

OPUS 2

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Grenfell Tower Inquiry

Day 60

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1 Tuesday, 27 October 2020
 2 (10.00 am)
 3 SIR MARTIN MOORE-BICK: Good morning, everyone. Welcome to
 4 today's hearing.
 5 Today we're going to begin hearing from expert
 6 witnesses instructed by the Inquiry, but it may help if
 7 I just say one thing before we start.
 8 We're not inviting the experts at this stage to give
 9 us their opinions on possible recommendations for
 10 changing the existing state of affairs. That's
 11 something that will come later on, but for that reason
 12 they will not be asked questions about potential
 13 recommendations at this stage, and we shall not be
 14 inviting core participants to provide us with questions
 15 in relation to that matter.
 16 Yes, Ms Grange.
 17 MS GRANGE: Yes, thank you, Mr Chairman.
 18 If we could have our building control expert now,
 19 Ms Beryl Menzies, please.
 20 MS BERYL MENZIES (affirmed)
 21 SIR MARTIN MOORE-BICK: Thank you very much, Ms Menzies.
 22 Would you like to sit down, please, and make
 23 yourself comfortable.
 24 THE WITNESS: Thank you.
 25 (Pause)

1

1 SIR MARTIN MOORE-BICK: Yes, Ms Grange.
 2 Questions from COUNSEL TO THE INQUIRY
 3 MS GRANGE: Yes, thank you.
 4 Good morning, Ms Menzies.
 5 A. Good morning.
 6 Q. Thank you very much for coming to give oral evidence
 7 today and for all the assistance you've provided the
 8 Inquiry with its work.
 9 I will be asking you questions today about your
 10 expert report which was prepared for Module 1 of Phase 2
 11 of this Inquiry. If at any point you don't understand
 12 any of my questions, please ask me to repeat it or put
 13 the point in a different way.
 14 If you can try and keep your voice up, the lady
 15 sitting to your right is transcribing. We want a nice
 16 clear note of your evidence.
 17 If I can just go to the reports that you have
 18 provided to the Inquiry, you first provided us with
 19 a report in October 2019, the reference for that is
 20 {BMER0000001}. There's that report. Then there was
 21 also an appendix to that report containing plans,
 22 drawings and sections, that was {BMER0000002}.
 23 Then we had an errata sheet containing corrections
 24 to that October 2019 report. Those corrections were at
 25 April 2020, and that's {BMER0000003}. Then we have

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1 an amended version of your main October 2019 report,
 2 that was dated April 2020, and that incorporates the
 3 corrections. That's {BMER0000004}. There we go.
 4 That's the main report that I'm going to be asking you
 5 questions about today.
 6 Just to complete the picture in terms of all the
 7 written reports you have provided, there was an appendix
 8 to that amended report, again containing plans, drawings
 9 and sections, dated April 2020. That's {BMER0000005}.
 10 Then there has been a further very short corrections
 11 sheet, an errata sheet, dealing with some very minor
 12 further corrections that you have done in the last few
 13 days. That's {BMER0000006}.
 14 A. Yes.
 15 Q. So that's the complete suite of reports we have from
 16 you.
 17 Can I just at this stage go to the last page of your
 18 report, your main report, that's {BMER0000004/160}. We
 19 can see in the last paragraph we have a declaration
 20 there, and we have your signature. Is that your
 21 signature?
 22 A. It is.
 23 Q. Have you provided this expert report in the same way
 24 that you would provide a report to a court?
 25 A. Yes, I have.

3

1 Q. Can you confirm that the factual matters set out in your
 2 report are true to the best of your knowledge and
 3 belief?
 4 A. They are.
 5 Q. Does your report represent your true and complete
 6 professional opinion on the matters addressed within it?
 7 A. It does.
 8 Q. Great, thank you.
 9 So I just want to start now with some questions
 10 about your qualifications and your background.
 11 If we turn within that main report, {BMER0000004/3},
 12 we can see here that you have set out your professional
 13 qualifications and your experience.
 14 We can see that you are a fellow of the Chartered
 15 Association of Building Engineers, the CABE. Can you
 16 help us, how long have you been a fellow of that
 17 organisation?
 18 A. Oh, wow, since it became a chartered organisation, which
 19 was about four years ago. Prior to that it was the
 20 Association of Building Engineers, which was preceded by
 21 the Incorporated Association of Architects and
 22 Surveyors.
 23 Q. You tell us also that you were president of the
 24 Association of Building Engineers between May 2009 and
 25 May 2010; is that correct?

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1 A. Correct.
 2 Q. How long have you been a member of the Association of
 3 Building Engineers, approximately?
 4 A. 30 years.
 5 Q. Yes, so a long time.
 6 A. A long time.
 7 Q. Now, just looking back at your career, is it right that
 8 your first role in the industry was with the
 9 Greater London Council in the Building Regulations
 10 division between 1973 and 1985?
 11 A. Yes.
 12 Q. If we look at the bottom of this page, we can see there,
 13 under that heading, that you:
 14 "Trained and promoted through grades within Division
 15 to become Group Officer responsible for the Fire
 16 Precautions Act and building legislation; and Deputy
 17 Senior Surveyor responsible for entertainment and sports
 18 licensing in Greater London."
 19 We see that there.
 20 A. Yes, that's correct.
 21 Q. Can you help, that first role, the group officer
 22 responsible for the Fire Precautions Act and building
 23 legislation, what did that role involve?
 24 A. The building legislation would have been, at the
 25 beginning, the London Building Acts, dealing

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1 specifically with matters relating to means of escape,
 2 and very large buildings where special provisions were
 3 made under section 20 of the 1939 London Building Acts
 4 (Amendment) Act, and the Fire Precautions Act was we
 5 prepared fire certificates. The Fire Precautions Act
 6 preceded the Regulatory Reform (Fire Safety) Order, as
 7 we know it now.
 8 Q. Yes, thank you, that's really helpful.
 9 After that, you tell us that you moved to the London
 10 Borough of Tower Hamlets, and you tell us you became:
 11 "A Chief Engineer implementing the
 12 Building Regulations and the London Building Acts with
 13 responsibility for specialist officers dealing with
 14 innovative new buildings under construction."
 15 So we have that there.
 16 A. Correct. That was at the time of the Docklands
 17 redevelopment, so it was a very, very busy office.
 18 Q. Yes.
 19 Then since 1991, you have been an independent fire
 20 consultant.
 21 A. Yes.
 22 Q. Can you just, in short, explain what that involves?
 23 A. It would be employed by clients, and they could be
 24 local authorities or generally independent clients
 25 whereby they would be looking for advice in relation to

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1 achieving compliance mainly with the
 2 Building Regulations, as we know them now, or to conduct
 3 risk assessments under the order --
 4 Q. Yes.
 5 A. -- as they are required.
 6 Q. Under the Regulatory Reform Order 2005?
 7 A. Correct, yes.
 8 Q. You are a director of Menzies Partners Limited. What
 9 does Menzies Partners Limited do?
 10 A. Mostly fire consultancy and now some building surveying,
 11 but my partner does that, I only do the fire surveying
 12 side.
 13 Q. Yes.
 14 Just help us, to what extent do you think that the
 15 fact that you have not worked in a local
 16 building control department since 1990 affects your
 17 ability to comment on practice within local
 18 building control departments?
 19 A. A good part of that independent practice has been
 20 working for local authorities, and seeing how they
 21 individually practice.
 22 Q. Yes.
 23 A. And I've also been on the receiving end of
 24 building control and subject to what they require and
 25 the information that they receive, et cetera.

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1 Q. So, from that answer, do we take it that you feel you
 2 have got a good awareness of what a competent
 3 local authority building control department ought to be
 4 doing?
 5 A. I do. My involvement also with CICAIR, the registration
 6 body for approved inspectors, means that we look at both
 7 sides of the coin, so to speak, so I get a good insight
 8 from the way things are changing and how each side
 9 reacts to each other, in fact.
 10 Q. Yes.
 11 Just finally in terms of your experience, can you
 12 also confirm that you have previously been a member of
 13 the Fire Safety Part B Committee of the
 14 Building Regulations Advisory Committee, or BRAC?
 15 A. That's correct, in relation to the revisions of Approved
 16 Document B in 2006.
 17 Q. Yes.
 18 Can you confirm that you have previously been
 19 a member of the Building Control Performance Standards
 20 Advisory Group, the BCPSAG, of BRAC?
 21 A. Correct, and I think that still exists, but since the
 22 fire and the changes that have pursued following the
 23 Hackitt Report, we have not met.
 24 Q. I see, yes, thank you.
 25 Now, I want to turn now just to some general

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1 questions at the beginning about the regulatory regime.
 2 If we pick it up at paragraph 55 of your report,
 3 {BMER0000004/12}, we can see that you say there:
 4 "The primary legislation was, and remains, the
 5 Building Act 1984. Section 91(2) of the Act states that
 6 it is the function of local authorities to enforce
 7 Building Regulations in their areas subject to
 8 sections 5(3) (exempt bodies), 48(1) (effect of initial
 9 notice in force) and 53(2) (effect of initial notice
 10 ceasing to be in force)."

11 So there you tell us that the Building Act 1984 is
 12 the primary legislation . Does that mean that's the main
 13 source of obligations for the building control body,
 14 that they're derived from that Act?

15 A. Inasmuch as that instructs the local authority to
 16 enforce Building Regulations in their area and allows
 17 regulations to be made, Building Regulations to be made,
 18 and approved documents to be formulated under the
 19 Government or designated body, yes.

20 Q. Yes, thank you.

21 Now, as you say, and you have just touched on it
 22 there, we know that the Building Regulations themselves
 23 are made by the Secretary of State pursuant to a power
 24 given to them in the Building Act 1984, and specifically
 25 that's section 1 of the Building Act 1984, isn't it?

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1 A. Correct, yes.

2 Q. We also know that section 6 of the Building Act 1984
 3 gives the Secretary of State the power to issue
 4 practical guidance to the Building Regulations, and
 5 those are the approved documents that you have just
 6 referred to, aren't they?

7 A. They are.

8 Q. Thank you.

9 Just on that topic of approved documents for
 10 a moment, they are not themselves the
 11 Building Regulations, are they?

12 A. No, they are not.

13 Q. Is it fair to say that their purpose is to give
 14 practical guidance as to how to meet the requirements of
 15 the Building Regulations themselves?

16 A. It is, but they are not the only means of doing so. One
 17 can adopt British Standards or other guidance or start
 18 from basic principles of fire engineering.

19 Q. Yes.

20 A. But they are used to set the level at which one should
 21 attain a minimum standard of reasonable fire safety .
 22 They are minimum standards for most generic buildings.

23 Q. Yes.

24 A. But if you had an unusual building, you may not even go
 25 near Approved Document B, but you would always look to

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1 the standard in them to compare.

2 Q. Yes, as a benchmark?

3 A. Indeed, yes.

4 Q. And that description that you have just given, is that
 5 how they should be understood by building control bodies
 6 themselves?

7 A. Yes. I've got no reason to think they would think
 8 otherwise.

9 Q. Does it follow that non-compliance with an approved
 10 document does not necessarily mean that there has been
 11 a breach of the Building Regulations?

12 A. Correct.

13 Q. In your experience, what role do the approved documents
 14 play in the day-to-day work of a building control
 15 officer?

16 A. Primary document of reference, I would suggest. I don't
 17 know a building control officer who's not got
 18 an Approved Document B in particular that's not thumbled
 19 and very well used and annotated.

20 Q. Is it right that, although the approved documents are
 21 not the only way to comply with the
 22 Building Regulations, is it fair to say that if they are
 23 to be used, they should be used holistically , ie read as
 24 a whole, rather than just dipping in and out and
 25 considering sections in isolation?

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1 A. Correct, it's very important, because each part, B1 to
 2 B5, relies on the other. So an assumption in B3 leads
 3 on to recommendations in B4, or something in B2 will be
 4 reliant on B1 and vice versa, so it has to be taken as
 5 a whole. No cherry-picking as such.

6 Q. Yes, I see, yes.

7 Now, thinking about in the context of
 8 a building control officer's work, does it follow that
 9 it would be necessary to identify at an early stage on
 10 any project what route for compliance was being used,
 11 route for compliance in order to achieve the
 12 Building Regulations?

13 A. Being on what guidance would be adopted, yes, yes.

14 Q. Yes. So you're clear, are you, that a building control
 15 officer ought to have a good understanding at the outset
 16 of the project whether it's using Approved Document B as
 17 the route to compliance or a fire-engineered solution
 18 that's going to be separate from that?

19 A. Yes, and if the person looking at that project felt they
 20 did not have the experience, say, to deal with a fire
 21 engineering route, then they should speak to somebody
 22 and gain outside, perhaps, advice.

