9 A. I don't know.
 10 Q. I'm going to put to you two things, and invite your
 11 comment.
 12 Is it true that Kingspan's position, even in 2018,
 13 in the face of a Government investigation into
 14 fire safety following the Grenfell Tower fire, was to do
 15 its best to ensure that science was secretly perverted
 16 for financial gain?
 17 A. No.
 18 Q. Do you accept that?
 19 A. I don't accept that at all.
 20 Q. And that that had been Kingspan's approach for many
 21 years before that point, to your own knowledge now?
 22 A. No, I don't believe that to be the case.
 23 Q. Right.
 24 Finally, can I just ask you about what actually
 25 happened.

55

1 Do you recall that in September 2018, Vitracore G2
 2 was withdrawn from the market, or suspended at least?
 3 A. I can't remember that, no.
 4 Q. Do you remember that the Government was keen to test the
 5 Vitracore G2 panels for themselves?
 6 A. I can't recall that.
 7 Q. You don't recall.
 8 Can we go to {KIN00025721}, please. This is
 9 a letter from the MHCLG dated 13 September 2018, and
 10 it's to Clive Betts MP, heading:
 11 "Vitracore G2 cladding.
 12 "Dear Clive,
 13 "The Government has today concluded fire safety
 14 tests of the Vitracore G2 cladding product.
 15 "Our testing has demonstrated that the product being
 16 sold on the market differs from the one tested for
 17 classification. The results show the samples tested
 18 contain more combustible adhesive than is specified in
 19 the original classification report. Although this, on
 20 its own, does not confirm that the product would not
 21 meet the A2 classification, it is clear that the samples
 22 do not match the specification, as set out in the
 23 original A2 classification report. Therefore it may not
 24 achieve the fire safety standard it has been classified
 25 to.

56

1 "We have taken immediate action and referred this
 2 matter to Trading Standards and asked the supplier to
 3 withdraw the product from the market until it can
 4 demonstrate it meets the required standard. We have
 5 also contacted the two high rise residential building
 6 owners that have purchased Vitracore G2 for use on their
 7 buildings to inform them of our finding.
 8 "This product is not widely used in the UK but we
 9 have asked the Government's Independent Expert Panel
 10 what additional action, if any, may be necessary.
 11 "There is nothing more important than ensuring
 12 people are safe in their homes."
 13 It's signed the Right Honourable
 14 James Brokenshire MP.
 15 Do you remember how the suspension of Vitracore left
 16 Kingspan's case?
 17 A. No, I don't.
 18 Q. Did it result in the July test that Kingspan had
 19 previously been relying on as the lynchpin of its
 20 argument as virtually worthless?
 21 A. Well, no, I don't think so, I think it was — it's
 22 a consequence, isn't it?
 23 Q. Indeed.
 24 Is it not also right that the second paragraph in
 25 Mr Brokenshire's letter actually was telling Clive Betts

57

1 something that Kingspan had known all along, or at least
 2 strongly suspected, namely that although Vitracore G2
 3 was an A2-rated panel, nonetheless it was more
 4 combustible than that rating would indicate, and, as
 5 I say, had a track record of failure when included in
 6 a BS 8414 test?
 7 A. I think that's the point, but in a different way. It
 8 was the point that systems made up of products that
 9 followed the linear route couldn't necessarily be
 10 guaranteed to pass a large-scale test. The consequence
 11 of that is that clearly one or more of the components or
 12 the way that it's constructed mean that it's not capable
 13 of passing the large-scale test.
 14 Q. What happened in the end to Kingspan's lobbying attempts
 15 or argument or case based on the July 2018 test?
 16 A. I don't know. I mean, I moved from that business into
 17 a different Kingspan business at the end of that year,
 18 so I don't know what they've continued.
 19 Q. The end of 2018?
 20 A. Correct, yes.
 21 MR MILLETT: Yes, thank you very much.
 22 Mr Burnley, I've come to the end of my prepared
 23 questions, but there may be further questions that
 24 I need to go back over and ask you, and there may be
 25 questions that others may also want me to ask you, which

58

1 I will have to consider.
 2 So I'm going to ask the Chairman now for what we
 3 have as a usual break at the end of a witness.
 4 Mr Chairman, is now a convenient moment?
 5 SIR MARTIN MOORE—BICK: Yes, well, it obviously would be,
 6 Mr Millett, thank you.
 7 Mr Burnley, as Mr Millett has explained, we need to
 8 have a short break at this point just to sweep up any
 9 possible additional questions, so we'll stop now. We'll
 10 resume at 11.35, please. At that point, we'll see
 11 whether there are any more questions we need to ask you.
 12 As before, please don't talk to anyone about your
 13 evidence or anything relating to it while you're on the
 14 break.
 15 We will see you at 11.35, please.
 16 THE WITNESS: Okay, I understand.
 17 SIR MARTIN MOORE—BICK: Thank you very much indeed.
 18 (11.20 am)
 19 (A short break)
 20 (11.35 am)
 21 SIR MARTIN MOORE—BICK: Welcome back, everyone. We will see
 22 now whether there are any more questions for Mr Burnley.
 23 Let me just check, Mr Burnley, can you see me and
 24 hear me well?
 25 THE WITNESS: Yes, I can, thank you.

59

1 SIR MARTIN MOORE—BICK: Thank you very much.
 2 Well, we'll find out whether Mr Millett has any more
 3 questions to put to you.
 4 Mr Millett.
 5 MR MILLETT: Yes, I do, one or two.
 6 First, Mr Burnley, it's not so much a question, but
 7 I just want to say something to you so that it's clear
 8 on the transcript, and then see if you have anything to
 9 add.
 10 If you go back to January 2018 and your dinner with
 11 Kevin Hollinrake at the Houses of Parliament,
 12 January 2018, did you know at that time that there had
 13 been some 11 tests on K15 under BS 8414 which Kingspan
 14 wished to say to the Inquiry had been successful?
 15 A. I don't believe I did, no.
 16 Q. Right. I should just add for the record, for your
 17 benefit, that those 11 tests have not yet been
 18 investigated by the public inquiry, but surely will be.
 19 Now, the second thing I want to ask you is about
 20 a document which follows in time from the 2 July test at
 21 {KIN00004729}, please.
 22 Now, this is an email sent by John Garbutt on
 23 4 July 2018, and it doesn't seem to come at the top of
 24 any particular chain. It's sent to Neil O'Connor at
 25 communities.gsi.gov.uk, and Brian Martin. You can see

60

1 that it's sent on 4 July to those gentlemen at the DCLG,
 2 as it was then called:
 3 "Hi Neil, Brian
 4 "I need a conversation with you. It will be quick,
 5 but it is important and I think you will value having
 6 the information I wish to share, because it has PR
 7 consequences for the [department].
 8 "Can we talk in the morning?"
 9 First of all, did you see this email at the time?
 10 A. No, I didn't.
 11 Q. Did you know that John Garbutt was seeking
 12 a conversation with Neil O'Connor and Brian Martin at
 13 the DCLG, or MHCLG as I think it by then --
 14 A. I don't recall that, no.
 15 Q. Do you know what the information was that Mr Garbutt
 16 wanted to share with those two gentlemen?
 17 A. No. I don't.
 18 Q. Do you know what sort of relationship Mr Garbutt had
 19 with Neil O'Connor or Brian Martin?
 20 A. No, I don't.
 21 Q. Do you know what sort of ease of access he had with the
 22 department and, in particular, with those two officials?
 23 A. No, I don't.
 24 Q. Do you know what he means, can you help us, when he says
 25 "it has PR consequences for the [department]"?

61

1 A. No, I can't.
 2 Q. I don't want you to speculate, if you don't know, you
 3 don't know, but might it just be that the results of the
 4 2 July test being a fail was something that Kingspan
 5 would regard as important in order to be able to lean on
 6 the MHCLG, because the failure might have PR
 7 consequences for the department?
 8 A. It's the first time I've seen the email and I think, not
 9 having seen it before, any answer I give would just be
 10 speculation.
 11 Q. Very well.
 12 Finally, Mr Burnley, this is a question that
 13 the Inquiry sometimes asks of people in particular
 14 positions: looking back on all the evidence that we have
 15 been through, both in December and again over the last
 16 two days or so, is there anything that you would have
 17 done differently?
 18 A. I think I'd like to start, first of all, by extending my
 19 sincerest condolences to anybody who has been affected
 20 by the tragedy at Grenfell Tower.
 21 I think, having followed as much as I can of the
 22 first two modules, I've reflected on a lot of what's
 23 been discussed, and I'll clearly do more of that now
 24 this part of the process is finishing for me.
 25 I think what it's made me do already is question the

62

1 integrity and robustness of information that I read and
 2 receive, and in particular in the areas where I -- it's
 3 not my specific expertise, and I'll continue to do that,
 4 and reflect on this process.
 5 MR MILLETT: Yes, thank you very much.
 6 Well, Mr Burnley, it only remains for me to thank
 7 you very much for coming to the Inquiry and assisting us
 8 with our investigations. We are extremely little grateful
 9 to you, so thank you very much.
 10 THE WITNESS: Thank you.
 11 SIR MARTIN MOORE-BICK: Thank you, Mr Millett.
 12 Mr Burnley, I would like to add my thanks on behalf
 13 of not only myself, but my fellow panel members, to you
 14 for coming to give your evidence, not once but in
 15 a sense twice, and I'm sorry that the process was
 16 interrupted as badly as it was by matters outside our
 17 control. But we're very grateful to you for coming to
 18 give your evidence. It's been very helpful to us to
 19 hear what you have to tell us, and I can at least say
 20 now that it's over and you're now free to go and get on
 21 with your life. So thank you very much indeed.
 22 THE WITNESS: Thank you.
 23 (The witness withdrew)
 24 SIR MARTIN MOORE-BICK: Right. Well, I think, Mr Millett,
 25 that brings us to a close, does it not, of the

63

1 proceedings for today, and indeed for Module 2 as
 2 a whole, other than the closing statements which we're
 3 going to hear at a later stage?
 4 MR MILLETT: Mr Chairman, it does, subject to one thing
 5 I should just do, which is to read into the record
 6 further witness statements relevant to Module 2.
 7 I can do that by referring to a single document,
 8 which is a schedule with the witness statements, company
 9 and organisation and the URN on them, so that those who
 10 want to can examine precisely what it is that these
 11 witnesses say in writing. The reference to that
 12 schedule is {IDX0654}, and it has two pages. So that is
 13 a way of reading all of those formally into the record,
 14 and they will be now available on the Inquiry's website.
 15 Subject to that, Mr Chairman, that brings to an end,
 16 subject to anything further outstanding, possibly, the
 17 Module 2 oral evidence.
 18 SIR MARTIN MOORE-BICK: Good. Well, thank you very much.
 19 So the proceedings will terminate at that point for
 20 today, but we are resuming on Monday morning at
 21 10 o'clock when we will begin hearing opening statements
 22 for Module 3.
 23 So, until then, thank you all very much. 10 o'clock
 24 Monday morning.
 25 (11.43 am)

64

1 (The hearing adjourned until 10 am
2 on Monday, 29 March 2021)
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10
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12
13
14
15
16
17
18
19
20
21
22
23
24
25

65

1	INDEX	
2		PAGE
3	MR RICHARD BURNLEY (continued)	1
4		
5	Questions from COUNSEL TO THE INQUIRY	3
6	(continued)	
7		
8		
9		
10		
11		
12		
13		
14		
15		
16		
17		
18		
19		
20		
21		
22		
23		
24		
25		