23 Q. Yes.

24 If the approved documents are going to be used,
 25 would it be necessary for the building control inspector

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1 to use the approved documents as the basis for all of
 2 their checks from that point onwards?
 3 A. For most projects, yes. As I say, the approved document
 4 addresses most types of building, but the
 5 Building Regulations are not there to stop innovation,
 6 so if there was anything there in the approved document
 7 that wasn't suitable for use on that particular project,
 8 then they would look elsewhere or ask for what was being
 9 proposed to be justified, and to include in that
 10 justification where that justification was coming from.
 11 Q. Yes. When you say that they might look elsewhere, would
 12 that normally be to some other kind of industry guidance
 13 or British Standard?
 14 A. Yes. In my experience it would normally be
 15 a British Standard, or if it's something that had
 16 occurred, say, relatively recently -- because the
 17 approved document amendments, it's quite a performance
 18 to get that amended, so sometimes it would be
 19 an industry guidance document from a recognised industry
 20 body that would be referred to.
 21 Q. Yes, I see.
 22 Now, full plans applications, I want to ask you some
 23 questions about these for the moment.
 24 We have heard that the building control process at
 25 Grenfell Tower was described in the context of a full

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1 plans application. Is it right that any works that
 2 include a workplace and are subject to the Regulatory
 3 Reform (Fire Safety) Order 2005 require a full plans
 4 application to be made?
 5 A. Yes, if the process that's adopted is the local
 6 authority building control route.
 7 Q. Yes, as opposed to the approved inspector route?
 8 A. Correct.
 9 Q. Yes, I see.
 10 If we can turn within your report at page 22
 11 {BMER0000004/22} now, we can see that you have helpfully
 12 set out there for us -- this is regulation 14. Perhaps
 13 we ought to just pick it up on the page before, just to
 14 orientate ourselves. At page 21 we can see at the
 15 bottom this is "Full plans", regulation 14 of the
 16 Building Regulations 2010. I want to focus on
 17 subsection (3) for a moment. So it says there:
 18 "(3) Full plans shall consist -- of
 19 "(a) a description of the proposed building work,
 20 renovation or replacement of a thermal element, change
 21 to the building's energy status or material change of
 22 use, and the plans, particulars and statements required
 23 by paragraphs (1) and (2) of regulation 13."
 24 Then I think we can pick it up then at (c):
 25 "(c) any other plans which are necessary to show

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1 that the work would comply with these Regulations."
 2 (b) is a specific requirement where paragraph H4 of
 3 schedule 1 imposes a requirement relating to a drain or
 4 a sewer --
 5 A. Correct.
 6 Q. -- or a disposal main; yes?
 7 A. Yes.
 8 Q. Now, just looking at section (3)(a) there, where it
 9 requires a description of the proposed building work,
 10 can you explain in practice the level of detail you
 11 would expect to be provided in that regard?
 12 A. It will vary with each project, but if it was
 13 a new-build, it would have to state that it was
 14 a new-build; if it was an extension, an extension.
 15 A refurbishment, renovation, the basic main topics,
 16 structural alterations, additional residential
 17 accommodation, things that would be matters that are
 18 addressed under the Building Regulations.
 19 Q. Yes. I see. And what kind of level of detail would you
 20 expect? Would you expect drawings, plans, to be
 21 submitted?
 22 A. Yes. Drawings/plans of a nature that would principally
 23 show that the means of escape and the Fire Brigade
 24 access were viable. Most things can be amended as the
 25 design progresses. It's very difficult to move the

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1 building if the Fire Brigade can't get there, so that
 2 has to be a fundamental proposal that the Brigade's fire
 3 access is viable, and the means of escape is a prime
 4 factor, and if it requires additional staircases,
 5 et cetera, they would require major re-design. So the
 6 principle of escape is generally paramount to indicating
 7 that it is viable.
 8 Q. Yes. Now, means of escape we know is B1 --
 9 A. B1.
 10 Q. -- in schedule 1 to the Building Regulations, and fire
 11 access is B5.
 12 A. Correct.
 13 Q. Just help us: if, though, there were going to be
 14 renovations or refurbishments which affected the
 15 external wall and touched on B4, would you expect to see
 16 detailed plans relating to that showing compliance with
 17 the Building Regulations?
 18 A. If it was a major component of the project, yes.
 19 Q. Yes.
 20 A. Not necessarily at the initial stage, but it should be
 21 part of the description, and a description that would
 22 outline the extent of the actual external wall work.
 23 Q. Yes. We may come back to this later. Would it include
 24 the materials to be used in the external wall?
 25 A. Experience would suggest at that stage it may not be

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1 defined what those materials are, because ongoing
2 planning discussions may be protracted. But the
3 principles of it should be established in an early stage
4 of the project, not necessarily at the actual point of
5 submission, but as a prime aspect of it, early into the
6 process.

7 Q. I see. Yes.

8 Then we see there section --

9 SIR MARTIN MOORE-BICK: I'm sorry, can I just intervene?

10 MS GRANGE: Sorry, yes.

11 SIR MARTIN MOORE-BICK: The purpose of a full plans
12 application, as I currently understand it, is to provide
13 information to building control that will enable
14 building control to see that the work is going to comply
15 with the Building Regulations.

16 A. Correct.

17 SIR MARTIN MOORE-BICK: If you don't know what the materials
18 proposed for use are, how can you tell whether they
19 comply with the Building Regulations?

20 A. If you had a small project like a house, you could
21 probably get all the information at the point of the
22 building regs submission. The way the project develops,
23 it's very unlikely that, at the point of a full plans
24 application, you would have all that information to
25 hand, the reason being, you want the comfort, as

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1 somebody doing the project, of knowing that
2 building control is on board and that you're getting
3 some indication that they are happy with the project,
4 but in the meantime, the design team is still furthering
5 through and ploughing through all the various stages of
6 the design to end up -- it may be the clients changing
7 their view, it may be that planning is dictating that
8 you change your view.

9 So we would not expect for a full plans application,
10 other than the most simple of buildings, for all the
11 details to be there, but you need to have sufficient
12 details to know that it's viable, and the critical ones
13 are those that would not require a major redevelopment
14 of the design.

15 SIR MARTIN MOORE-BICK: Well, I have to say, I just wonder
16 whether that's what the regulations say or whether the
17 regulations actually contemplate that you should have
18 all the information before you make a full plans
19 application. I suppose ultimately that's a question of
20 law, but ...

21 A. Yes. There are two forms of gaining
22 Building Regulations approval: one is the building
23 notice, and one is the full plans. The full plans is
24 dictated to be necessary for a building where the
25 Regulatory Reform (Fire Safety) Order, the order,

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1 imposes a requirement that the building basically should
2 be fit for purpose and that the fire precautions are
3 appropriate. To avoid a situation where a building is
4 built, is then occupied, the fire risk assessment is
5 carried out, and a significant amount of work is
6 required by virtue of that assessment, the Government
7 decided that a full plans application should be made for
8 any building where the order applied to that building on
9 occupation, whereby the fire authority, who are
10 responsible for compliance with the order, can look at
11 the building and say, "By virtue of that use, we don't
12 think this is appropriate, and recommend that the
13 following measures are incorporated at the construction
14 stage".

15 It was found in previous years, when the two pieces
16 of legislation, when it was the Fire Precautions Act,
17 were separate, that people were being asked to put in
18 additional staircases because the details of the
19 building known to building control at the time on
20 occupation were different. So the legislation allowed
21 additional measures to be required by virtue of the
22 order, shall we say, and the Government was keen to
23 avoid that because of what it imposed on the building
24 owners and the developers, et cetera.

25 SIR MARTIN MOORE-BICK: All right, thank you.

19

1 MS GRANGE: Just going back, then, to regulation 14(3)(a).

2 You have explained what you say is meant in (a),
3 a description of the proposed building work, and I think
4 you're placing reliance there, aren't you, on the fact
5 it talks about a description of the work; yes?

6 A. Yes, but then the plans go on to indicate compliance.

7 Q. Yes. So my next question was about (3)(c) there. It
8 says:

9 "(c) any other plans which are necessary to show
10 that the work would comply with these Regulations."

11 So is that what you're saying, as well as the
12 description, you've got to have enough necessary to show
13 that the work would comply with the regulations?

14 A. Yes. I think my description of how the full plans
15 regime works is supported by the fact that the
16 Government allows -- there is provision within the
17 regulations to allow a conditional approval --

18 Q. Yes.

19 A. -- whereby the building regulatory body can impose
20 conditions, which then become requirements by law,
21 whereby additional information is subsequently submitted
22 for review, and that can be accepted or rejected at the
23 time.

24 Q. Yes. Yes, great.

25 SIR MARTIN MOORE-BICK: And that would be a condition of

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1 submitting further plans which demonstrate compliance;
 2 is that right?
 3 A. Yes, plans, details, justification for what's proposed,
 4 et cetera.
 5 If the plans show a contravention, that application
 6 must be rejected.
 7 MS GRANGE: Yes.
 8 Now, just picking up, then, on another section of
 9 your report about this topic -- and I think, in essence,
 10 we've heard what you've said about this already -- if we
 11 go to paragraph 233 of your report on page 60
 12 {BMER0000004/60}, and I just want to look at the first
 13 few lines there. You say:
 14 "On any anything other than a small project, all the
 15 details required to show full compliance with the
 16 Building Regulations will not be available at the point
 17 a full plans application is deposited. The initial
 18 details submitted should indicate that the means of
 19 escape proposal is generally compliant in principle and
 20 that the fire service access is or remains adequate. If
 21 the applicant and the BCB agree, a 'conditional'
 22 approval can be issued."
 23 Then you go and explain that. So that is
 24 effectively what you have just been explaining to us
 25 just now.

21

1 A. Yes.
 2 Q. Now, on its face, the phrase -- and this picks up on
 3 the Chairman's questioning -- "full plans" does suggest
 4 that all plans relating to the works would be submitted
 5 to the building control body, but is it fair to say
 6 that, at least in practice, that is not normally what
 7 happens?
 8 A. It is not the normal practice. I think if you look at
 9 the building notice route, you are required to accompany
 10 that with a site plan at a small scale just to basically
 11 show where the building is and its relationship to other
 12 buildings, but by virtue of the building notice route,
 13 you don't actually have to give plans, details,
 14 et cetera.
 15 When you do the full plans, the term "full" I would
 16 suggest is not correct in practical terms. If you have
 17 a project, it may be that there are subcontractors who
 18 may not even have been appointed at the time the plans
 19 are deposited under the Building Regulations, so their
 20 details will be some way down the line. But the
 21 principles of compliance should be established early on,
 22 and then the details that follow on should then support
 23 that compliance.
 24 Q. Yes.
 25 After a full plans application is made, is it right

22

1 that section 16 of the Building Act 1984 requires the
 2 building control body to accept or reject the deposit of
 3 the application?
 4 A. Correct.
 5 Q. Let's turn at this point to a flowchart that you have
 6 included in your report at page 58 {BMER0000004/58}. In
 7 this flowchart you are setting out in detail how the
 8 building control process should work. I want to focus
 9 for the moment on the box right in the middle of the
 10 page, the lower white box right in that middle column,
 11 about what checks are done on receipt of the full plans
 12 application.
 13 So we can see the box before is that the applicant
 14 makes a full plans submission, they have to submit plans
 15 in duplicate plus additional copies and supporting
 16 details /information as necessary to show compliance.
 17 Then the next box is the checks that the
 18 building control body does at that point, and you have
 19 got that they check the fee is correct, is there
 20 an applicant acting for the owner, details of the owner
 21 included, application is signed and dated, if
 22 conditional approval has been agreed, and if a two-month
 23 extension period agreed.
 24 Now, would it be fair to add to that list that the
 25 building control body at that stage would be expected to

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1 check that sufficiently detailed plans were included
 2 within the application as necessary to show compliance
 3 with the Building Regulations?
 4 A. Yes. If no plans were attached, then it would be
 5 reject -- well, it wouldn't be accepted. Correct, yes,
 6 it would be a fair comment.
 7 Q. If plans are attached, should there be at least some
 8 check at that early stage that those plans are
 9 sufficient in terms of establishing the principles, as
 10 you have put it?
 11 A. I believe your statement is correct. In practice, it
 12 may be an administrative check, that there are plans
 13 attached to the application. There may not at that
 14 stage be a technical review of the application at all.
 15 Q. When you say there might be an administrative check,
 16 does that mean that it might be administrative officers
 17 within the building control body that do those checks?
 18 A. Correct.
 19 Q. And not necessarily the building control officers or
 20 surveyors that will be looking at the technical detail
 21 further down the line?
 22 A. Correct, although I would add that that administrative
 23 officer may have been trained to look at what was coming
 24 in and to establish if it was considered reasonably
 25 acceptable.