66

67

<div>A</div>				<div>C</div>				
a1 (7) 21:16 35:2 36:9 37:4 40:4 41:25 52:25	also (10) 13:3 19:3,4 21:12 26:15 27:5 35:16 57:5,24 58:25	bag (2) 22:3 38:6 balanced (1) 43:23 ban (1) 19:24 banned (1) 47:8 banning (1) 37:6 based (2) 54:11 58:15 basis (3) 8:14 31:18 36:14 bbc (1) 23:25 beale (2) 11:13,14 bear (2) 3:18 31:2 become (1) 42:6 before (24) 1:16 2:13,16 6:12 8:10 10:4,17 11:8 21:10 27:8 28:8,25 29:7 30:7 31:1 44:23 46:10 51:7,23 52:9 53:8 55:21 59:12 62:9 begin (1) 64:21 behalf (1) 63:12 behave (1) 37:25 behaviour (1) 42:24 behind (2) 50:12,24 being (20) 4:11 5:4,14 8:10 10:3 19:18 21:18,19 22:5,15 24:2 25:14 29:18 31:22 34:21 38:22 39:3 41:25 56:15 62:4 belief (2) 32:3 33:1 believe (20) 9:22 10:1 11:17 19:17 20:1 22:9 27:2 28:2 30:18 31:20 44:1,13,24 46:9,10 47:9,13 51:20 55:22 60:15 believed (1) 44:6 below (3) 21:17 35:3 48:16 benefit (6) 31:11,24 32:9,18 34:14 60:17 beside (1) 50:12 best (3) 15:16 53:23 55:15 better (3) 1:16 34:18 49:19 betts (7) 25:23 29:18 44:18 53:11 54:23 56:10 57:25 between (4) 13:16 14:2 16:15 40:8 beyond (1) 8:9 billion (1) 33:9 bit (5) 3:13 14:18 34:19 48:23 53:4 blown (1) 11:13 blunt (1) 51:14 boards (1) 10:13 both (4) 3:15 43:25 47:19 62:15 bottom (7) 6:25 11:11 15:5 25:22 28:24 35:23 51:9 bounced (1) 49:6 br (1) 45:10 brand (1) 50:19 break (10) 2:9 3:13,14,15,25,25 59:3,8,14,19 brian (6) 13:20 17:1 60:25 63:12,19 bring (1) 19:5 brings (2) 63:25 64:15 british (1) 53:2 brochures (1) 36:17 broke (1) 11:8 brokenshire (1) 57:14 brokenshires (1) 57:25 bs (14) 4:13,20,23 5:16,22 20:15 34:5 37:3 43:10 45:11 46:5 53:2 58:6 60:13 build (1) 20:18 building (7) 26:3 31:12,17 37:5 43:20,20 57:5 buildings (9) 5:19 13:5,19 20:16 21:20 22:6 24:7 32:11 57:7 burnley (25) 1:3,10,11,13 2:17 3:6,9 4:3 6:24 7:5,14 15:11 31:21 32:6 41:20 51:15 58:22 59:7,22,23 60:6 62:12 63:6,12 66:3 business (6) 27:3,24 29:4 34:11 58:16,17	26:15 27:5 35:16 57:5,24 58:25 although (10) 2:22 13:3 25:7 26:20 37:17 39:12,17 40:13 56:19 58:2 altruistically (1) 32:16 always (1) 31:12 among (5) 6:22 9:11 11:14 26:12 54:19 analysis (1) 12:1 annual (1) 33:12 another (4) 2:2 13:23 26:15 39:7 answer (16) 4:14,17,24 5:2,6 25:16 33:3 34:8,9 39:8 42:9 43:21 46:9 52:4 54:2 24:7 46:5 50:6 62:9 answers (2) 3:2 51:12 anticipated (1) 49:7 anybody (8) 5:18 14:24 16:23 18:4,5 43:18 53:11 62:19 anyone (2) 18:22 59:12 anything (6) 2:12 36:22 59:13 60:8 62:16 64:16 anyway (1) 10:23 apologise (1) 41:8 appeared (1) 47:3 appears (2) 8:25 21:2 appending (1) 47:19 application (1) 34:16 applications (1) 7:4 approach (4) 15:17 17:3,10 55:20 appropriate (1) 19:3 april (2) 5:13 54:20 areas (1) 63:2 arent (1) 39:12 argument (2) 57:20 58:15 around (3) 11:4 49:6 52:14 arrangements (1) 2:7 arrive (1) 12:7 articulately (1) 51:18 asap (1) 19:2 ask (12) 5:11 13:13 14:6,24 24:23 25:13 55:24 58:24,25 59:2,11 60:19 asked (4) 6:10 26:12 57:2,9 asking (2) 4:7 5:8 asks (1) 62:13 assisting (2) 54:14 63:7 association (1) 15:8 associations (1) 18:23 assume (5) 12:12 30:12 43:2 44:5 51:1 assumed (3) 15:3 43:3 53:22 assuming (2) 29:4 53:20 attached (3) 10:15 11:25 12:2 attachment (3) 26:21,23 34:22 attachments (1) 28:17 attempts (1) 58:14 attend (2) 9:24 49:9 attended (1) 9:20 attendee (1) 9:13 attendees (1) 9:9 august (3) 11:13 12:4 20:6 australia (1) 35:11 australian (1) 35:16 authorisation (1) 28:2 authorise (1) 27:25 automatically (3) 27:13 37:5 44:5 available (4) 19:7 21:22 41:24 64:14 aware (3) 14:8 21:16 44:9 away (2) 2:25 9:23	bag (2) 22:3 38:6 balanced (1) 43:23 ban (1) 19:24 banned (1) 47:8 banning (1) 37:6 based (2) 54:11 58:15 basis (3) 8:14 31:18 36:14 bbc (1) 23:25 beale (2) 11:13,14 bear (2) 3:18 31:2 become (1) 42:6 before (24) 1:16 2:13,16 6:12 8:10 10:4,17 11:8 21:10 27:8 28:8,25 29:7 30:7 31:1 44:23 46:10 51:7,23 52:9 53:8 55:21 59:12 62:9 begin (1) 64:21 behalf (1) 63:12 behave (1) 37:25 behaviour (1) 42:24 behind (2) 50:12,24 being (20) 4:11 5:4,14 8:10 10:3 19:18 21:18,19 22:5,15 24:2 25:14 29:18 31:22 34:21 38:22 39:3 41:25 56:15 62:4 belief (2) 32:3 33:1 believe (20) 9:22 10:1 11:17 19:17 20:1 22:9 27:2 28:2 30:18 31:20 44:1,13,24 46:9,10 47:9,13 51:20 55:22 60:15 believed (1) 44:6 below (3) 21:17 35:3 48:16 benefit (6) 31:11,24 32:9,18 34:14 60:17 beside (1) 50:12 best (3) 15:16 53:23 55:15 better (3) 1:16 34:18 49:19 betts (7) 25:23 29:18 44:18 53:11 54:23 56:10 57:25 between (4) 13:16 14:2 16:15 40:8 beyond (1) 8:9 billion (1) 33:9 bit (5) 3:13 14:18 34:19 48:23 53:4 blown (1) 11:13 blunt (1) 51:14 boards (1) 10:13 both (4) 3:15 43:25 47:19 62:15 bottom (7) 6:25 11:11 15:5 25:22 28:24 35:23 51:9 bounced (1) 49:6 br (1) 45:10 brand (1) 50:19 break (10) 2:9 3:13,14,15,25,25 59:3,8,14,19 brian (6) 13:20 17:1 60:25 63:12,19 bring (1) 19:5 brings (2) 63:25 64:15 british (1) 53:2 brochures (1) 36:17 broke (1) 11:8 brokenshire (1) 57:14 brokenshires (1) 57:25 bs (14) 4:13,20,23 5:16,22 20:15 34:5 37:3 43:10 45:11 46:5 53:2 58:6 60:13 build (1) 20:18 building (7) 26:3 31:12,17 37:5 43:20,20 57:5 buildings (9) 5:19 13:5,19 20:16 21:20 22:6 24:7 32:11 57:7 burnley (25) 1:3,10,11,13 2:17 3:6,9 4:3 6:24 7:5,14 15:11 31:21 32:6 41:20 51:15 58:22 59:7,22,23 60:6 62:12 63:6,12 66:3 business (6) 27:3,24 29:4 34:11 58:16,17	c (1) 19:2 called (3) 11:12 49:7 61:2 came (3) 13:9 20:25 34:21 campaign (1) 24:6 cannot (1) 49:18 cant (27) 