24

1 Q. I see.
 2 SIR MARTIN MOORE-BICK: Can I just ask this: would I be
 3 right in understanding that when you get a full plans
 4 application, there are really only three ways forward:
 5 one is it's rejected, but let's put that on one side;
 6 the other two are that it contains, even at that early
 7 stage, enough information to demonstrate full compliance
 8 with the Building Regulations, in which case it gets
 9 passed; or some information is missing, in which case it
 10 can be the subject of a conditional approval,
 11 conditional upon subsequent deposition of plans which do
 12 show the missing information?
 13 A. That's correct. The conditional approval has to be
 14 agreed by both parties. If the building control body
 15 looks at the application and thinks, "This is just not
 16 viable, I'm going to end up with a thousand conditions",
 17 then I would suggest they are obliged to reject it.
 18 SIR MARTIN MOORE-BICK: What I had in mind was your answer
 19 to an earlier question that you don't necessarily,
 20 in fact usually I think, expect all the information to
 21 be present about products and so on at the early stage
 22 of a full plans deposit.
 23 A. Yes.
 24 SIR MARTIN MOORE-BICK: It suggests to me that if that
 25 information is not present, albeit for good reasons, it

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1 ought to be the subject of a condition, and that the
 2 condition ought to require the deposit of plans which do
 3 show the relevant products. Is that right?
 4 A. That is correct, but some applicants do not agree to
 5 a conditional approval.
 6 SIR MARTIN MOORE-BICK: Well, in that case they get
 7 rejected, I assume?
 8 A. Exactly.
 9 SIR MARTIN MOORE-BICK: Well, that's how it works.
 10 A. Yes.
 11 SIR MARTIN MOORE-BICK: Thank you.
 12 Yes, Ms Grange.
 13 MS GRANGE: Now, at paragraph 240 of your report on page 60
 14 {BMER0000004/60}, you explain that after the
 15 building control body has undertaken its own evaluation
 16 of the plans, it then undertakes a formal statutory
 17 consultation with the fire authority.
 18 A. Yes.
 19 Q. Now, we're going to come back to this topic in more
 20 detail later, but I just at this stage want you to
 21 describe briefly what that process, that consultation
 22 process with the fire authority, involves.
 23 A. Once the building control body is generally satisfied
 24 with the application, then they would consult the
 25 Fire Brigade. In London, there is the specified form

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1 which has been agreed between the fire authority and the
 2 building control bodies in London to use this particular
 3 form because it gives the information the Brigade needs.
 4 I'm afraid at one point, some authorities were using the
 5 Fire Brigade basically as their means of escape B1 and
 6 B5 consultants, which is not the role of the
 7 fire service; they are really just there to give a view
 8 of whether the measures are appropriate for the building
 9 in use, or perhaps to comment on any other particular
 10 fire-related matter, and that can be from a small shop
 11 selling highly combustible materials and subject to
 12 other regulations, or it could be fuel storage plants
 13 whereby they would obviously have lots of other comments
 14 as regards fire safety.
 15 Q. Yes.
 16 A. But then the Building Regulations body would pick out
 17 those matters that the Fire Brigade comment on in
 18 relation to the Building Regulations, and advise the
 19 applicant of the other comments the Fire Brigade had
 20 made.
 21 Q. Yes.
 22 A. But the application should not go to the fire service
 23 unless the building control body is satisfied that, in
 24 general principles and subject to any conditions, they
 25 are satisfied with the proposals.

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1 Q. So does it follow from that that there would have needed
 2 to have been some form of technical appraisal of the
 3 application before it goes off to consultation?
 4 A. Yes, definitely.
 5 Q. Yes.
 6 You have already drawn the distinction between the
 7 full plans and the alternative to that. We know that
 8 the alternative is a building notice application.
 9 I just want to look at something you say about that on
 10 page 160 {BMER0000004/160} of your report,
 11 paragraph 571.
 12 Now, this is in the context of your discussion of
 13 the gas riser works at the tower which we will cover in
 14 Module 3, but I just want to focus on the general point
 15 that you make here. You say in that paragraph that:
 16 "A building notice is an application that allows
 17 works to be carried out without the submission of full
 18 plans. It is usually adopted for small works and where
 19 statutory consultation with the Fire Authority is not
 20 required; and by some building control bodies where
 21 albeit a building is subject to the Order ..."
 22 I think there you mean the 2005 order; yes?
 23 A. Yes.
 24 Q. "... the works have a limited impact on fire safety."
 25 So is it right that this building notice route

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1 requires a much less detailed submission to the
 2 building control body?
 3 A. Yes.
 4 Q. Can you just explain briefly, going back to full plans,
 5 what is the purpose of the requirement for a more
 6 detailed submission for the full plans submission in the
 7 context of a project where the 2005 order applies?
 8 A. It's to avoid works being required once the building is
 9 occupied. It should be the building is safe upon
 10 occupation, provided that the use as described at the
 11 full plans remains the same upon occupation.
 12 Q. Yes.
 13 A. I suppose you could give an example whereby, say,
 14 a warehouse is in fact submitted for building regs
 15 application and it's going to be used for the storage of
 16 steel. Now, it has been that a building control body
 17 would have accepted the basis of that application, and
 18 may have perhaps accepted less fire protection than
 19 would be normal for a warehouse of that type on the
 20 basis it was only going to be used for non-combustible
 21 materials to be stored. But, during the life of the
 22 building, that building becomes used for the storage of
 23 highly combustible or just general storage, whereby
 24 additional measures would be appropriate upon the change
 25 of the use of the building. That's when the order comes

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1 in, because the risk assessment must be appropriate and
 2 review the type of use of the building in relation to
 3 the fire safety measures.
 4 Q. Yes.
 5 A. These days, it would be unusual for a building control
 6 body, in my experience, to accept the use of a, say,
 7 warehouse for one purpose only, knowing that the
 8 Building Regulations and the fire safety measures relate
 9 to the building during the time of its life,
 10 effectively, so they should be appropriate for
 11 a warehouse.
 12 Q. Yes, I understand.
 13 Now, can we look at page 86 {BMER0000004/86} of your
 14 report, now, paragraph 273. You say there:
 15 "Building control invoiced Rydon for the fee. This
 16 was paid by cheque attached to a letter dated
 17 1 September 2014. Building control, by letter dated
 18 5 August 2014 acknowledged receipt of the full plans
 19 application. This acknowledgement of the full plans
 20 application, in my opinion, was the date from which the
 21 statutory time limit for a decision began."
 22 Do you see that there?
 23 Just help us, what's the statutory time limit?
 24 A. The building control body is obliged to respond to the
 25 application within five weeks, but if the applicant is

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1 agreeable and the building control body is agreeable,
 2 that time limit can be extended to eight weeks,
 3 two months. For a larger project, it would be better if
 4 the agreement for the two months was agreed, to allow
 5 the consultation to take place and the detailed review
 6 to take place on the decision.
 7 Q. Now, you ultimately conclude in your report at
 8 paragraph 326 on page 100 {BMER0000004/100}, if we just
 9 look at that briefly, you say:
 10 "The observations were sought outside the statutory
 11 time limit ... The first details of the work was
 12 received on 24 September 2014. It was not possible to
 13 have issued a decision within the statutory time limit.
 14 In my opinion this supports my view that the full plans
 15 submission should have been rejected."
 16 You see that there?
 17 A. Correct, yes.
 18 Q. So that's your conclusion?
 19 A. Yes.
 20 Q. Now, Mr Hoban's evidence when he gave evidence was that
 21 he accepted, with hindsight, that he should have
 22 rejected the full plans application due to a lack of
 23 supporting documentation, but at the time he said he was
 24 "trying to work with them".
 25 I just want to ask you about this, but before I do,

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1 I also want to ask you about something that
 2 Mr John Allen -- he was the RBKC building control
 3 manager -- said in his witness statement. If we can
 4 look at that, this is {RBK00033930/3}, and I want to
 5 look at paragraph 14. Mr Allen says, and I want to pick
 6 it up at the second sentence at the end of that first
 7 line:
 8 "In recent years with 'design and build', project
 9 information often arrived in stages throughout the
 10 build. Statutory time limits regarding approval or
 11 conditional approval or rejection were not usually
 12 adhered to in practice. In theory if no decision was
 13 made the application would be 'deemed' approved but in
 14 reality no applicant ever took this point."
 15 So that's the evidence we have of the
 16 building control officers, and I want to ask you
 17 a series of questions about that.
 18 In your experience, is it common for
 19 building control officers to disregard the statutory
 20 time limit in that way?
 21 A. I have never encountered that before, never.
 22 Q. Now, Mr Allen refers, as we can see there, to the design
 23 and build model playing a role in that regard. So he is
 24 implying that, because it's design and build, the
 25 information comes piecemeal throughout the build.

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1 Is that your experience, that on design and build
2 projects, those statutory time limits are routinely not
3 complied with?
4 A. No, not at all. It makes no difference whether it's
5 traditional project progress or design and build. There
6 is a point where the full plans application is made and
7 the statutory time limits kick in. They are statutory.
8 Q. Yes.
9 A. From Mr Hoban's comments, "trying to work with them",
10 yes, every building control body tries to work with
11 their applicants, and I suppose the kindest thing you
12 could do would be to ring them up and say, "I'm going to
13 have to reject this, would you like to withdraw it?"
14 Q. Yes.
15 A. But it wasn't done as far as I can make out.
16 Q. But you don't think that "trying to work with them"
17 should ever mean that you should accept an application
18 within the time limit which in fact doesn't have the
19 right information attached to it?
20 A. It doesn't mean that at all. It's a statutory
21 obligation.
22 Q. Yes.
23 Now, Mr Allen also said in his oral evidence -- for
24 the transcript, this is {Day47/169:7} -- he said:
25 "For larger projects, the time just doesn't fit."

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1 The information just isn't available."
2 Now, you have worked on a lot of larger projects
3 over the course of your career; do you agree with that?
4 A. No, I don't. The point at which the full applications
5 would be made would be a point in the design progress
6 whereby a building in concept has reached the point
7 where it's known what it's going forward as. The finer
8 details as to perhaps the finishes, the colours,
9 sometimes you can start a project and suddenly the
10 client will want three extra storeys on top, but there
11 will be a point at which you could go to the
12 building regs application and say, "I am going to build
13 a building on this site and I'm going to do it with
14 design and build, but here is the general principle of
15 what we're going forward on". By the time you get to
16 design and build, my understanding is the concept of
17 that building in design is there.
18 Q. Yes.
19 A. So you would go forward on that basis.
20 If you were going to build a building perhaps out of
21 non-traditional construction, and by that I mean
22 something like a hay building or something like that,
23 then the discussions would have taken so far ahead of
24 the application that the designer would have a good idea
25 of what would be acceptable, and that would go really

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1 for any big project, or any small project that was
2 unusual.
3 Q. Now, in terms of the consequences of rejecting a full
4 plans application, if a building control body decides to
5 reject that full plans application, is it right that
6 this doesn't prevent building work from taking place?
7 A. That's correct.
8 Q. What are the consequences if someone continues to build
9 once their full plans application has been rejected?
10 A. Provided that the work complies with the
11 Building Regulations, then there is no consequence. The
12 building control body, if that building work starts,
13 would generally inspect. They're not obliged to
14 inspect, but as a contravention can only occur on site,
15 then that's how the contravention would be found, and
16 notices could be served on the person who has carried
17 out the work that's in contravention to put that work
18 right.
19 Q. Yes.
20 A. If you have your full plans rejected, you can still
21 submit information to the building control body for
22 review and receive comments accordingly.
23 Q. Given all of that, what could be the benefit of passing
24 a full plans application that was incomplete?
25 A. None, really, because it doesn't give any confidence to

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1 the applicant going forward that they are not going to
2 perform contraventions.
3 Q. Yes.
4 SIR MARTIN MOORE-BICK: Presumably, if your application were
5 rejected on the grounds that it didn't contain enough
6 information, you can make another one --
7 A. Indeed, yes.
8 SIR MARTIN MOORE-BICK: -- with more information.
9 A. Yes, yes.
10 MS GRANGE: Yes.
11 Just getting the framework of how it works, the full
12 plans application comes at the beginning of the process;
13 I now want to ask you just a little bit about what comes
14 at the end, and that's the completion certificate; yes?
15 A. Yes.
16 Q. If we can look on page 62 {BMER0000004/62} of your
17 report at paragraph 252, you tell us there:
18 "When building control is satisfied that the
19 controllable completed works (i.e. the works within the
20 scope of the Building Regulations) are compliant, the
21 necessary third party certificates have been received,
22 and the required fire safety information has been
23 provided to the owner, they must issue a completion
24 certificate within eight weeks of being notified of
25 completion of the works."