5:6 10:3 16:6,14 17:5,8 18:13 20:25 22:3 24:15 25:11 26:20 28:4,6 29:2 30:5,6 32:12 34:8 38:2 42:9 45:24 46:17 54:2 56:3,6 62:1 capable (2) 2:4 58:12 capture (1) 3:4 careful (1) 13:15 carried (3) 29:18 30:18 35:25 carry (2) 2:13 3:5 cast (1) 11:14 category (2) 13:2,5 cause (1) 40:22 caused (1) 28:11 caveat (1) 31:1 caveats (1) 42:17 ceo (1) 49:7 cetera (1) 36:20 chain (8) 11:10 12:19 13:13 48:8,10,13,25 60:24 chair (3) 25:24 44:18 52:22 chairman (9) 3:8,10 4:2 7:16 29:14 59:2,4 64:4,15 chairs (1) 29:5 chance (1) 49:18 change (1) 33:17 check (3) 1:11 9:21 59:23 chief (1) 52:19 chronology (1) 36:5 cladding (12) 5:20 7:24 8:1,5 13:4 35:2 37:7,8 52:24 54:8 56:11,14 clarification (1) 5:11 clarify (1) 5:8 classification (8) 7:6,8 36:24 40:7 56:17,19,21,23 classified (8) 37:22 39:9,18 40:4,13 41:2,25 56:24 clear (11) 1:18 2:17 5:10 8:16 10:2,9 13:12 17:22 18:20 56:21 60:7 clearly (6) 1:12 28:17 41:18 52:3 58:11 62:23 clive (7) 25:23 44:18 53:11 54:23 56:10,12 57:25 close (2) 49:11 63:25 closing (1) 64:2 coincided (1) 9:21 colleagues (3) 29:15,20 54:12 combination (2) 13:24 14:13 combine (1) 3:24 combustibility (1) 13:1 combustible (12) 7:6,24,25 8:5 19:24 20:16 24:7 32:11 37:7 47:7 56:18 58:4 come (6) 7:13 17:1,19 23:25 58:22 60:23 comes (2) 21:2 50:6 coming (5) 20:23 21:21 63:7,14,17 comment (7) 28:20 30:16 33:19 39:21 43:16 45:24 55:11 commercial (5) 12:23 31:11 32:9,18 34:14 commissioned (1) 36:8 committed (2) 30:20 54:13 committee (43) 23:24 25:20,25 26:6,10 29:13,14,22,25 31:5 36:3,25 39:17,24 40:1,10 41:4,12 42:5,13,23 43:8,12,24 44:19 45:4,15,19 46:2,22 47:4,12,15,19 48:5,12 49:5 51:24 52:9,24 53:12 55:5,8 committees (2) 29:6 40:20	communities (5) 25:24 26:5 36:12 52:23 54:5 communitiesgigovuk (1) 60:25 company (2) 30:20 64:8 competency (2) 48:21 50:17 complete (1) 37:9 completely (3) 31:3 33:20 47:21 completeness (1) 45:8 compliance (3) 42:25 46:3,4 compliant (2) 43:9,13 comply (2) 39:11,13 components (3) 41:10 42:4 58:11 comprised (1) 36:9 comprising (1) 45:9 compromise (1) 52:1 concealed (1) 47:4 concealment (1) 55:7 concern (1) 28:11 concerns (2) 28:19 40:9 concluded (1) 56:13 condolences (1) 62:19 conducted (1) 36:13 confidence (3) 12:24 21:24 32:5 confidential (3) 25:9,10,17 confidently (1) 34:12 configuration (1) 37:10 confirm (10) 1:19,23,25 2:1 20:25 25:11 28:7 29:2 30:5 56:20 confirming (1) 53:23 connection (4) 2:19,21 38:24,25 44:12 55:4 consent (1) 29:19 consequence (2) 57:22 58:10 consequences (3) 61:7,25 62:7 consider (1) 59:1 considering (1) 46:2 consolidated (1) 33:7 constructed (2) 52:25 58:12 construction (4) 30:20 35:9,17 36:10 consultant (1) 11:15 consultants (3) 11:12,15,16 consultation (1) 19:10 contact (1) 54:12 contacted (1) 57:5 contain (1) 56:18 contained (2) 5:21 33:8 containing (2) 43:8,13 content (3) 28:19,23 52:5 contents (3) 19:15 22:8 29:16 continue (5) 1:9 32:10 43:21 46:3 63:3 continued (5) 1:3 3:7 58:18 66:3,6 control (1) 63:17 convenient (1) 59:4 conversation (6) 8:12 14:25 17:6 21:5 61:4,12 conversations (3) 8:22 17:2 19:17 convince (2) 18:21 20:14 convincing (1) 19:9 copied (7) 6:17 10:12,22,23,25 11:2 54:19 copy (1) 11:3 copying (1) 18:14 corbys (1) 19:4 core (2) 13:17 35:12 corner (1) 6:25 correct (3) 33:16 36:5 58:20 correspondence (2) 10:15 40:8 couldn't (2) 41:19 58:9 counsel (2) 3:7 66:5 counterproductive (1) 21:18 course (3) 21:6 27:12 36:4 cps (1) 3:16 crosspurposes (1) 46:20 crucial (1) 40:19	current (1) 37:5 currently (1) 2:18	disseminated (4) 24:13 25:2,8,14 distributed (1) 24:17 dive (1) 50:3 divisional (1) 27:23 document (10) 10:20 12:6 17:17 30:10 34:17,21,23 40:6 60:20 64:7 documentation (1) 35:4 documents (3) 1:23 6:18 31:23 does (5) 15:18 33:19 56:20 63:25 64:4 doesnt (2) 24:14 60:23 doing (3) 30:20 41:9 47:14 done (12) 4:15 9:25 29:7 30:12 31:6 35:6,11 41:5,6 53:5 54:25 62:17 dont (70) 2:2,5 3:2 5:6,17 6:16 8:17 9:20,20 10:1,2 11:22 13:8 14:5,10 16:11,18,19 17:16,18 18:7 19:16,16 22:9 24:2,16 25:5,6 27:15,21 28:2,7 29:7 30:25 39:6,21 40:7 42:20 43:15 44:1,13,22,24 46:25 47:9,13 51:8,20 53:9,13,13 54:17 55:1,9,19,22 56:7 57:17,21 58:16,18 59:12 60:15 61:14,17,20,23 62:2,2,3 doubt (3) 29:15,20 45:9 doubting (1) 50:21 down (11) 4:8 7:2,21 12:14 18:12 27:10 30:17 45:2 48:17,23 54:3 draft (2) 26:24 27:8 drafted (1) 30:13 drafting (1) 29:16 drawings (1) 36:19 dts (1) 19:2 dubai (8) 13:20 14:4,8 22:11 24:22 36:1 42:5 54:24 dublin (1) 11:15 duoslab (2) 36:9,17 during (2) 2:9 52:7
						<div>E</div>		
						earlier (4) 5:3 41:13 42:17 43:6 ease (1) 61:21 either (3) 17:22 29:15 32:14 electronic (2) 2:3 27:25 electronically (2) 27:17,18 element (3) 31:25 32:22,23 elliott (4) 6:3,12 9:13 10:11 else (3) 29:1 31:23 53:11 email (39) 10:11,17,22 11:2,9,11 12:13,14 13:12 14:7,23 15:8 18:12,12,17 19:14,16 21:1,7,8,10 22:7,20 23:5 24:20,23 34:7 48:8,10,13,17,17,24 49:1 50:15,15 60:22 61:9 62:8 emails (4) 18:8 51:9,9 54:20 emotively (1) 12:25 enable (1) 3:3 enclosed (3) 35:4 36:15,17 end (14) 2:20 9:5 13:22 15:4 18:9 21:18 48:21 50:17 58:14,17,19,22 59:3 64:15 ends (1) 49:1 engage (3) 7:10,22 8:3 engaging (1) 11:20 engineering (2) 31:13,18 enhance (1) 15:18 enough (1) 50:1 ensure (4) 19:6,9 54:9 55:15 ensuring (6) 18:25 19:10 31:12,17 54:13 57:11 entirely (5) 14:16,21 28:4,8 32:16 entitled (1) 33:25 esignature (1) 27:15 essential (1) 23:5 essentially (1) 11:19		