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1 Now, is it fair to say, in the light of that part of
 2 your evidence, that the issuing of a completion
 3 certificate by the building control body is its
 4 confirmation that it is satisfied that all of the works
 5 comply with the Building Regulations?
 6 A. Yes. The completion certificate, as you may have seen,
 7 says it shows evidence but not complete evidence of
 8 compliance --
 9 Q. Yes.
 10 A. -- because the building control body officer is not
 11 standing there to look at every single aspect of the
 12 work.
 13 Q. Yes. That's the theme of my next question.
 14 So in terms of the purpose of a completion
 15 certificate and its significance, to what extent is
 16 a completion certificate a certification that the works
 17 do in fact comply with the Building Regulations?
 18 A. As far as could be ascertained by the building control
 19 body, yes. It is what everybody is aiming for,
 20 a completion certificate.
 21 Q. But should we draw a distinction between the
 22 building control body being satisfied and the works
 23 actually complying?
 24 A. By virtue of the regulations requiring the completion
 25 certificate to have that evidentiary clause within it,

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1 which says that as far as can be ascertained, but shall
 2 not be taken as evidence of full compliance, to
 3 paraphrase it --
 4 Q. Yes.
 5 A. -- it can only be taken that far.
 6 Q. Yes.
 7 Now, leaving the specifics of Grenfell to one side
 8 for the moment, can you explain generally how it might
 9 come about that a completion certificate could be issued
 10 when works did not in fact comply with the
 11 Building Regulations?
 12 A. Only inasmuch as the inspections did not reveal the
 13 non-compliance, but subsequently something happened that
 14 did reveal the non-compliance.
 15 Q. Yes. So maybe part of a building's removed and it shows
 16 that there's a deficiency in the building which the
 17 building control officer didn't see, would that be
 18 an example?
 19 A. Yes. An extreme example would be a partial collapse of
 20 a building, something like that.
 21 Q. Yes.
 22 A. Or unfortunately a fire anywhere.
 23 Q. Now, I don't think we need to turn it up, but Dr Lane
 24 says in her report that there are no provisions in the
 25 Building Regulations that give powers to the local

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1 authority to prevent the occupation of a building before
 2 the issue of a completion certificate or at any other
 3 time during building work.
 4 A. Correct, but I'm sure that a local authority, if they
 5 were particularly concerned, would contact the
 6 fire service, who could put a prohibition notice on the
 7 building or part of the building under the order.
 8 Q. Yes.
 9 A. Or if they felt they couldn't for any reason, because
 10 they couldn't use the order to that effect, then past
 11 experience under different legislation, injunctions have
 12 been sought to prevent the occupation of a building that
 13 was considered unsafe.
 14 Q. Right, yes, I see. But it's right in principle that the
 15 absence of a completion certificate doesn't prevent
 16 occupation of the building?
 17 A. Correct.
 18 Q. Given that a completion certificate does not necessarily
 19 mean that the works are in fact compliant and doesn't
 20 prevent occupation, can you help us as to what the
 21 purpose of a completion certificate is for?
 22 A. It finishes the process and it affirms by the
 23 building control body, as far as they have been able to
 24 ascertain, that the works do comply.
 25 Q. Yes.

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1 Now, just a few questions now about this distinction
 2 between local authority building control and approved
 3 inspectors, as we know your experience shows that you
 4 have sat on both sides of the fence or seen it from both
 5 perspectives.
 6 A. Yes, I'm also a board member of the registration body of
 7 CICAIR.
 8 Q. Yes, of approved inspectors?
 9 A. Yes.
 10 Q. Exactly.
 11 So I want to just get you to help us to understand
 12 the differences between approved inspectors and local
 13 authority building control bodies.
 14 Now, first, is it right that local authority
 15 building control bodies were required, certainly at the
 16 time of the Grenfell project, to be cost-neutral?
 17 A. That would be dictated by the authority, but that was
 18 the intent, yes, generally. Yes.
 19 Q. Did that apply to all local authority building control
 20 bodies?
 21 A. I couldn't say that was applicable to all. Experience
 22 shows to me that some authorities used the money from
 23 building control for other purposes, it wasn't
 24 ringfenced, and others I believe ran a loss at times.
 25 Q. Right.

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1 A. But the aim would have been just in good basic economics
2 to be cost neutral.
3 Q. Yes.
4 A. It was a service, a service for safety. Yes.
5 Q. How did that work in practice? How would
6 a building control body try and achieve that
7 cost-neutrality?
8 A. It would have been by setting appropriate fees to cover
9 their costs.
10 Q. Yes, I see. And those fees would be adjusted, would
11 they, if they felt that their costs were increasing at
12 a particular time?
13 A. I believe that they could have done that, yes. Yes.
14 Q. In your experience, did that present challenges for
15 local authority bodies?
16 A. It was perceived that it did. Whether it did in fact,
17 I don't know. The commercial challenges of attaining
18 the work for a local authority were compounded by the
19 ability of the approved inspector to set their own costs
20 to cover work if that approved inspector's route was
21 adopted.
22 SIR MARTIN MOORE-BICK: Was there any standardisation of
23 fees amongst local authorities or did they just set
24 their own as they saw fit?
25 A. At one time there was a standardisation of fees.

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1 I cannot honestly say at the time of Grenfell whether
2 that was in place.
3 SIR MARTIN MOORE-BICK: Thank you.
4 MS GRANGE: Let's have a look now at page 45 of your report
5 {BMER0000004/45} at paragraph 171. You tell us there
6 that:
7 "There were two forms of Building Control body that
8 could have been employed - the Local Authority or an
9 Approved Inspector. Then, as now, both bodies carry out
10 the same functions except that the procedure is
11 different - for example a full plans application is not
12 required if an Approved Inspector is employed but the
13 Fire Service must be consulted. An Approved Inspector
14 has no powers of enforcement. If a contravention of the
15 Building Regulations occurs, the regulatory role must
16 revert to the local authority for enforcement action to
17 be pursued."
18 So you're helpfully telling us what the differences
19 are in procedural terms there.
20 So is it right that, in contrast to local authority
21 building control bodies, approved inspectors operate in
22 the private sector?
23 A. Operate in the private sector. They can undertake work
24 basically and deal with the Building Regulations on any
25 particular building, but they are private individuals,

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1 yes.
2 Q. Are they operated in your experience so as to make
3 a profit?
4 A. Yes.
5 Q. Is it fair to say that, on every project, the client
6 will have an option whether to approach an approved
7 inspector or the local authority to act in relation to
8 a project?
9 A. They are required by virtue of their registration, which
10 requires them to adhere to a code of conduct, that they
11 cannot take on work if they have an interest in the
12 actual project. So, for instance, they cannot do any
13 design aspect, or they cannot in fact even be married to
14 somebody who has an interest in the actual project.
15 Q. Yes.
16 Now, you say that they carry out the same functions
17 but the process is different. Can you help us, how is
18 it different in the context of a full plans application?
19 A. An application to an approved inspector requires the
20 approved inspector to serve on the local authority
21 an initial notice, which is either accepted or rejected
22 by the local authority, and there are rules set down as
23 to why they can reject and why they can't reject.
24 Q. Yes.
25 A. Assuming that application, the initial notice, is

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1 accepted by the local authority, then as soon as
2 possible after the initial notice is accepted, the
3 protocol is that they would contact the fire authority
4 as soon as possible after. Having reviewed the project,
5 they must consult the fire authority if it's subject to
6 the RRO.
7 Q. That's approved inspectors must do that?
8 A. Yes, they must do that.
9 They have to consult the fire authority if they are
10 going to issue a plans certificate. You can ask
11 an approved inspector to give you a plans certificate
12 whereby they have looked at the plans and are saying,
13 "Yes, it complies with the Building Regulations",
14 subject to conditions, perhaps.
15 Q. Yes.
16 A. Before the approved inspector issues their final
17 certificate, in other words the completion certificate,
18 they again have to consult the fire authority.
19 Q. Yes, I see. So they have to consult at the beginning
20 and at the end?
21 A. Yes.
22 SIR MARTIN MOORE-BICK: If you're going to put up a building
23 to which the RRO will apply on completion, you have to
24 go to the local authority, don't you? Or do you?
25 That's my question.

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1 A. No, no, because the process --
 2 SIR MARTIN MOORE-BICK: Well, I was just looking back at
 3 regulation 12, which seemed to suggest, 12(2), that you
 4 have to deposit full plans with the local authority ...
 5 A. I think they may have been amended by the Approved
 6 Inspectors Regulations.
 7 SIR MARTIN MOORE-BICK: Oh, is that the case? All right.
 8 A. It all gets very confusing, to be quite honest.
 9 SIR MARTIN MOORE-BICK: As you can tell.
 10 A. Yes. Even after all my years, I still get very
 11 confused.
 12 MS GRANGE: We can check that point.
 13 Can we look now on page 45 {BMER0000004/45} of your
 14 report at paragraph 172. Sorry, it's the next
 15 paragraph, apologies. There you tell us:
 16 "A local authority building control body was not and
 17 is not required to employ professionally qualified staff
 18 or to be a member of any officially recognised body such
 19 as Local Authority Building Control (LABC). Nor is it
 20 required to adhere to the guidance issued by bodies such
 21 as LABC or the Building Control Alliance (BCA) or to
 22 submit the annual statistical returns requested by the
 23 Building Control Performance Standards Group (BCPSAG)."
 24 So you have explained to us there a number of things
 25 that the local authority building control body was not

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1 and is not required to do. Is that situation different
 2 with an approved inspector?
 3 A. Yes. The approved inspector's registration is
 4 conditional upon compliance with the CICAIR,
 5 Construction Industry Council's regulatory body for
 6 approved inspectors, to comply with its code of conduct,
 7 which includes compliance with the BCPSAG, the building
 8 standards group performance standard, and failure to
 9 comply with that or to adhere to -- or they are
 10 encouraged to adhere to protocols issued by such bodies
 11 as the Building Control Alliance, whereby issues arise
 12 because of factors changing over the years where the
 13 Building Control Alliance, a recognised body, which is
 14 a combination of approved inspectors and local
 15 authority, will in fact make recommendations of a way
 16 a certain process is dealt with, or in fact they will
 17 actually give out technical guidance, as we know from
 18 dealing with Grenfell.
 19 Q. Yes. So I think you have agreed that they are subject
 20 to the CICAIR, the Construction Industry Council
 21 Approved Inspectors Register, code of conduct --
 22 A. Yes.
 23 Q. -- and accompanying guidance notes?
 24 A. Yes.
 25 Q. Now, under that code of conduct, is it right that

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1 approved inspectors must have "robust systems in place
 2 to ensure appropriate standards of technical competency
 3 and consistency is achieved across their organisation"?
 4 A. Yes. I would point out, though, at the time of the
 5 Grenfell full plans application, the code of conduct is
 6 not the code of conduct that exists now.
 7 Q. Yes.
 8 A. However, the aspect of robust systems was in the
 9 previous one and is in the current one.
 10 Q. Yes. So under whichever regime, old or new, they've got
 11 to have robust systems in place --
 12 A. Correct.
 13 Q. -- to ensure appropriate standards and technical
 14 competency?
 15 A. Correct.
 16 Q. Is it right that they are obliged to submit annual
 17 statistical returns required by the Building Control
 18 Performance Standards Advisory Group, and that that's
 19 a subcommittee of the Building Regulations Advisory
 20 Committee?
 21 A. Correct.
 22 Q. Are those statistical returns designed to allow
 23 Government and the approved inspectors to monitor the
 24 service they provide?
 25 A. Yes.

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1 Q. Now, we know that local authority building control
 2 officers are subject to the building control performance
 3 standards. Often that's shortened to BCP; is that
 4 correct?
 5 A. Yes.
 6 Q. They are promulgated by that Building Control
 7 Performance Standards Advisory Group; that's right,
 8 isn't it?
 9 A. Correct.
 10 Q. Do those same performance standards apply to approved
 11 inspectors as well?
 12 A. Yes. In fact, the local authority building control is
 13 not obliged to adhere to the building control
 14 performance standards.
 15 Q. Ah.
 16 A. By virtue of their registration, approved inspectors
 17 are.
 18 Q. I see, okay.
 19 So in terms of the status of those building control
 20 performance standards, those BCPs, are they guidance or
 21 do they have a more special significance?
 22 A. They are guidance, they are good practice, they are to
 23 benefit the progress of an application through the
 24 process of Building Regulations. They are to be
 25 hopefully fair to both sides, the applicant and the

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1 building control body, and an approved inspector, by
 2 virtue of his registration, is obliged to adhere to
 3 them, adopt them.
 4 Q. Yes.
 5 A. Whereas currently, a local authority building control
 6 body is not obliged to.
 7 Q. I see.
 8 Now, can we look at what you say at paragraph 178 of
 9 your report on page 46 {BMER0000004/46}. Now, I'm going
 10 to pick it up in the sixth line down, where you say:
 11 "The standards and supporting guidance set out the
 12 expected minimum level of performance of a building
 13 control body in discharging its duties and
 14 responsibilities."
 15 Can you see that sentence?
 16 A. I can, yes.
 17 Q. Now, in your experience, did building control bodies at
 18 the time generally understand that those performance
 19 standards were the minimum standard?
 20 A. I believe so.
 21 Q. And were they in fact routinely adopted and complied
 22 with by local authority building control bodies at the
 23 time of the Grenfell refurbishment?
 24 A. I believe they were. The biggest objection by anybody
 25 to the BCPSAG is the return that had to be done

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1 periodically, because if they didn't have the processes
 2 in hand, it was quite a major project to provide those
 3 statistics.
 4 Q. Right. Yes.
 5 In your view -- so we have looked at the differences
 6 between the two regimes -- are approved inspectors
 7 subject to a more stringent performance regime than
 8 local authority building control officers?
 9 A. Yes. Approved inspectors are audited every five years
 10 or in the first year of their registration to ensure
 11 that they are adhering to the requirements of their
 12 registration, and have to re-apply every five years for
 13 re-registration.
 14 Q. Apart from the fact that it's mandatory for approved
 15 inspectors to submit compliance data returns, whereas
 16 it's not mandatory for local authority building control
 17 departments to do that, is it right that the codes and
 18 guidance that govern the two regimes are not materially
 19 dissimilar?
 20 A. Correct.
 21 Q. At the time of the Grenfell project, was there any
 22 requirement for local authority building control
 23 officers to carry out ongoing continuing professional
 24 development, or CPD?
 25 A. It would have been and still is a requirement of their

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1 professional qualification, if they had it, and I would
 2 have thought, and would have expected, ongoing CPD to be
 3 a part of the regime of the building control body for
 4 their officers to keep up with changes as they came
 5 about.
 6 Q. So you would expect a competent building control body to
 7 be providing for some continuing professional
 8 development for their officers?
 9 A. I would have expected, although I have seen, if I may
 10 refer to the job descriptions of the various officers
 11 within Kensington and Chelsea --
 12 Q. Yes.
 13 A. -- at one level they were responsible for their own CPD.
 14 Q. Yes.
 15 A. So whether they intentionally put that back to the
 16 officers or not, I couldn't say from what I've seen to
 17 date.
 18 Q. Was that common practice, to do that?
 19 A. No, no, it would normally be -- because heads of local
 20 authorities were informed from Government of changes in
 21 legislation and changes in the approved documents, that
 22 information would have come through the local authority
 23 and should -- and it didn't always -- end up on the desk
 24 of the building control manager, the head of
 25 building control, and that information would then need

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1 to have been disseminated to all the staff. So without
 2 doing a form of CPD or some form of training, I don't
 3 know how that would have been done.
 4 Q. Yes.
 5 A. Even if it was only an A4 sheet giving information.
 6 Q. Does it follow that you don't think it would have been
 7 good practice to have just let building control officers
 8 sort out their own CPD?
 9 A. Correct.
 10 Q. What about approved inspectors, was there any
 11 requirement at the time of the Grenfell project for
 12 approved inspectors to be carrying out ongoing CPD?
 13 A. Yes, yes. It's, as I say, part of their qualification
 14 as a professional qualification, and also because
 15 a level of professionally qualified persons would be
 16 required to be running an approved inspector's office.
 17 Q. Yes.
 18 Is CPD within the building control and approved
 19 inspector industry often provided by manufacturers, in
 20 your experience?
 21 A. Yes, it is.
 22 Q. Do you agree that this may result in a lack of
 23 objectivity in the training that's provided and, as
 24 such, is undesirable?
 25 A. Yes. Often it's the only available because of the cost

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1 of providing CPD, and undertaking CPD. But often it is.
 2 One would hope that, internally, those with experience
 3 would be saying to junior members, "Beware this man is
 4 trying to sell this product", and if they'd heard
 5 anything within that presentation that was not quite as
 6 it should be from a building control body point of view,
 7 to have pointed that out, to raise it, flag it up
 8 really.

9 Q. Yes.

10 Now, can we have a look at Mr John Allen's witness
 11 statement again, {RBK00033930/2}, and I want to look at
 12 paragraph 11. He makes the point there:

13 "However we were competing with the private market
 14 in building control and to try and ensure that RBKC
 15 internal projects selected our building control
 16 department I would meet once a month with the corporate
 17 property team to talk about jobs past present and
 18 future."

19 Do you see that there?

20 A. Yes.

21 Q. In practice, are local authority building control
 22 services in competition for projects with private sector
 23 approved inspectors?

24 A. Yes.

25 Q. To what extent do you feel that privatisation of the

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1 market led to a reduction in the quality of the work
 2 carried out by building control bodies?

3 A. In my experience, I can't say that I've ever seen
 4 a lessening of quality.

5 Q. Right.

6 A. I would hope not, because most approved inspectors are
 7 trained by local authority or were building control
 8 officers in local authorities.

9 Q. Yes.

10 Now, just a few questions about interactions with
 11 other departments. If we can turn to {CLG10006814/11},
 12 these are the building control performance standards
 13 from 2014, and this is standard 3, which is
 14 "Consultation". That's a heading, "Consultation". We
 15 can see the standard there is in the green box, and it
 16 says:

17 "Building Control Bodies shall undertake all
 18 statutory consultations in a timely manner and the
 19 observations of consultees should be communicated in
 20 writing to clients. It shall also consider the benefit
 21 of undertaking additional consultation. It shall where
 22 appropriate co-operate in an integrated approach to
 23 consents relevant to development control."

24 So we can see that's the performance standard from
 25 2014 about consultation.

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1 So it talks there in the first line about
 2 undertaking statutory consultations in a timely manner.
 3 Can you just help us, what would those statutory
 4 consultations be? Would it be, for example, with the
 5 fire authority?

6 A. Yes, it would be the fire authority in relation to
 7 part B, but it would be sewage undertakers, et cetera,
 8 for other aspects of the building control process.

9 "In a timely manner" refers to the time limit that
 10 an approved inspector has in relation to issuing certain
 11 documents, and the building control body having the time
 12 limit to issue its decision as regards the deposited
 13 plans within the five-week time limit or the agreed
 14 eight-week time limit.

15 Effectively, I think this is saying: if you have
 16 a building control application that you need to consult
 17 elsewhere with, don't leave it until three days before
 18 your mandatory time limit is up, because it's
 19 impractical, it's unreasonable to expect a response.

20 Q. Yes.

21 Then we can see in the second sentence in that third
 22 line down it said:

23 "It shall also consider the benefit of undertaking
 24 additional consultation."

25 Can you help us, what might that additional

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1 consultation involve?

2 A. It would be if -- as the conditional information perhaps
 3 was coming in to building control, or there was
 4 an alteration to the project whereby something
 5 fire-related changed, and would have particular
 6 resonance with perhaps the fire authority. It may be
 7 that the owner has suddenly found out that the land on
 8 which fire appliances would approach, the right to pass
 9 over that land has been withdrawn, or that the person
 10 who owns the land has put up a massive fence or
 11 something. So the best person to talk to about
 12 Fire Brigade provisions is the Fire Brigade, so you
 13 would go back to them.

14 Q. Yes, I see.

15 Is it normal in your experience for additional
 16 consultation to take place?

17 A. It's not unusual. There has been a problem in the past
 18 with delays on consultations with certain fire
 19 authorities simply because they are overburdened with
 20 work in all sorts of aspects.

21 Q. Yes.

22 Finally, we can see in that last sentence it says:

23 "It shall where appropriate co-operate in an
 24 integrated approach to consents relevant to development
 25 control."

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1 Now, would it be fair to say that this section
 2 envisages co-ordination between different
 3 local authority bodies that are responsible for giving
 4 consents in relation to any given development?
 5 A. That would be the aim. Unfortunately it doesn't always
 6 work. The two that are always spoken about are planning
 7 and building control.
 8 Q. Yes.
 9 A. Some authorities, those departments will -- generally
 10 the building control department is within the planning
 11 development department, but not always. Generally in my
 12 experience there's very little integration of the
 13 departments.
 14 There was, in days of austerity, proposal for
 15 building control bodies to actually check planning
 16 requirements, but I don't think that went very far, in
 17 my experience anyway. But I do know of some planning
 18 authorities, if they have an unusual planning
 19 application, will talk to building control to see if
 20 it's even viable, or perhaps they would like to see
 21 something in that planning application that's unusual,
 22 and would it be viable under a building regs, you know,
 23 application.
 24 Q. In practice, what sort of interaction would you expect
 25 to see between the building control department and the

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1 planning department in a local authority?
 2 A. Minimal, or generally none.
 3 Q. But what would be good practice, if good practice were
 4 being followed? I mean, it says here you've got to
 5 co-operate in an integrated approach to consents.
 6 A. Well, I do know some authorities have sort of monthly
 7 meetings between the various department sections, and it
 8 would be perhaps for a planner, say, to flag up in front
 9 of the building control head, "This rather large
 10 development or the unusual development that's coming
 11 ahead, you know, would you care to give an opinion on
 12 it?"
 13 Q. Would that ever include information sharing and, if so,
 14 what kind of information would you expect the two to
 15 share?
 16 A. I can't think where that information has been shared.
 17 To be quite blunt, post the fire, Grenfell, it has
 18 occurred; pre the fire, very rare, unless it was
 19 an unusual development.
 20 Q. Yes.
 21 You tell us -- this is paragraph 262 of your report
 22 on page 67 {BMER000004/67} -- that there is no
 23 indication in this case that there was any interaction
 24 between RBKC building control and the RBKC planning
 25 department. Would you have expected to have seen any

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1 interaction in terms of --
 2 A. At that time, no.
 3 Q. Are you critical of this lack of interaction?
 4 A. The planning aspect is different to the Building
 5 Regulations aspect. Building Regulations are not
 6 concerned with the colour, the landscaping outside,
 7 et cetera, and the impact generally on the area. The
 8 building control aspect is the technical aspect of the
 9 actual building.
 10 MS GRANGE: Yes.
 11 Mr Chairman, I think that's a very good moment for
 12 our morning break.
 13 SIR MARTIN MOORE-BICK: Yes, all right, thank you very much.
 14 Well, Ms Menzies, we will have a break now. We have
 15 a break morning and afternoon, so we will take it now.
 16 We will resume at 11.40, please.
 17 I think I had better say the same to you as I've
 18 said to all the other witnesses: please don't talk about
 19 your evidence to anyone while you're out of the room.
 20 THE WITNESS: I won't.
 21 SIR MARTIN MOORE-BICK: Thank you very much. Would you like
 22 to go with the usher, please.
 23 THE WITNESS: Thank you.
 24 (Pause)
 25 SIR MARTIN MOORE-BICK: Thank you, 11.40, please.

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1 MS GRANGE: Thanks.
 2 (11.22 am)
 3 (A short break)
 4 (11.40 am)
 5 SIR MARTIN MOORE-BICK: All right, Ms Menzies, ready to
 6 carry on?
 7 THE WITNESS: I am, thank you.
 8 SIR MARTIN MOORE-BICK: Good, thank you.
 9 Yes, Ms Grange.
 10 MS GRANGE: Yes, Ms Menzies, thank you.
 11 Just to pick up on a couple of points from this
 12 morning's evidence, we were talking before the break
 13 about the potential for interaction between
 14 a building control department and a planning department,
 15 and you have explained that that certainly wasn't your
 16 experience, certainly pre-fire.
 17 But can you give us any good examples of where you
 18 have been aware of interaction occurring between
 19 a planning department and a building control department?
 20 A. To be quite honest, no. Subsequent to the fire --
 21 Q. Yes.
 22 A. -- if they've had tower blocks, I am aware certainly of
 23 one local authority who was putting tall blocks in front
 24 of building control at the planning stage, but apart
 25 from that --

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1 Q. Okay.
 2 A. Other than, say, a large shopping mall or something like
 3 that, there would be some interaction.
 4 Q. Okay.
 5 On the cost-neutrality point, were you aware that
 6 there was a requirement on local authorities, a national
 7 requirement, to be cost-neutral?
 8 A. I knew there was at some stage. I'm not sure if that's
 9 current. I would have to defer that to others.
 10 Q. Can I just take you to a document on this. This is
 11 {RBK00059036}. This is a DCLG circular dated
 12 25 February 2010 to local authorities about the Building
 13 (Local Authority Charges) Regulations 2010.
 14 If we go on to page 10 {RBK00059036/10} and look at
 15 paragraph 33, we can see there it says:
 16 "Under the 2010 Regulations, [local authorities] are
 17 required to set their charges with the aim of achieving
 18 the overriding objective of ensuring that ..."
 19 And then it effectively describes being
 20 cost-neutral. Do you see that there?
 21 A. I do, yes.
 22 Q. We can see that's from 25 February 2010.
 23 A. Yes.
 24 Q. Now, some questions now about the role of
 25 building control and their function.

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1 If we can turn within your report, {BMER000004/12},
 2 and look at paragraph 52 now, you say there:
 3 "It is important to recognise that the role of
 4 a Building Control Body is only to check for compliance
 5 with the requirements of the Building Act and the
 6 Building Regulations. A [building control body] has no
 7 role in the design: it checks submitted proposals and
 8 inspects works on site to ascertain compliance."
 9 So is it fair to say that what you're doing there is
 10 drawing a distinction between assessing designs that
 11 have been produced by others and having input into the
 12 design itself?
 13 A. Yes. There's always been this question of, when
 14 a building control body enters into discussion
 15 pre-application with a design team by virtue of saying,
 16 "No, that won't comply, but if you do this, X, Y and Z,
 17 it will comply", is that design? I don't think it is,
 18 because you're not producing anything to say, "There's
 19 a design that I prefer" or anything as such.
 20 Q. Yes.
 21 A. But the analogy with an approved inspector is that they
 22 cannot have any other role on a project at all, and
 23 a building control body should not be involved in that
 24 project other than to check. It's not their role at
 25 all.