<div><div>adjust (2) 54:7,10</div><div>et (1) 36:20</div><div>etc (1) 49:16</div><div>euroclass (1) 14:2</div><div>even (4) 19:22 28:17 43:8 55:12</div><div>evening (1) 10:19</div><div>evenings (3) 51:4,5,6</div><div>event (1) 19:7</div><div>ever (10) 4:12 17:1 24:23 25:1,13 29:7 53:7,10,14 54:22</div><div>every (1) 12:7</div><div>everybody (1) 31:23</div><div>everyone (3) 1:4,17 59:21</div><div>everything (5) 18:24 19:4,8 20:11 31:5</div><div>evidence (32) 1:10,20 2:10,25 3:4 4:5 10:2 21:22 23:15 24:5,10,11 26:5,10 28:14 29:13 35:1 36:3 37:7 47:18 48:4 49:13 51:10,19,23 52:9,24 59:13 62:14 63:14,18 64:17</div><div>exactly (3) 20:4 27:21 33:22</div><div>examine (1) 64:10</div><div>excellent (1) 49:14</div><div>executive (1) 52:19</div><div>exercise (1) 52:8</div><div>existence (1) 47:4</div><div>exova (2) 35:25 36:16</div><div>expect (2) 3:19 44:22</div><div>expecting (1) 22:21</div><div>expert (1) 57:9</div><div>expertise (1) 63:3</div><div>experts (1) 18:23</div><div>explain (8) 5:25 25:7 37:16,24 38:2 45:6,17 46:24</div><div>explained (2) 18:19 59:7</div><div>explaining (1) 14:2</div><div>express (1) 34:5</div><div>expressed (1) 19:23</div><div>extending (1) 62:18</div><div>extent (1) 32:7</div><div>external (1) 15:7</div><div>extreme (1) 63:8</div></div>	<div><div>find (3) 7:10 33:11 60:2</div><div>finding (2) 6:8 57:7</div><div>fine (1) 2:14</div><div>finished (1) 43:22</div><div>finishing (1) 62:24</div><div>fire (13) 12:20 26:3 30:19 34:24 35:2,19 37:11 48:3 49:15 55:14,14 56:13,24</div><div>first (26) 4:4 5:12 6:19 11:25 14:3 17:7 18:11 19:13 25:3,17 28:3,12 30:1,3 35:20 37:12 42:7 48:13 51:1,3 53:7 60:6 61:9 62:8,18,22</div><div>fitted (1) 13:3</div><div>five (1) 2:23</div><div>flaws (3) 43:10,14,19</div><div>flimsy (1) 51:19</div><div>foam (1) 13:5</div><div>focus (1) 45:13</div><div>foi-faced (1) 35:7</div><div>follow (6) 2:23 4:8 7:14 38:17 44:8 46:11</div><div>followed (5) 20:19 40:5 44:3 58:9 62:21</div><div>following (4) 12:24 44:6 46:18 55:14</div><div>follows (3) 4:7 12:18 60:20</div><div>foot (3) 7:2 21:9 35:14</div><div>footage (3) 19:1,18 36:25</div><div>for-give (1) 46:10</div><div>formally (2) 29:10 64:13</div><div>format (1) 18:3</div><div>forward (4) 12:4 19:5 32:24 54:6</div><div>forwarded (1) 36:25</div><div>found (1) 7:14</div><div>four (2) 26:17 47:25</div><div>fr (1) 13:18</div><div>framework (1) 35:18</div><div>free (1) 63:20</div><div>frequently (1) 29:5</div><div>friendly (7) 15:8,11,21 16:5,8 17:2,10</div><div>friends (3) 15:17,21,23</div><div>front (2) 35:14 48:5</div><div>frowned (1) 50:13</div><div>fujairah (1) 35:6</div><div>full (4) 19:6 30:19 36:24 40:10</div><div>fulscale (3) 32:4 34:15 52:14</div><div>funny (1) 27:11</div><div>further (7) 1:16 3:25 19:10 29:13 58:23 64:6,16</div><div>future (1) 18:25</div></div>	<div><div>given (14) 3:11 5:24 26:10 27:7 28:13 32:1 34:9,20 36:5 40:7 46:10 47:24 51:12 53:19</div><div>giving (7) 1:20 2:10 40:1 42:22 47:10,11 52:8</div><div>goal (1) 22:17</div><div>goes (2) 36:7 45:7</div><div>going (16) 1:9,10 3:11 12:4 14:6 20:4 22:25 23:24 24:5 32:25 34:19 43:19 50:1 55:10 59:2 64:3</div><div>gone (2) 6:16 28:10</div><div>good (16) 1:4,7,8,13,14,15 2:15 3:8,9,4 3:11 24 28:6 50:1,14 64:18</div><div>gov (3) 18:20,22 19:9</div><div>government (10) 20:14 21:15 23:24 24:6 25:25 26:6 36:12 52:23 54:6 55:13 56:4,13</div><div>governments (5) 17:24 19:24 35:9 37:6 57:9</div><div>graham (1) 10:12</div><div>graph (1) 35:15</div><div>grateful (3) 4:2 63:8,17</div><div>great (2) 8:17,18</div><div>greater (2) 7:4 48:2</div><div>grenfell (5) 12:2,21 36:14 55:14 62:20</div><div>groups (2) 12:17,18</div><div>groups (1) 33:6</div><div>guarantee (1) 41:19</div><div>guaranteed (1) 58:10</div><div>guarantees (1) 23:2</div></div>	<div><div>H</div><div>hackitt (2) 26:7 30:24</div><div>hackitts (2) 26:2 29:11</div><div>hadnt (3) 20:7 30:1 36:4</div><div>half (2) 40:1 47:12</div><div>halfterm (2) 9:22 10:7</div><div>halfway (3) 32:6,12 45:1</div><div>hand (3) 25:21 39:16 41:20</div><div>hands (1) 14:1</div><div>happen (1) 28:18</div><div>happened (6) 24:21 30:4,4 36:4 55:25 58:14</div><div>harris (2) 18:13 21:14</div><div>having (5) 4:22 54:4 61:5 62:9,21</div><div>heading (4) 7:3 26:1 34:24 56:10</div><div>hear (4) 1:12 59:24 63:19 64:3</div><div>heard (2) 17:5,7</div><div>hearing (9) 1:5,10 2:18,19,22 48:12 49:5 64:21 65:1</div><div>heavily (1) 15:1</div><div>height (2) 7:5 44:7</div><div>held (1) 31:7</div><div>help (4) 13:9 18:16 33:5 61:24</div><div>helped (1) 11:17</div><div>helpful (2) 50:2 63:18</div><div>here (10) 15:12 17:23 19:22 22:20 32:6 34:13 38:4,12 47:2 51:25</div><div>hes (2) 15:24 17:19</div><div>hi (2) 49:25 61:3</div><div>high (1) 57:5</div><div>highest (1) 54:10</div><div>highlighting (1) 41:23</div><div>highly (2) 48:1,1</div><div>highrise (2) 20:16 32:11</div><div>himself (2) 20:24 34:6</div><div>hold (1) 23:13</div><div>holiday (2) 9:23 10:7</div><div>holidays (1) 9:22</div><div>hollinrake (3) 5:13 26:13 60:11</div><div>homes (1) 57:12</div><div>honeycomb (5) 13:16,19,21,22 14:4</div><div>honourable (1) 57:13</div><div>housekeeping (1) 1:17</div></div>	<div><div>houses (1) 60:11</div><div>housing (5) 25:24 26:5 36:12 52:23 54:5</div><div>however (1) 37:25</div></div>	<div><div>I</div><div>ian (1) 10:12</div><div>id (7) 1:16 28:7,15 29:7 43:22 50:22 62:18</div><div>idea (2) 13:11 31:4</div><div>identified (1) 30:23</div><div>idiot (1) 51:17</div><div>idx0654 (1) 64:12</div><div>ignore (1) 54:23</div><div>ill (6) 3:5 4:7 25:22 45:7 62:23 63:3</div><div>illustrate (2) 45:5,16</div><div>im (51) 1:5,10 2:14 4:2,7,14,24 5:8 6:1,8 7:12,16,16,25 14:16,21,25 15:12 17:15 19:20 20:8 21:17 22:25 28:4,8,24 29:4 32:6,12 33:10,24,24 34:19 37:15 38:8 40:2 41:22 43:11,15,18,21 46:9 47:21 49:18 50:21 51:14 53:16,20 55:10 59:2 63:15</div><div>imagine (1) 27:22</div><div>immediate (1) 57:1</div><div>immediately (2) 24:13 36:13</div><div>imensely (1) 29:8</div><div>imminent (1) 48:11</div><div>imperative (1) 34:4</div><div></div></div>
--	---	--	--	--	--