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1 Q. Yes.
 2 Now, I would like to look at Mr John Allen's --
 3 SIR MARTIN MOORE-BICK: Sorry, just to clarify. It sounds
 4 from that as if you take the view that good practice
 5 would prevent the building control body from giving
 6 advice about what would or wouldn't comply.
 7 A. To be quite frank, it makes life easier for everybody if
 8 that advice is given and that guidance is sought, and at
 9 one time it was actively encouraged by all the bodies
 10 concerned on the regulatory side, inasmuch it was even
 11 termed to become part of the design team, but you have
 12 to be very careful that you are not designing, because
 13 it's subject to all sorts of other rules and
 14 regulations. And it's not your role; you can't check
 15 your own homework.
 16 MS GRANGE: Yes.
 17 Picking up on exactly that point, I want to take you
 18 to something Mr John Allen said in his evidence. If we
 19 can go to {Day47/90:18}. Picking up the second half of
 20 Ms Grogan's question there, at line 20, she says:
 21 "Question: Do you agree that a Building Control
 22 body has no role in design?
 23 "Answer: Not necessarily, because there was
 24 a very ... not design, because it's for the people to
 25 obviously design the project, but many years ago it was

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1 very much about: that doesn't comply, reject it, it's
 2 not good enough, and just ... but very much now it's
 3 more about being part of -- it is about being part of
 4 the team as well, and it may be looking at options and
 5 suggestions."
 6 Pausing there, would you agree that the role of
 7 a building control body has changed so that now the
 8 building control body is part of the team described by
 9 Mr Allen?
 10 A. I don't think it's new that it would be part of the
 11 team, but you are not part of the team inasmuch as you
 12 sit down at the design team meetings and contribute
 13 design options. They are put to you, and you might say,
 14 "That door needs to be there", but apart from that, it
 15 would be a case of, "I don't particularly think that
 16 complies, you need to justify that", and you can talk
 17 about the justification that they present to you.
 18 But it's certainly -- you're not doing any design.
 19 The implications of it being -- a building control body
 20 doing the design and bringing in the CDM Regs, and the
 21 consequences, because it could come back to you and say,
 22 "You suggested this and the consequences of it were not
 23 as desired", shall we say.
 24 Q. Yes, yes.
 25 A. But, no, you're not paid to be a designer.

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1 Q. Yes.

2 A. You're not paid to do that.

3 Q. Let's just look a little bit more about what Mr Allen
4 says, because this will, I think, draw out some of the
5 distinctions you're making.

6 He says at the end of line 3 at the top there:

7 "So, typically, plans might be marked up with
8 suggestions for them to take forward. You're not
9 designing it, because you definitely can't design, but
10 you would try and be slightly more helpful than that.
11 Rather than just say it doesn't comply, just give
12 perhaps some guidance to them to help them comply. It's
13 not a rejection culture, you know, you're trying to help
14 people build, in accordance with the Building
15 Regulations, I hasten to add ..."

16 Now, you see that there.

17 Just taking some of the examples he's referring to
18 there, to what extent do you agree with him that
19 a building control officer could mark up drawings with
20 suggestions for them to take forward, but still avoid
21 encroaching into a design role?

22 A. I don't know, apart from this particular body, that
23 actually marks up any drawings. You might sit and point
24 at a drawing at a meeting, or you might try and
25 illustrate by a very rough sketch -- and a very poor

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1 sketch it would have been in my case -- as to what you
2 were trying to explain to them. But I would never, and
3 I know of no other body that says, "If you do it like
4 this, I've drawn it out for you, it will be okay".
5 I don't know of any other body that does that.

6 Q. Does that mean that what you saw on the Grenfell project
7 in terms of building control officers sometimes marking
8 up designs, that was completely outside your experience
9 previously?

10 A. It was, and to be quite honest, it looked like what was
11 done at Middlesex House, which was the old Building
12 Regulation division of the GLC, in relation to the Fire
13 Precautions Act.

14 Q. I see.

15 A. We would issue drawings that were marked up in separate
16 colours, et cetera.

17 Q. I see, yes.

18 Do you agree with his concern about any rejection
19 culture?

20 A. It's not the aim to reject plans unless they show
21 a non-compliance, and the aim is to end up with
22 a building that has a reasonable and adequate level of
23 safety. Nobody goes out just to reject things
24 willy-nilly, shall we say, they have to have good cause
25 to reject. But there are statutory obligations and

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1 statutory time limits within which you have to work.

2 Q. Yes.

3 Now, I want also to take you to --

4 SIR MARTIN MOORE-BICK: Sorry, can I just ask this: the
5 question whether someone is designing or not, the answer
6 to that question might depend on the purpose for which
7 it's asked, but is it your evidence that
8 building control bodies or building control surveyors
9 don't understand themselves generally to be involved in
10 design?

11 A. Correct. They are told not to.

12 SIR MARTIN MOORE-BICK: Yes, and they don't think they're
13 doing it?

14 A. I've never heard one say, "I'm part of the design team,
15 I do this as part of the design". You are there to
16 check somebody else's work, not to add your design in.

17 SIR MARTIN MOORE-BICK: Thank you.

18 MS GRANGE: Yes.

19 We're going to come on in a minute to look at what
20 you have said about Mr Hanson in your report, because
21 you have said in your report that you think he wrongly
22 took it upon himself to effectively re-design parts of
23 the fire strategy in terms of smoke control. I'm going
24 to take you to that in just a moment.

25 Before I do, I want to look at some of the evidence

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1 given about the role of building control, starting with
2 some of the Rydon witnesses. If we can look at
3 {Day23/77:2}, this is Mr Simon Lawrence's evidence, he
4 was the contracts manager for Rydon, and he was being
5 asked about how he saw the building control role.

6 If we look it up at line 2, he's asked the question:
7 "Question: Was it your understanding that
8 Building Control was there basically as your complete
9 safety net?"

10 "Answer: Not as a complete safety net because we've
11 got a design team that should be designing in accordance
12 with the regulations and compliance, but
13 Building Control is there to ensure that we do that and
14 they check the plans that we do ..."

15 Now, in your opinion, to what extent is it fair to
16 describe building control as any kind of safety net?

17 A. The only safety net I would suggest it would be would be
18 for the general public, inasmuch as effectively it is
19 a third-level review. But, as building control is not
20 there at every single stage of the construction, it
21 cannot be seen as a complete safety net at all.

22 Q. Right. To be fair, Mr Lawrence doesn't say it's
23 a complete safety net.

24 A. No, that's true.

25 Q. But he is saying that they're "there to ensure that we

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1 do that and they check the plans that we do that".
 2 Would you agree with that?
 3 A. If they have plans to check, yes.
 4 Q. If we look at what he said when pressed a little bit
 5 further on this issue, if we look at {Day23/114:15},
 6 there is the question posed:
 7 "Question: So you might expect them to pick up any
 8 non-compliances, but is it really right, Mr Lawrence, to
 9 say that Rydon were relying on them as if they were part
 10 of the subcontractor chain, providing you with
 11 a service?
 12 "Answer: Well, they were providing us with
 13 a service."
 14 Do you see that there?
 15 A. Yes.
 16 Q. Then he goes on, and he is asked by Mr Millett:
 17 "Question: Is that how you saw it at the time?
 18 "Answer: Yes, because we were paying for them to
 19 check compliance against the building regs and then
 20 check the works that was installed."
 21 Do you see that there?
 22 Now, in your opinion, to what extent is it fair to
 23 describe building control as providing a service in the
 24 context of, say, a design and build contract like this?
 25 A. It is a service, it's a building control service, but it

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1 is only to check as a safeguard against what is being
 2 proposed. It is a service, and they are being paid, but
 3 it's not the same as being part of a design team, with
 4 the profit-making aspect and the need to satisfy the
 5 client. I would always say they were standing off from
 6 the design team, overseeing what was put to them, and
 7 they have no other role in that design team. But it's
 8 fair to say they were paying for a service, yes.
 9 Q. Yes.
 10 Now, finally in the context of Mr Lawrence's
 11 evidence, if we can go back at look at page 74 --
 12 SIR MARTIN MOORE-BICK: Sorry to keep butting in, but in
 13 answer to an earlier question you said that they were
 14 the third line of protection for the public, and one
 15 might ask the question: although they're providing
 16 a service, to whom are they providing a service? Is it
 17 the public or the contractor?
 18 A. They are providing a service in the context of whoever,
 19 I would suggest, is making the submission for the full
 20 plans application, but their role is to ensure there is
 21 a minimum level of safety for anybody who is in or about
 22 that building, and that will be the public or the
 23 occupants or whoever.
 24 SIR MARTIN MOORE-BICK: Thank you.
 25 MS GRANGE: Yes, thank you.

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1 Now, if we can look at {Day23/74} now, of
 2 Mr Lawrence's evidence, and this was in the context of
 3 appointing Exova. He was asked why it wasn't important
 4 to him to put in place a fire safety strategy:
 5 "... even if in relation only to the four floors ...
 6 to make sure that the resource was reliably there on
 7 a clear basis for Studio E to use or for you to use?"
 8 We can see that question at the top of that page,
 9 and we can see his answer at line 8. So he says:
 10 "We thought we had a resource with
 11 Building Control."
 12 A. Yes.
 13 Q. Then the question:
 14 "Question: Building control isn't a resource, is
 15 it? Not in the sense that you contract it in.
 16 "Answer: Well, we pay for their service to check
 17 the compliance and provide advice regarding the
 18 regulations."
 19 So we can see that there.
 20 In your view, to what extent can a contractor
 21 reasonably rely on building control to fill the role
 22 that might otherwise be filled by, say, a specialist
 23 fire consultant?
 24 A. They can't, because the input from the fire consultant
 25 would be much higher than the building control, and may

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1 influence the design to the point where it could be
 2 taken as design, although most fire engineers would say
 3 they're not subject to the CDM, but it depends on the
 4 role they're contracted with.
 5 But I don't think they should put a reliance on it.
 6 It's certainly not the role of a building control body
 7 to act as the fire consultant on a project.
 8 Q. Yes.
 9 Can I look on this theme at something said in
 10 Mr Soune's witness statement now. This is
 11 {SEA00014273/43}, and I want to look at paragraph 91.
 12 I just want to look at the last four lines of that
 13 paragraph at the top of that page. He says:
 14 "Although we had Exova to advise on some such
 15 points, my understanding was that the ultimate decision
 16 as to whether something complied with the Building
 17 Regulations 2010 ... was with Building Control."
 18 Do you see that there?
 19 A. Correct, yes.
 20 Q. The same question: to what extent can an architect
 21 reasonably rely on building control to fill the role
 22 that might otherwise be filled by a specialist fire
 23 consultant?
 24 A. It can't. I don't believe it can. Building control is
 25 checking a proposal that should be complying with the

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1 Building Regulations.
 2 Q. Yes.
 3 A. It is not a case of an architect or anybody puts forward
 4 proposals and then expects building control to say,
 5 "It's wrong, but if you do this it will be okay".
 6 That's not the role.
 7 Q. Yes.
 8 Do you think that it was a known phenomenon in the
 9 building industry back in 2012 to 2016, the time of the
 10 Grenfell project, that there was a lack of clarity about
 11 the proper role of building control? Do you think that
 12 in the industry some people had an inaccurate
 13 expectation of what building control were doing on
 14 projects?
 15 A. Not in the period you've described. Earlier, much
 16 earlier than that, I would have said there was.
 17 Q. Yes.
 18 A. And in non-urban situations, perhaps, even more so. But
 19 certainly in London, I think by that time, following
 20 several fires, the role was quite clear.
 21 Q. And that was clearly understood by, say, design and
 22 build contractors?
 23 A. I would have thought so, yes.
 24 Q. Yes.
 25 Now, I said we'd look at it, I want to look now at

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1 what you have said about building control's response to
 2 the proposed smoke ventilation system solution. If we
 3 go and look at page 89 of your report {BMER0000004/89},
 4 and I want to pick up what you say at paragraphs 289
 5 and 290.
 6 Just to be clear, the smoke ventilation system is
 7 going to be the subject of in-depth analysis at Module 3
 8 of the Inquiry, so we're not going to discuss it in
 9 detail here, but I would like to ask you about those
 10 paragraphs in terms of what it's saying about your view
 11 of the building control function in this case.
 12 So you say at 289:
 13 "The annotation on the plans is detailed and
 14 extensive."
 15 That's the annotation by building control, isn't it,
 16 by Mr Hanson?
 17 A. Yes.
 18 Q. "This response is far more than I would have expected
 19 from a [building control body]. In my opinion the
 20 extent of the non-compliant issues was significant in
 21 number and the application should have been rejected.
 22 Alternatively, the applicant should have been encouraged
 23 to withdraw the application and re-submit following
 24 a review of the proposals by their fire safety
 25 consultant."

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1 Then you go on in the next paragraph:
 2 "In my opinion Paul Hanson wrongly took it upon
 3 himself to effectively re-design the fire strategy.
 4 This is not specifically precluded in legislation for
 5 Local Authority Building Control but the role of a
 6 [building control body] is to check for compliance. It
 7 is possible that such annotation could have been
 8 considered as 'design' under the CDM Regulations, which
 9 was not the role of the [building control body]. It is
 10 noteworthy that Approved Inspector Regulations prohibit
 11 their involvement in design work in which they have
 12 a role as a [building control body]."
 13 Now, could you just help us as to what it was about
 14 that example that led you to conclude that Mr Hanson had
 15 gone beyond the proper role of a building control
 16 inspector or officer?
 17 A. He stated in his comments that the proposals were
 18 unacceptable, and then he marked up drawings with notes
 19 and lines of annotation which said, "If you do it like
 20 this, it will be okay".
 21 Q. In your view, that goes too far, does it? That
 22 oversteps the line in terms of the proper function of
 23 building control?
 24 A. Yes, to the extent it was done, definitely.
 25 Q. I think we may have covered this, but just for clarity,

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1 in your experience, is that common in the industry or is
 2 that rare?
 3 A. Rare, I've never seen it before.
 4 Q. At the end of paragraph 290 we can see that you have
 5 said:
 6 "It is noteworthy that Approved Inspector
 7 Regulations prohibit their involvement in design
 8 work ..."
 9 So do we take it from that that there is no
 10 equivalent prohibition on local authority building
 11 control inspectors?
 12 A. Correct. Just to say that the Approved Inspectors
 13 Regulations prohibit it for all but such as a loft
 14 conversion or, you know, a small extension on a house,
 15 something like that, minor works.
 16 Q. Can you help us as to the rationale behind that
 17 distinction? Do you know why it is that for approved
 18 inspectors they are expressly prohibited from being
 19 involved in design, whereas we don't see the same with
 20 local authorities?
 21 A. It is likely that -- it's not likely. It does exist
 22 where an approved inspector is within a larger
 23 organisation that provides other construction regimes
 24 such as design, thermal efficiency, et cetera. So it's
 25 to make that distinction within an entity: you have this

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1 role as a building inspector, an approved inspector, and
2 that is totally independent of any other. Again, it's
3 marking your own homework, but it's probably also
4 a result of history and learning from lessons as it's
5 gone along, and the legislation perhaps for the local
6 authority has never kept up with that for the approved
7 inspector.