<p>media (5) 12:1,3,4 23:25 49:4</p> <p>meet (10) 16:23 32:6,12 37:10 40:6 41:2 45:10,12 46:14 56:21</p> <p>meeting (12) 6:20 8:7,9,16 9:1,3,8,14,19 10:3,6,20</p> <p>meets (1) 57:4</p> <p>members (3) 1:6 3:8 63:13</p> <p>mention (1) 42:22</p> <p>mere (1) 33:17</p> <p>message (5) 19:7 20:1,12 51:17 52:10</p> <p>messages (1) 2:4</p> <p>messaging (1) 52:14</p> <p>met (1) 43:3</p> <p>metal (1) 13:17</p> <p>metres (8) 5:20 18:24 19:11,25 20:2,9 24:8 46:6</p> <p>mhcdg (11) 21:19,24 22:19 23:11,13 31:15 32:24 52:17 56:9 61:13 62:6</p> <p>might (5) 3:12 18:15 29:24 62:3,6</p> <p>millett (20) 2:16 3:8,20,23 4:2 7:12,16,20 8:2 33:14 58:21 59:6,7 60:2,4,5 63:5,11,24 64:4</p> <p>million (2) 33:15,18</p> <p>mind (8) 3:18 6:5,9 18:20 22:22 28:23 31:2 50:22</p> <p>mineral (2) 35:7,12</p> <p>ministers (2) 19:2 54:10</p> <p>ministry (2) 36:11 54:5</p> <p>minutes (3) 2:23 3:22 6:19</p> <p>mislead (1) 47:15</p> <p>misleading (1) 15:24</p> <p>missed (1) 2:24</p> <p>missing (2) 36:22 40:18</p> <p>mobile (1) 2:2</p> <p>mobilise (1) 23:23</p> <p>module (4) 64:1,6,17,22</p> <p>modules (1) 62:22</p> <p>moment (5) 5:1 21:23 28:23 42:10 59:4</p> <p>monday (6) 12:3,5,7 64:20,24 65:2</p> <p>money (2) 31:19 34:1</p> <p>month (1) 48:10</p> <p>months (2) 22:3 49:12</p> <p>moorebeck (20) 1:4,9,15,22 2:1,6,15 3:17,21,24 7:12,18,25 59:5,17,21 60:1 63:11,24 64:18</p> <p>more (20) 2:17 4:21 19:22 30:18 32:3 34:19 44:14 46:21 48:1 49:16 52:3 53:4 56:18 57:11 58:3,11 59:11,22 60:2 62:23</p> <p>morning (20) 1:4,7,8,13,14 2:9 3:8,9,9,13,13 4:3 6:21 11:24 12:8 34:7 51:13 61:8 64:20,24</p> <p>mornings (1) 12:5</p> <p>move (2) 6:9 22:3</p> <p>moved (1) 58:16</p> <p>mp (3) 44:18 56:10 57:14</p> <p>mps (5) 4:16 5:18 48:20 50:4,6</p> <p>ms (2) 1:6,7</p> <p>much (17) 2:6,15 14:1 22:5 48:2 50:2 58:21 59:17 60:1,6 62:21 63:5,7,9,21 64:18,23</p> <p>murray (5) 11:12,15,16 12:17,18</p> <p>murtagh (13) 6:23,23 12:10 20:24 21:2,13 34:5 52:19 53:25 54:15,18,22 55:2</p> <p>must (4) 4:14 5:4 8:20 41:8</p> <p>myself (2) 27:16 63:13</p>	<p>namely (2) 41:13 58:2</p> <p>narrative (1) 12:2</p> <p>nature (1) 34:10</p> <p>nb (1) 22:5</p> <p>necessarily (1) 58:9</p> <p>necessary (4) 3:3 30:21 42:7 57:10</p> <p>need (18) 2:9 4:8 14:1,18 15:6 18:21 19:4 22:1,2,17 28:15 48:20 49:11 50:16 58:24 59:7,11 61:4</p> <p>needed (1) 8:15</p> <p>needs (3) 19:2 49:13 50:3</p> <p>neil (4) 60:24 61:3,12,19</p> <p>never (3) 5:21 6:9 28:23</p> <p>next (3) 22:3 31:10 53:3</p> <p>nhb00000940 (1) 10:10</p> <p>nhb00008283aic (1) 6:6</p> <p>nhbc (6) 7:3,9 8:11 9:2 10:12,18</p> <p>non (2) 7:23 19:2</p> <p>noncombustible (1) 8:1</p> <p>nondisclosure (1) 44:9</p> <p>nonetheless (1) 58:3</p> <p>normal (2) 3:14,24</p> <p>normally (1) 28:18</p> <p>note (3) 8:10,25 10:18</p> <p>noted (1) 8:21</p> <p>nothing (4) 31:18 51:1 52:12 57:11</p> <p>notwithstanding (1) 46:7</p> <p>number (5) 3:11 4:12 41:10 47:25 49:6</p>	<p>pargeter (6) 9:10 12:11,15 16:16 31:22 51:10</p> <p>parliament (1) 60:11</p> <p>parliamentary (1) 29:6</p> <p>part (22) 3:4 4:17 5:15,21 7:18 9:16 14:12 19:14,17 22:7 24:11 27:8 30:17 32:3 34:22 37:16 38:22 42:11 45:13,18 46:13 62:24</p> <p>particular (4) 60:24 61:22 62:13 63:2</p> <p>particularly (1) 28:13</p> <p>party (1) 26:15</p> <p>pass (16) 4:13,22 22:15,16,23 23:1 41:19 43:4,10,14,15 44:6 45:24 46:12,19 58:10</p> <p>passage (2) 6:15 15:5</p> <p>passed (5) 5:5 20:20 24:22 25:3 41:16</p> <p>passing (1) 58:13</p> <p>past (2) 17:13,18</p> <p>pause (2) 6:7 14:20</p> <p>pausing (2) 26:8 36:2</p> <p>pdfs (1) 36:18</p> <p>pe (5) 13:18 18:6 37:19,19 38:1</p> <p>penultimate (1) 18:1</p> <p>people (20) 11:12 13:17,18,22 16:10,11,14,18,19,20,20 24:17 26:12,17 27:4 30:12 32:5 48:1 57:12 62:13</p> <p>per (1) 25:16</p> <p>perform (1) 37:18</p> <p>performance (2) 19:11 41:15</p> <p>performs (1) 40:14</p> <p>perhaps (5) 3:14 13:9 24:14 33:5 53:17</p> <p>permitted (1) 37:5</p> <p>perrior (1) 10:12</p> <p>person (3) 27:2,25 49:13</p> <p>personal (3) 32:13 34:9,13</p> <p>personally (1) 49:10</p> <p>perspective (1) 34:9</p> <p>perverted (1) 55:15</p> <p>peter (8) 6:23 9:10 12:11,16 15:1,3 21:13 47:21</p> <p>phone (2) 2:2 9:17</p> <p>pick (2) 11:7 39:8</p> <p>picking (2) 12:24 15:3</p> <p>picture (4) 40:1,11 42:23 47:12</p> <p>piece (5) 10:9 24:5,9,11 34:23</p> <p>pieces (1) 24:10</p> <p>pin (1) 22:1</p> <p>place (3) 12:20 34:18 40:8</p> <p>plan (10) 19:22 20:6,17 23:6,14 24:11,21 42:6 55:3,6</p> <p>planned (1) 36:4</p> <p>platform (3) 9:15,16 10:20</p> <p>play (1) 27:8</p> <p>please (27) 1:19 4:4,6 6:5 7:2 8:24 10:10,15 11:9,25 12:13 17:16,17 18:11 21:8 34:18 38:8 44:15,23,25 50:6 52:16 56:8 59:10,12,15 60:21</p> <p>plenty (4) 39:11,12 46:11,16</p> <p>pocket (1) 33:17</p> <p>pointing (2) 21:19 43:1</p> <p>points (1) 12:24</p> <p>poking (1) 35:23</p> <p>poor (1) 41:15</p> <p>portrays (1) 49:15</p> <p>position (12) 1:18 8:6,15,22 28:19 30:13 31:11 32:15 52:2,11,13 55:12</p> <p>positioned (1) 49:20</p> <p>positions (1) 62:14</p> <p>possible (8) 5:9 9:25 10:1 18:23 19:5 40:21 54:6 59:9</p> <p>possibly (1) 64:16</p> <p>potential (1) 21:24</p>	<p>pr (5) 11:18,18 61:6,25 62:6</p> <p>precisely (3) 39:3 46:23 64:10</p> <p>preliminary (1) 36:16</p> <p>preparation (1) 52:8</p> <p>prepared (1) 58:22</p> <p>preparing (2) 49:5 51:23</p> <p>present (4) 5:18 6:22 26:16 52:1</p> <p>presentation (1) 43:23</p> <p>previous (6) 14:8 25:16 26:9 31:16 32:1 39:21</p> <p>previously (1) 57:19</p> <p>primary (1) 46:4</p> <p>prioritise (1) 19:8</p> <p>priority (2) 20:11 54:10</p> <p>probably (8) 12:25 15:2 16:10 21:20 22:5 27:22 34:18 46:9</p> <p>problem (2) 3:22 13:25</p> <p>procedure (1) 2:8</p> <p>proceedings (2) 64:1,19</p> <p>process (4) 4:18 62:24 63:4,15</p> <p>product (13) 4:18,22 5:14 19:6 30:19 32:2 39:18 40:6 56:14,15,20 57:3,8</p> <p>products (17) 4:17 34:16 35:3 37:3 39:8,11,12 40:3 41:1,24 43:3,9,13 44:2,5 52:25 58:8</p> <p>proposals (2) 35:10 37:6</p> <p>proposed (6) 15:11 19:24 22:10,11 23:14 54:21</p> <p>protect (1) 35:19</p> <p>provide (3) 15:25 18:2 29:13</p> <p>providing (1) 17:11</p> <p>public (19) 17:24 19:1 26:9 31:24 32:5,19 34:14 43:19 45:5,11,16 46:24 52:2,11 54:7,9,11,13 60:18</p> <p>publicly (1) 19:23</p> <p>publish (2) 13:25 14:13</p> <p>published (1) 33:8</p> <p>publishing (1) 14:15</p> <p>pull (1) 18:21</p> <p>purchased (1) 57:6</p> <p>purpose (1) 14:14</p> <p>pursue (1) 53:14</p> <p>pushing (1) 20:1</p> <p>putting (4) 3:6 30:9 32:24 52:10</p> <p>puzzle (1) 14:23</p>	<p>28:6 32:21,21 34:8 37:12 38:8,9 42:9 60:6 62:12,25</p> <p>questioning (1) 4:8</p> <p>questions (20) 2:17 3:2,6,7,12,16,16,25 5:8 26:12 31:2 52:4 58:23,23,25 59:9,11,22 60:3 66:5</p> <p>quick (3) 23:22 24:2 61:4</p> <p>quickly (1) 54:6</p> <p>quite (8) 6:8 17:21 32:21 33:2,21 38:9 44:17 46:13</p>	<p>R</p> <p>rachel (1) 52:17</p> <p>rainscreen (1) 10:13</p> <p>rainscreens (1) 21:25</p> <p>raise (2) 2:12 41:17</p> <p>ralph (1) 44:19</p> <p>randle (2) 9:13 10:13</p> <p>rated (3) 36:9,10 52:25</p> <p>rather (5) 7:24 8:5 50:12 53:22 54:1</p> <p>rating (2) 37:18 58:4</p> <p>read (16) 4:9 14:12,18,18 15:19 17:16 21:6 28:15,18 30:1 37:13 41:11 45:2,7 63:1 64:5</p> <p>reading (3) 7:16 15:12 64:13</p> <p>reads (1) 22:13</p> <p>realise (1) 38:20</p> <p>really (4) 31:21,21 32:25 38:9</p> <p>reason (5) 17:12 29:14,20 39:25 45:20</p> <p>reasons (1) 3:2</p> <p>recall (17) 6:10 8:7,9,12 10:3 14:10 16:25 23:22 24:2,4 28:4 30:6 53:9 56:1,6,7 61:14</p> <p>receive (2) 16:5 63:2</p> <p>received (4) 11:4 14:23 37:1 53:10</p> <p>receiving (1) 2:4</p> <p>recent (1) 44:14</p> <p>recipient (2) 15:10 54:20</p> <p>reclad (1) 21:19</p> <p>recollection (4) 15:12 18:16 21:4 33:6</p> <p>recommendations (1) 12:20</p> <p>record (9) 26:9 38:14,22 39:4,19 58:5 60:16 64:5,13</p> <p>red (4) 12:14 13:9 14:12 15:5</p> <p>refer (4) 41:21 42:12,18 52:24</p> <p>reference (6) 37:16,24 38:4,12 53:4 64:11</p> <p>referred (8) 6:15 14:4 19:19 39:2 42:17 51:25 54:4 57:1</p> <p>referring (4) 42:21 50:13 54:20 64:7</p> <p>refers (2) 22:20 53:19</p> <p>reflect (1) 63:4</p> <p>reflected (1) 62:22</p> <p>regard (2) 5:9 62:5</p> <p>regains (1) 49:22</p> <p>regime (1) 34:4</p> <p>regulations (4) 26:3 31:12,17 37:6</p> <p>relating (3) 7:23 8:4 59:13</p> <p>relation (5) 10:15 26:6 29:10 34:11 54:8</p> <p>relationship (3) 16:7,10 61:18</p> <p>relationships (2) 16:12,15</p> <p>relatively (1) 34:10</p> <p>relevant (8) 41:22 43:7,12 45:4,16 46:1,22 64:6</p> <p>relying (1) 57:19</p> <p>remain (1) 15:17</p> <p>remains (1) 63:6</p> <p>remember (15) 5:6 6:11,14 8:12 9:19 10:25 11:2 13:10 19:16 23:19 24:1 36:2 56:3,4 57:15</p> <p>remotely (1) 9:24</p>	<p>repeat (3) 22:25 38:8 43:11</p> <p>repeating (1) 46:9</p> <p>replacing (2) 13:19,23</p> <p>replica (1) 36:11</p> <p>replies (1) 18:14</p> <p>report (8) 7:8 12:1,2 23:23 24:24 36:16 56:19,23</p> <p>reports (3) 7:9 12:5 36:24</p> <p>represent (3) 38:16 40:9 49:17</p> <p>representative (2) 35:21 49:8</p> <p>required (4) 9:9 49:9 53:1 57:4</p> <p>requirements (3) 45:10,12 46:15</p> <p>requiring (1) 46:5</p> <p>residential (1) 57:5</p> <p>resolved (1) 8:13</p> <p>resolving (1) 7:7</p> <p>respond (1) 54:22</p> <p>responded (2) 9:8 54:15</p> <p>response (8) 48:14 49:24 52:20 53:11,14,17,17,21</p> <p>responsibility (1) 28:21</p> <p>responsible (3) 11:20 30:9 34:12</p> <p>rest (3) 13:12 34:11 45:7</p> <p>rested (1) 51:19</p> <p>result (4) 44:11 47:5,6 57:18</p> <p>results (7) 12:19 25:1,7 44:10 47:10 56:17 62:3</p> <p>resume (1) 59:10</p> <p>resumed (1) 51:7</p> <p>resuming (1) 64:20</p> <p>retain (1) 24:6</p> <p>reveal (3) 33:25 39:16 44:12</p> <p>revealing (2) 38:21 47:11</p> <p>revenue (2) 33:18 34:10</p> <p>review (3) 26:3,7 29:11</p> <p>reviewing (1) 27:8</p> <p>revisit (1) 6:2</p> <p>richard (10) 1:3,10 6:24 7:5 49:4,19 50:1,13,21 66:3</p> <p>richards (1) 49:6</p> <p>rig (2) 36:11,19</p> <p>righthand (1) 6:25</p> <p>rise (1) 57:5</p> <p>risk (4) 39:13 49:18 54:7,11</p> <p>risks (1) 23:12</p> <p>robustness (1) 63:1</p> <p>rockwall (5) 26:16 35:7,12 36:9,17</p> <p>rolling (1) 2:21</p> <p>room (4) 1:19 2:2,18,22</p> <p>rooted (1) 31:13</p> <p>route (20) 20:4,19 38:17 39:9 40:5,16 41:2 42:1,24,25 43:3,9,13 44:3,6 46:2,4,12,18 58:9</p> <p>run (3) 1:16 17:13,18</p> <p>running (1) 31:16</p> <p>runs (1) 26:21</p> <p>rwg2 (1) 22:2</p> <p>ryan (4) 48:14,17,25 49:23</p>	<p>S</p> <p>safe (2) 13:5 57:12</p> <p>safely (1) 13:2</p> <p>safety (18) 19:1 26:3 30:19 32:5,19 34:15 37:11 45:5,11,17 46:24 54:7,9,11,13 55:14 56:13,24</p> <p>same (6) 2:7,8 15:19 30:12 53:19,22</p> <p>samples (2) 56:17,21</p> <p>satisfy (1) 41:25</p> <p>saw (16) 6:16 10:18 24:20,22 28:8,25 30:3,7,25 34:7 37:13 38:20 51:3,8,8,9</p> <p>saying (4) 5:6 21:2 32:23 50:24</p> <p>scale (6) 18:24 19:11 34:24 35:1 37:9 53:2</p> <p>scenes (1) 50:25</p>	<p>schedule (2) 64:8,12</p> <p>scheduled (1) 10:20</p> <p>school (1) 9:22</p> <p>science (2) 31:13 55:15</p> <p>scientific (1) 31:18</p> <p>screen (6) 6:5 7:13,17 35:14,23 50:6</p> <p>screening (1) 13:2</p> <p>scroll (3) 18:15,17 27:10</p> <p>scrolling (1) 50:10</p> <p>second (9) 7:18 18:12 21:8 30:17 35:20 48:16 50:15 57:24 60:19</p> <p>secretaries (1) 27:22</p> <p>secretly (1) 55:15</p> <p>sectional (1) 36:18</p> <p>see (68) 1:12 2:11 4:7 6:22,24 7:3,21 8:10,18,24 9:9,11,18,24 10:8,15 11:11,25 12:14,16 15:4 17:12,15,21,21,25 18:13 19:13 20:12,20 21:1,10 22:7 24:18,24 25:1,12,22 26:19,20 27:10,18 28:3,5 30:5 35:14,23 36:23 38:4 40:14,18 48:14,16,24 50:5,24 51:11,11 52:18 53:3,5 59:10,15,21,23 60:8,25 61:9</p> <p>seeing (2) 11:2 19:16</p> <p>seek (1) 53:14</p> <p>seeking (4) 45:6,17 46:24 61:11</p> <p>seem (1) 60:23</p> <p>seems (2) 7:9 21:14</p> <p>seen (8) 10:21 28:10 34:6 44:22 53:7 54:18 62:8,9</p> <p>select (45) 23:24 25:20,25 26:6,10 29:6,13,14,22 31:5 36:3 39:17,24 40:1,10,20 41:1,4,5,12 42:5,13,23 43:8,12,24 44:19 45:4,15,19 46:2,22 47:4,12,15,19 48:5,12 49:5 51:24 52:9,24 53:12 55:5,8</p> <p>selected (12) 38:5,13,16 39:3,3,17,18,24 40:12,21 48:4 55:6</p> <p>selecting (1) 41:9</p> <p>selfinterest (3) 31:25 32:22,23</p> <p>sell (1) 32:10</p> <p>send (2) 12:4 23:23</p> <p>sending (1) 12:18</p> <p>sense (2) 50:21 63:15</p> <p>sensible (1) 3:12</p> <p>sent (12) 8:11 10:17 11:3 18:13 23:24 24:17 25:23 28:5 44:18 60:22,24 61:1</p> <p>sentence (6) 7:20 15:15 18:1 31:10 32:1 45:14</p> <p>september (6) 11:10 12:17 31:16 34:3 56:1,9</p> <p>series (1) 11:25</p> <p>seriously (1) 47:6</p> <p>set (4) 29:9 36:23 51:16 56:22</p> <p>setting (1) 47:14</p> <p>shall (3) 7:10,22 8:3</p> <p>share (3) 45:19 61:6,16</p> <p>shared (2) 45:3,15</p> <p>sheathed (1) 35:18</p> <p>sheet (1) 35:18</p> <p>short (2) 59:8,19</p> <p>should (19) 12:23 13:14 15:6 17:18,19 20:3,9 21:15 37:8 39:1,2 40:12 44:7 47:7,18 52:1 54:9 60:16 64:5</p> <p>shoulder (7) 15:8,10,22 16:4 17:3,10,13</p> <p>show (15) 6:18 9:6 21:8 23:14 34:15,19 41:23 44:2 48:8,20,20 50:16,16 52:16 56:17</p> <p>showed (1) 50:15</p> <p>showing (3) 18:1 21:11 53:16</p>
---	---	---	---	--	--	---	--	--