8 Q. Yes, I see, thank you.

9 In terms of standard to be expected of
10 building control officers and approved inspectors, can
11 we just return to paragraph 172 of your report on
12 page 45 {BMER0000004/45}, which we looked at earlier.
13 So we can see you say there that:

14 "A local authority building control body was not and
15 is not required to employ professionally qualified staff
16 or to be a member of any officially recognised body such
17 as Local Authority Building Control (LABC). Nor is it
18 required to adhere to the guidance issued by bodies such
19 as LABC or the Building Control Alliance (BCA) or to
20 submit the annual statistical returns ..."

21 Is it also right that officers who work for the
22 local authority building control bodies are not required
23 to be members of a professional body?

24 A. Correct. They are not required. It may be stipulated
25 in the job descriptions, because it is thought that they

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1 should have, such as the LABC, the local authority
2 building control group body, shall we say. I believe
3 it's now in their code of conduct, but I can't actually
4 state that it is in their code of conduct currently.

5 Q. Yes. When you say, "Nor is it required to adhere to the
6 guidance issued by bodies such as LABC or the Building
7 Control Alliance", what do you mean by that? Do you
8 mean that there is no obligation for them to even be
9 aware of that guidance or --

10 A. Correct.

11 Q. Is that correct?

12 A. Correct, yes.

13 Q. Right.

14 So I'm now going to ask you some questions about the
15 standards to be expected of a building control officer,
16 and when I ask these questions, I would like you to
17 answer by reference to the standards of a reasonably
18 competent building control officer.

19 Now, in terms of the Building Regulations and the
20 guidance in Approved Document B, would you expect
21 a building control officer to be able to deal with any
22 issues under B4 that come up on a building project
23 without specialist assistance?

24 A. In respect of B4?

25 Q. Yes.

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1 A. No.

2 Q. Can you explain why you say that?

3 A. (a) the construction of the walls may be new to that
4 person, they may not be familiar with it. It may be
5 incorporating materials that are new to the market, or
6 a combination of materials that have not been used
7 before. And as regards the space separation aspect,
8 it's quite complicated to understand until it is
9 explained, and with existing buildings, it can be -- not
10 daunting, but it can be, again, as I say, complicated
11 when you get into the realms of a notional boundary
12 becoming a relevant boundary relative to space
13 separation and the like.

14 Q. I see.

15 If a building control officer came across those new
16 issues, as you have described it, with an external wall,
17 what kind of specialist assistance would you expect them
18 to be seeking?

19 A. I would expect them to go up their line management, the
20 senior officers may have that experience, and if it goes
21 right the way through and that experience is not
22 available within the department, it may be, in the case
23 of a London borough, they would go to the London
24 District Surveyors Association, all the members of the
25 association of the Greater London area to see if they

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1 have any experience. If not, they should in my opinion
2 look outside to a specialist body, such as the Building
3 Research Establishment or one of the larger fire
4 engineering practices for comment.

5 Q. I see. So I think what you are saying is there are
6 plenty of avenues that you can go to for specialist
7 assistance and support if you identify that that is
8 required?

9 A. Yes.

10 Q. Notwithstanding whether a building control officer was
11 required to adhere to industry guidance, what general
12 awareness would you expect a building control officer to
13 have of guidance documents produced by, for example,
14 bodies like the LABC or the Building Control Alliance,
15 the BCA?

16 A. I would expect them to have an awareness of LABC
17 documents by virtue of usually the head of department
18 going to their meetings and then disseminating the
19 information he's gathered, by virtue of being on, say,
20 the LABC mailing list. It may not have gone right down
21 to the most junior member, but it certainly, I would
22 have thought, would have gone to the senior members, who
23 would then disseminate. Similarly being made aware of
24 the Building Control Alliance, where their documents are
25 available online. So once being told there is

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1 information out there, people would know where to look.
 2 Q. Yes.
 3 Now, in terms of familiarity with industry guidance,
 4 you have covered some of the available industry guidance
 5 in your report, and I'm going to highlight some passages
 6 within that and ask you some questions about it.
 7 So BR 135 we know is expressly referred to in
 8 paragraph 12.5 of Approved Document B, and you say in
 9 your report at paragraph 310 on page 97 {BMER0000004/97}
 10 that both John Hoban and Paul Hanson should have been
 11 familiar with BR 135. Is that right?
 12 A. By virtue of it being in the approved document, yes.
 13 Q. Mr Hoban's evidence was that he was aware of it having
 14 been referred to in the approved document but had never
 15 read it. For the transcript, that's {Day45/53:1-15}.
 16 Would you expect a reasonably competent
 17 building control officer to have read BR 135?
 18 A. If they had not had a job that involved it, I can
 19 imagine that some would not have read it.
 20 Q. But if they get a job which is an overcladding project
 21 which squarely requires them to consider B4, in those
 22 circumstances would you have expected them to have read
 23 it?
 24 A. Yes, unless they had been told it was compliant by
 25 another means. But, as we know, there was no

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1 information.
 2 Q. And read it in full? They should have read all of that
 3 guidance?
 4 A. Yes.
 5 Q. Would you expect officers to have received training on
 6 what BR 135 says and how to apply it?
 7 A. In honesty, I don't think you could expect that they'd
 8 all had training. I would have expected, if they
 9 weren't familiar with it, they would speak to a senior
 10 officer who hopefully would have that experience, or
 11 refer again up the line. But once you read it, it's
 12 not ... it's not that difficult, but it's very easy for
 13 me to say it's not that difficult, because I'm trained
 14 in fire safety.
 15 Q. Yes.
 16 A. A general building control officer may find it
 17 difficult, particularly as regards the classification of
 18 materials as regards non-combustible, class 0,
 19 et cetera, they do get confused. So if they've not been
 20 trained in it, not had it explained to them, it is easy
 21 for them to get confused.
 22 Q. Does it follow, then, that you would expect any
 23 building control officer who was dealing with those
 24 issues to have had some specific training in it, or if
 25 not, to at least recognise he hadn't had that training

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1 and escalate it?
 2 A. Yes. Training can be self-instigated, and there's a lot
 3 of information available, a lot of BRE documents that
 4 assist in these matters.
 5 Q. Yes.
 6 Now, even if a building control officer hadn't read
 7 BR 135, would you expect them to be aware of the
 8 substance of various warnings that it gives about
 9 external fire spread and the use of certain materials in
 10 cladding systems?
 11 A. If they'd not read it, probably not, but the approved
 12 document indicates what those walls should be of, and
 13 the terminology is reflected in both documents.
 14 Q. So I think what you're saying is they should have picked
 15 up at least an awareness of the issues from just
 16 Approved Document B itself?
 17 A. Yes.
 18 Q. We know that there are various specific warnings within
 19 BR 135. For example, there is a warning about metal
 20 panels, metal panels may melt and fall off and generate
 21 molten debris. Is that a general matter that you would
 22 have expected building control officers to have been
 23 aware of at the time of the Grenfell project?
 24 A. Yes, inasmuch as they should be aware that certain
 25 metals have a low melting point.

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1 Q. Yes, so aluminium for example?
 2 A. Yes, aluminium.
 3 Q. There is a very specific warning in the third edition of
 4 BR 135 from 2013 about the proliferation of new and
 5 innovative materials, and increased volumes of
 6 combustible material being used in external cladding
 7 applications. Would you have expected building control
 8 officers to have been generally aware of that
 9 proliferation of new materials?
 10 A. Generally aware? It's hard to say. By virtue of
 11 dealing with materials in all aspects of building, they
 12 should have been aware of those that were highly
 13 combustible, yes.
 14 Q. What about being aware that products that have a good
 15 surface spread of flame may still have the potential to
 16 create falling debris and indeed themselves contribute
 17 to the overall fire load?
 18 A. They should know about that. But, as I say, there seems
 19 to be an ongoing confusion as to what class 0
 20 specifically, as people would have been more familiar
 21 with, meant or means in terms of external walls. Some
 22 people believe that class 0 means it's non-combustible,
 23 which it certainly doesn't.
 24 Q. No.
 25 A. No.

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1 Q. Would you have expected a competent building control
2 officer at the time to be aware that class 0 doesn't
3 mean non-combustible?
4 A. Yes, I would.
5 Q. Now, the Building Control Alliance Technical Guidance
6 Note 18 is another piece of industry guidance that's
7 referred to in your report, and you refer to both
8 issue 0 and issue 1. One was dated, I think, July 2014
9 and one July 2015, maybe June, in your report.
10 Would you expect a reasonably competent
11 building control officer to have been familiar with the
12 contents of that BCA guidance?
13 A. The familiarity with BCA documents I feel would come via
14 their management structure and whether that management
15 structure, by virtue of its LABC connections, would have
16 disseminated the information through.
17 Q. So would a reasonably competent building control
18 department have made sure that those pieces of guidance
19 were properly disseminated down to building control
20 officers?
21 A. Yes, I certainly believe they should have, yes.
22 Q. Would you have expected building control officers to
23 have had their attention drawn to it when it was first
24 issued in 2014 and again when updated in 2015?
25 A. Yes.

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1 Q. Would you have expected them to have received any
2 training on what that technical guidance note says and
3 how to apply it?
4 A. Experience would suggest it would not have happened in
5 all building control departments for reasons of lack of
6 time, lack of money, all sorts of reasons. But
7 unfortunately I don't think that would be the case, no.
8 Q. So you don't think they would be aware.
9 Would a reasonably competent building control
10 department have provided some training on how to apply
11 that guidance?
12 A. I can't say that I would expect all building control
13 bodies to have provided that training, because such
14 materials and such developments do not occur throughout
15 the country. But one such as London, one would have
16 hoped it would have been the case.
17 Q. Would you have expected building control officers to
18 have been aware that there was specialist guidance,
19 for example on external wall applications, and to have
20 known that they ought to have escalated the matter were
21 they to face a B4 issue?
22 A. Yes. Yes.
23 Q. Now, if we can turn to Mr Hyett's report at this point,
24 this is {PHYR0000004/124}, first, please. So there,
25 paragraph 4.4.77, he says:

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1 "As with the CWCT, I note that BCA issues regular
2 bulletins and papers on construction related issues. It
3 also produces practical guidance for designers ...
4 amongst which was BCA Technical Guidance Note 18 which,
5 although its title suggests otherwise ... deals
6 expressly with ADB2 paragraph 12.7 in terms of 'all the
7 elements' of the cladding system including insulation.
8 The June 2015 version ..."
9 And he goes on about what that says.
10 If we look over the page {PHYR0000004/125} at
11 4.4.79, he's explained in the previous paragraph that he
12 wouldn't have expected an architect, a specialist
13 cladding contractor or a rainscreen contractor to be
14 aware of those advices and circulars, but he says:
15 "... I would certainly expect a Building Control
16 Department, either through direct membership of the BCA,
17 or indirectly through their membership of the LABC, to
18 be properly informed of such advice."
19 Now, is that consistent with your opinion?
20 A. I would agree regarding the building control department.
21 Q. Yes. I'm not asking you about the other, because that's
22 outside your area of expertise.
23 A. Yes.
24 Q. But then he says this at 4.4.79:
25 "I also take the view that if a Building Control

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1 Department, or officer within such a department, becomes
2 responsible for such a cladding system on a project, in
3 circumstances where previous experience is lacking, then
4 it /that person should make full use of the information
5 available at the BCA so as to be able to, in a properly
6 informed manner, discharge its statutory duties
7 effectively."
8 Now, do you agree with that statement there?
9 A. Yes.
10 Q. Yes.
11 A. Yes, I do.
12 Q. Thank you.
13 Now, you have also referred to the CWCT guidance in
14 your report. This is at paragraphs 144 to 146, for the
15 transcript, on page 40 {BMER0000004/40}. You have said
16 that, in your experience, these documents have not been
17 used by a building control body in relation to
18 compliance with part B of the Building Regulations.
19 That's right, isn't it?
20 A. In my experience.
21 Q. Now, we know that some of the available CWCT guidance
22 was referred to in the NBS specification for this
23 project as part of the employer's requirements, although
24 to note, the oral evidence we have heard from Mr Hoban
25 was that he didn't recall having seen the