shown (3) 31:24 49:1 54:18	succeeded (4) 25:15 42:8	tested (6) 19:12 20:10 42:1	20:17 21:24 46:20	whole (1) 64:2	18 (8) 5:20 18:24 19:11,25
shows (1) 32:1	46:7 55:6	45:11 56:16,17	trying (12) 8:13 15:25,25	whom (4) 16:13,14 18:13	20:2,9 24:8 46:6
side (1) 50:8	success (1) 42:22	testing (18) 4:17 7:7,8 13:24	18:2 28:24 32:18 37:21	45:23	180m (1) 10:14
sign (1) 27:7	successful (6) 5:15,21 41:21	14:13 18:24 20:3 31:6	38:16 39:6,8 40:17 44:2	whos (2) 49:11,12	18m (1) 13:5
signature (3) 27:10 28:1	47:5,6 60:14	32:4,8 34:5,15 46:5 48:3	tuesday (1) 12:3	whose (2) 15:10 16:4	19 (1) 18:10
29:19	successfully (1) 41:6	49:14,16 52:14 56:15	turn (4) 21:23 35:13,24	wide (5) 23:23 24:13,16	
signed (6) 27:7,9,16 28:25	succinctly (2) 46:13 52:4	tests (12) 13:2 30:19 34:24	36:21	25:8,14	
44:19 57:13	suggest (6) 3:11 33:2 39:23	35:2,3,5 36:12 37:9 54:21	turnover (1) 33:6	widely (1) 57:8	
significant (1) 34:14	40:11,16,19	56:14 60:13,17	twice (1) 63:15	wider (1) 12:18	
significantly (1) 33:21	suggested (3) 17:14,15 23:5	text (2) 14:12 15:5	typical (3) 20:18 35:8,16	wilkins (1) 10:11	
since (4) 5:14 20:6 28:14	suggestion (1) 21:15	thank (20) 1:22 2:6,15 3:23		wilson (6) 6:23 9:10	
31:16	suggests (1) 17:18	4:2 53:23 58:21 59:6,17,25		12:11,16 15:1 21:13	
sincerest (1) 62:19	suited (1) 49:16	60:1 63:5,6,9,10,11,21,22		wish (1) 61:6	
single (2) 40:5 64:7	summarising (1) 21:17	64:18,23		12:11,16 15:1 21:13	
siobhan (5) 18:14 21:13	summary (1) 12:19	thanking (1) 26:4	uk (4) 35:8,17 44:21 57:8	wished (1) 60:14	
48:18 50:6,11	supplier (1) 57:2	thanks (2) 2:14 63:12	undermine (2) 19:23 52:11	withdraw (1) 57:3	
sir (20) 1:4,9,15,22 2:1,6,15	support (4) 22:4 23:15 24:6	thats (15) 17:16 27:15	undermined (2) 46:23 47:6	withdrawn (1) 56:2	
3:17,21,24 7:12,18,25	30:23	28:6,7 30:5 33:17 34:12	undermining (1) 52:12	withdrew (1) 63:23	
59:5,17,21 60:1 63:11,24	supported (1) 17:9	39:14 40:16,18 47:13,16	underneath (1) 35:15	witness (13) 1:14,21,25	
64:18	supporting (1) 35:4	51:20,24 58:7	understand (1) 59:16	2:5,14 59:3,16,25	
sit (3) 31:14 32:25 34:13	supports (1) 37:7	themselves (1) 56:5	understanding (8) 16:9	63:10,22,23 64:6,8	
site (1) 38:18	sure (26) 4:14,24 6:8	thereby (1) 41:7	20:18 22:14,23 23:17 24:9	witnesses (1) 64:11	
sits (1) 34:23	14:16,21,25 17:15 19:20	therefore (10) 2:24 10:3	38:15 50:4	wondered (1) 21:3	
slightly (1) 46:20	20:8 25:16 28:4,8 29:17	12:6 37:4,22 40:4 46:17,18	unfairly (1) 42:23	wont (2) 3:22 46:17	
small (2) 32:3 34:10	32:6,8,10 33:10,24 36:22	49:16 56:23	unfolds (1) 50:5	wool (1) 13:6	
small (7) 4:11,12,22 5:5,14,14	37:15 40:2 41:22 43:18	therein (1) 29:16	united (1) 5:19	work (2) 33:24 54:6	
56:16	47:21 49:18 52:10	theres (2) 26:21 38:4	unless (1) 3:1	worked (2) 27:23 47:24	
sole (1) 20:15	surely (1) 60:18	thermocouple (1) 36:15	until (6) 5:13 6:16 22:4 57:3	worst (1) 50:2	
solely (1) 31:17	surprised (1) 48:4	theyll (2) 48:21 50:17	64:23 65:1	worth (1) 33:18	
solid (1) 35:12	suspect (1) 3:21	theyre (3) 37:21 40:17 41:23	unusual (4) 28:12	worthless (2) 23:15 57:20	
solution (1) 18:25	suspected (1) 58:2	theyve (1) 58:18	29:21,23,24	wouldnt (6) 25:17 27:5 31:4	
solve (2) 7:22 8:3	suspended (1) 56:2	thing (6) 6:2 40:18 50:2	upon (1) 50:13	35:8 43:25 51:21	
somebody (7) 13:7	suspension (1) 57:15	53:22 60:19 64:4	urn (1) 64:9	write (1) 12:23	
15:1,13,14 26:16 29:1,22	sweep (1) 59:8	third (7) 7:20 12:13 35:22	used (12) 9:16 13:2	writes (1) 12:15	
somehow (1) 47:3	switch (1) 13:21	41:22,23 44:1 54:3	20:2,9,19 21:19 34:16	writing (3) 12:15 29:5 64:11	
someone (1) 49:11	system (20) 7:23 8:4 9:17	though (2) 7:23 50:8	37:4,22 39:10 44:7 57:8	written (5) 12:25 13:9 22:13	
something (4) 22:12 58:1	13:23,24 20:18 30:19 35:2	thought (2) 5:3 50:22	useful (1) 51:17	42:16 44:16	
60:7 62:4	36:8 37:4 38:16 41:3,9	threat (1) 7:4	using (1) 21:25	wrong (4) 43:2 44:5 48:22	
sometimes (1) 62:13	42:1,3 43:8,13,19 44:2	threatened (1) 6:13	usual (3) 1:5,17 59:3	50:18	
soon (1) 37:1	53:2	three (2) 35:1,5		wrote (2) 18:18 53:25	
sort (3) 2:10 61:18,21	systems (18) 5:20 19:11	through (8) 1:17 20:3,4			
sorts (2) 17:3 23:2	20:2,9 34:16 37:8,9 41:18	25:23 28:16,17 40:16	vague (1) 16:19		
sounding (1) 16:19	42:24 43:2 44:7 45:9,12	62:15	vaguely (1) 8:8	xrathern (1) 21:21	
speak (3) 24:21 48:2 51:18	46:5,11,14 52:25 58:8	throughout (1) 32:16	valcan (2) 13:20 14:4		
specific (2) 34:8 63:3		thursday (2) 1:1 6:20	value (1) 61:5		
specification (1) 56:22		tiel (1) 6:22	various (1) 49:11		
specified (1) 56:18		time (30) 9:6 10:18 12:7	video (3) 19:1,18 36:24	yeah (5) 8:8 21:6 26:23	
speculate (1) 62:2	t (1) 9:13	14:3,7,7,18 16:24 17:4,22	virtual (2) 2:18,19	29:20 33:10	
speculating (1) 28:7	taken (3) 2:25 54:9 57:1	18:4 19:3,15 20:22 21:4	virtually (1) 57:20	year (5) 31:16 33:13 44:17	
speculation (1) 62:10	taking (3) 13:18 19:9 54:6	22:8,10,22 23:4,4 29:12	virtues (1) 4:19	48:9 58:17	
spencer (1) 6:23	talk (5) 13:15 17:2 50:3	31:8 38:15 41:9 44:17 51:3	vital (1) 23:10	years (3) 4:12 47:25 55:21	
spoke (1) 18:19	59:12 61:8	60:12,20 61:9 62:8	vitacore (25) 14:8 18:5	yesterday (12) 2:8,20 4:5	
squarely (1) 51:15	talked (1) 34:11	times (1) 49:6	20:13 22:11 23:12	6:3,10,15 10:18,24 11:7	
stage (5) 2:11 4:10,24 5:4	talking (2) 17:19 32:2	toby (1) 10:13	36:10,18 37:17 38:6,13,22	20:17 24:20,22	
64:3	tallied (1) 21:3	today (6) 1:9 31:14 49:5	39:3,18,19,25 40:13 41:5	yet (3) 9:8 36:4 60:17	
standard (4) 20:15 53:2	tap (7) 15:8,11 16:5,8	56:13 64:1,20	55:6 56:1,5,11,14 57:6,15	you'd (4) 31:6 33:11 49:16	
56:24 57:4	17:3,10,13	today (1) 1:5	58:2	50:22	
standards (2) 53:1 57:2	team (2) 16:16 27:23	together (3) 10:10 30:11	vitribondsic (1) 19:5	youre (10) 1:19,20 2:10	
start (5) 8:2 9:4 26:4 34:18	technical (5) 28:20,23 34:23	31:22	voice (1) 50:22	17:21 29:4 32:22 33:21	
62:18	48:21 50:17	told (8) 5:3 10:23 18:4 21:5		38:9 59:13 63:20	
starting (1) 48:25	technicalinstallation (1)	34:20 43:24 47:22 50:12		yourself (9) 6:24 16:23 23:4	
statement (3) 30:25 31:3	30:23	tony (5) 48:14,17,25		25:13 26:24 30:9 42:11	
33:7	technically (2) 43:15 49:13	49:23,25	wall (1) 35:18	50:19 53:10	
statements (6) 33:8,12	telling (6) 24:23 31:4 39:23	too (2) 50:2,8	wanting (1) 29:12	youve (1) 34:10	
64:2,6,8,21	54:23,24 57:25	took (3) 12:20 19:17 40:8	wants (1) 18:22		
status (1) 9:8	temptation (1) 13:21	touch (1) 1:11	wasnt (14) 10:6 22:21 24:9		
steel (2) 35:18,18	tentative (1) 9:6	tower (4) 12:21 36:14 55:14	25:16 26:16 28:21 29:21		
step (1) 19:10	terminate (1) 64:19	62:20	32:21 33:9 38:9		
still (4) 2:10 33:22 40:2	terms (2) 33:23 34:6	traceability (1) 30:22	45:15,21,24 46:15		
44:18	test (108) 4:13,20,23	track (5) 38:14,22 39:4,19	way (19) 4:1 5:11 15:19		
stone (1) 13:6	5:15,22 7:9 12:19 14:8	58:5	17:2,12,22,25 18:2 20:19		
stop (1) 59:9	19:5 20:14,15 22:3,4,10	tracking (1) 12:1	22:13,13,15,20 32:4,18		
stops (1) 18:21	23:6,12,14,19,20,23	trade (2) 15:7 18:23	49:15 58:7,12 64:13		
strange (2) 30:2,3	24:4,12,21,24	trading (1) 57:2	website (1) 64:14		
strategy (2) 17:23 20:22	25:1,1,3,8,9,14,15,17	tragedy (2) 36:13 62:20	week (3) 9:23 18:10 26:9		
strike (1) 30:3	35:6,11,16,20,20,22,22,25	training (4) 49:4 51:24	weekly (2) 11:25 12:4		
strong (2) 16:9,11	36:4,8,11,14,19,24 37:3,14	52:3,7	weight (1) 13:22		
strongly (1) 58:2	38:7,14,23 39:5,14,20	transcriber (2) 3:15,19	welcome (2) 1:4 59:21		
structured (1) 13:17	40:3,14,22,23	transcript (4) 2:21,24 4:5	went (5) 28:8 30:6,7,7 32:8		
stuff (1) 28:21	41:3,10,13,21,22,23	60:8	werent (4) 4:19 10:22 15:24		
subject (5) 9:2 37:8	42:1,3,5,6,7,10,12,18	transparency (1) 30:22	26:13		
64:4,15,16	43:4,6,10,25,25 44:1,8,10	true (2) 50:20 55:12	weve (3) 10:20 19:8 54:18		
subjected (1) 49:4	45:3,20 46:6,12,19,23	trumpeting (1) 4:19	whatever (2) 29:18 30:21		
submitting (1) 7:9	47:5,5,10,11 53:2,5	truth (1) 47:2	whats (3) 21:17 36:23 62:22		
subtle (2) 13:16 14:1	54:4,24,25 55:3,4,5,7 56:4	truthful (1) 33:4	whatsoever (1) 32:17		
succeed (1) 19:9	57:18 58:6,10,13,15 60:20	try (7) 3:17 7:22 8:3 17:23	whenever (1) 37:12		
	62:4		whilst (1) 13:14		