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1 NBS specification .
 2 Now, as to that, on a project such as the Grenfell
 3 project, is the NBS specification, which is effectively
 4 the employer's requirements for how the building is to
 5 be built and the materials to be used, something you
 6 would expect a building control officer to be provided
 7 with?
 8 A. No. The employer's requirements are information for the
 9 design team to produce something that fits those
 10 requirements but also fits the Building Regulations.
 11 Q. Yes.
 12 Now, we know, though, that the drawings produced,
 13 say, by Studio E on the Grenfell project do cross-refer
 14 to paragraphs in the NBS specification. If I can just
 15 look at an example of that, if we can bring up the
 16 offline version of {SEA00002499}. For these purposes,
 17 let's just look at the "Proposed Section - Typical Bay"
 18 in the top right-hand section of this drawing. If we
 19 can blow that up as much as possible.
 20 So here we can see these are some of the Studio E
 21 drawings, some of which we know were provided to
 22 building control, and they have little labels on them
 23 leading out to bubbles on the side where we see,
 24 for example, P10, or we see H92 or L10.
 25 Now, would you reasonably expect a building control

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1 officer to follow that up and ask about what that meant,
 2 if, for example, something wasn't clear on the drawing
 3 about the materials to be used?
 4 A. Yes. I would expect them to enquire what it meant if
 5 there was not adequate written explanation.
 6 Q. So if, for example, there was a bubble and it said
 7 "Thermal insulation", and it said, "H92, clause 776",
 8 and it didn't tell you what type of insulation was going
 9 to be used, would you expect a building control officer
 10 to notice that and say, "Tell me, what's the insulation
 11 you're using for this project?"
 12 A. Yes, and if I was referred to the NBS, I would say, "No,
 13 thank you, you tell me what it says".
 14 Q. Yes. So we know the NBS is a long document. You
 15 wouldn't even expect to ever see any extract from it,
 16 you would just expect to be told what was in it; yes?
 17 A. I wouldn't object to receiving an extract from it if it
 18 gave me the information I required.
 19 Q. Yes.
 20 A. I mean, you can go and look up the NBS, but the actual
 21 contracted conditions may vary that NBS standard.
 22 Q. Yes. But I think what you are saying is you would
 23 expect a building control officer to look carefully at
 24 these drawings to satisfy himself, for example, that he
 25 knew exactly what materials were being used in that

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1 external wall construction and around the windows?
 2 A. Yes.
 3 Q. Yes.
 4 Now, just carrying on with this theme of industry
 5 guidance, Mr Allen's evidence was that the
 6 Building Regulations and Approved Document B are enough
 7 for the purpose of a building control surveyor, and they
 8 don't need, as a general rule, to go looking at industry
 9 guidance documents. He said that at {Day47/40:4-13}.
 10 Now, do you agree with that?
 11 A. No. The approved document gives the substance of what's
 12 required by the Building Regulations for normal -- we
 13 call them normal type buildings. It doesn't address
 14 innovation, and it's not the role of a building control
 15 body to refuse everything just because it's not covered
 16 by Approved Document B.
 17 Q. Yes.
 18 A. So, yes, I would expect them to go look elsewhere, or to
 19 ask for justification, on what that justification was
 20 based.
 21 Q. Would you expect a reasonably competent building control
 22 officer to be aware of previous fires involving external
 23 cladding façades on high-rise residential buildings?
 24 A. Yes.
 25 Q. So, for example, we've got Knowsley Heights in 1991.

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1 A. Yes, initially it would come probably via press, TV,
 2 et cetera.
 3 Q. Yes.
 4 A. And to be quite honest, the first thing they probably
 5 thought was, "I hope it's not one of mine", because
 6 that's just the normal reaction. But they would expect
 7 it to be -- if it didn't resonate currently on the jobs
 8 they were doing, it should perhaps have flagged up
 9 something in the future. But unless it was something
 10 particularly relevant to what they were doing, they may
 11 be aware of it but not specific details, perhaps.
 12 Q. Would you expect there ought to have been some method of
 13 communicating within a building control department if
 14 there had been significant previous fires?
 15 A. I would like to think there would be. But, again, it's
 16 going to depend on who's running the department and the
 17 various line managers, I'm afraid.
 18 Q. Would you have expected reasonably competent
 19 building control officers to be aware of international
 20 cladding fires, such as the spate of fires in the UAE in
 21 2012/2013, and then more later in 2015?
 22 A. Yes, inasmuch as they were shown in the press, on the
 23 TV, and also they were focused on in professional
 24 journals.
 25 Q. Would you have expected the occurrence of such fires to

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1 have prompted any awareness on the part of
 2 a building control officer about the dangers of ACM?
 3 A. Yes.
 4 Q. Within your industry, the building control industry, was
 5 there any discussion about these fires and the lessons
 6 that could be learned from them at the time of the
 7 Grenfell project, so between 2012 and 2016?
 8 A. I believe there was a letter from the Fire Brigade,
 9 certainly in London, that was issued highlighting the
 10 issues, particularly after Lakanal House, et cetera, and
 11 it was prominent in the industry in the professional
 12 journals.
 13 It would have been discussed, I would imagine, at
 14 the likes of LABC meetings, et cetera.
 15 Q. Would you have expected a building control officer
 16 working in London to have been aware of the fire at
 17 Lakanal House?
 18 A. Definitely.
 19 Q. And in particular that the fire involved the façade and
 20 the exterior of that building, as well as other issues?
 21 A. At the time, my recollection is that the emphasis was on
 22 the loss of compartmentation.
 23 Q. Yes.
 24 A. Not specifically on the external spread.
 25 Q. Right. When did you become aware that external spread

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1 was an issue following Lakanal House?
 2 A. It was almost -- well, it was reading the reports,
 3 particularly from Sir Ken Knight, which was produced
 4 before the Coroner's report, I believe.
 5 Q. During their oral evidence, Mr Hoban and Mr Allen were
 6 asked about conferences put on by the LABC, and
 7 particularly one conference which took place after the
 8 Lakanal House fire. Was the Lakanal House fire
 9 discussed within your industry at the time?
 10 A. Yes.
 11 Q. Was there any general discussion or awareness of lessons
 12 to be learned from the Lakanal House fire amongst local
 13 authority building control officers?
 14 A. I think, as I recall, what it flagged up was when works
 15 were undertaken without the proper measures being taken,
 16 the correct routes being followed as regards
 17 building control and the like, and the fact that within,
 18 say, the same organisation, works could take place
 19 without the correct checking, et cetera.
 20 Q. Did the fact of that Lakanal House fire prompt local
 21 authority building control officers to begin to exercise
 22 particular scrutiny in respect of any works where there
 23 was the potential for façades to contribute to external
 24 flame spread in high-rise buildings?
 25 A. Not that I can quote. I don't think it was particularly

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1 as regards the façade, it was more the loss of
 2 compartmentation.
 3 Q. Right.
 4 A. That was my experience.
 5 Q. Do you think with high-rise buildings and knowledge
 6 about the dangers of loss of compartmentation, was there
 7 a sea change within the industry in terms of the level
 8 of scrutiny given to any plans that might involve a loss
 9 of compartmentation?
 10 A. I think there was. I think there was. I couldn't quote
 11 specific examples, but I think there was heightened
 12 awareness of the potential to lose compartmentation,
 13 yes.
 14 Q. Yes.
 15 So I now want to ask you some questions about the
 16 skills you would expect a building control officer to
 17 have with regard to interpreting manufacturers' product
 18 information.
 19 If we can turn at this point to Mr José Anon's
 20 witness statement -- he's another RBKC building control
 21 officer -- {RBK00029897/7}, and if we look at
 22 paragraph 34 at the bottom of the page. Just picking up
 23 what he says there in the first few lines:
 24 "As surveyors, we make the assumption that products
 25 used on a project (and factored into the design) have

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1 already been tested to the necessary regulations and
 2 standards. We cannot be expected to ascertain how safe
 3 a product is during a site visit. There are a range of
 4 accrediting bodies which ensure products meet with the
 5 relevant regulations and British and BS-EN Standards.
 6 The main bodies are the British Board Agreement (BBA)
 7 and the Building Research Establishment (BRE)."
 8 Do you see that there?
 9 A. Yes.
 10 Q. Do you agree with what he says there, that, as
 11 surveyors, you make an assumption that products used on
 12 a project have already been tested, and that they cannot
 13 be expected to ascertain how safe a product is during
 14 a site visit? Do you agree with that?
 15 A. I do not agree with the assumption aspect. If you see
 16 something on site that you don't know the details of,
 17 then you would query it. You would never make
 18 an assumption that products used are compliant.
 19 Q. Yes.
 20 A. You just wouldn't make that assumption.
 21 Q. Why not? Why wouldn't you make that assumption?
 22 A. Because you don't know it's been tested just by looking
 23 at it, and you don't know what caveats were attached, if
 24 any, to that particular testing regime.
 25 There probably is a lack of knowledge about testing

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1 in relation to fire within the building control
 2 industry, but that has improved greatly over the years.
 3 But there also -- anecdotally, people talk, and it
 4 is known that product information is not always fully
 5 explanatory of everything that is caveated in a fire
 6 test.
 7 Q. Now, you say that the lack of knowledge about testing
 8 has greatly increased over the years. So I think you
 9 said the situation's got better over the years --
 10 A. Yes.
 11 Q. -- with a greater awareness and understanding of the
 12 need to scrutinise test information; is that right?
 13 A. Correct, yes.
 14 Q. Where would you put the Grenfell period in terms of that
 15 trajectory? So 2012 to 2016, what would you say that
 16 the state was of awareness of the need to check testing
 17 information carefully?
 18 A. I think there was an awareness at that time.
 19 Q. Yes.
 20 A. Yes, I do think there was an awareness.
 21 Q. And you would have expected a reasonably competent
 22 building control officer to have had that awareness,
 23 would you, at the time?
 24 A. Yes.
 25 Q. Yes.

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1 Now, we heard from Mr John Allen. He said that
 2 interpreting certificates such as the BBA certificate
 3 and product literature is a core function of
 4 a building control officer. That's what he said.
 5 That's at {Day47/79:25-18}. Do you agree with that?
 6 A. Yes.
 7 Q. Now, in contrast, we heard from Mr Hoban that he was
 8 never trained to interpret certificates, and that it was
 9 a very specialist subject that a fire engineer would
 10 understand, but as a building control officer, he
 11 wouldn't have had that knowledge. For the transcript,
 12 this is at {Day46/77:14-22}.
 13 Now, what skills and expertise would you expect
 14 a building control officer to have when it came to
 15 reviewing and interpreting product literature or
 16 certificates such as BBA certificates or LABC registered
 17 details?
 18 A. BBA certificates -- I find Mr Hoban's statement strange
 19 inasmuch as BBA certificates are not the sole aspect of
 20 fire safety -- sorry, BBA certificates cover more than
 21 fire safety. So they cover structure, sound, all sorts
 22 of things. So he would, I would have thought, have been
 23 familiar with all the different aspects, and it says
 24 when read fully that there are caveats and reliance was
 25 placed on tests.

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1 Q. Yes.
 2 A. I would hope that that would influence you to go and
 3 say, "Well, what did that test say?" Because sometimes
 4 the manufacturer can even put limits on the test
 5 criteria when it goes to the laboratory, but until you
 6 read that test certificate, you don't know that, or you
 7 don't know that this particular element was tested
 8 between two concrete linings as opposed to aluminium and
 9 timber, whatever.
 10 Q. Yes.
 11 A. So I would have expected they would have interrogated
 12 the certificate.
 13 Q. Does it follow from that answer that a reasonably
 14 competent building control officer would read those
 15 certificates in full, including any caveats?
 16 A. A reasonably, yes, competent one, yes.
 17 Q. Would you have expected them to have undergone specific
 18 training to help them with how to interpret such
 19 certification?
 20 A. Experience suggests no. Usually the training would be
 21 if you were trained on the job, so to speak, with
 22 somebody who knew that way forward.
 23 Q. Would it have been good practice to have had training to
 24 help assist building control officers with how to
 25 interpret such manufacturers' literature or testing

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1 information?
 2 A. It would have been good practice, yes.
 3 Q. But is your evidence that it wouldn't have fallen below
 4 reasonable standards not to have had that training at
 5 the time?
 6 A. Experience suggests that it didn't occur, yes.
 7 Q. I see.
 8 Now, you have said in your report, if we look at
 9 paragraph 440 on page 135 {BMER0000004/135}:
 10 "I am aware that there was a BBA certificate in
 11 respect of the Reynobond ACM cladding. I have seen no
 12 evidence that this was provided to the [building control
 13 body]. In my experience I would not normally accept a
 14 BBA certificate as sole evidence of compliance because
 15 they are usually heavily caveated and it is difficult to
 16 identify the limitations of the certificate without
 17 seeing the underlying test data."
 18 So I think that chimes with exactly what you were
 19 just explaining to us about your approach to test data.
 20 A. Yes.
 21 Q. If not provided with a BBA certificate or something like
 22 it, what should a reasonably competent building control
 23 officer be asking for to satisfy themselves that
 24 a product used complied with the Building Regulations?
 25 A. A test certificate of that particular construction, or

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1 an assessment by an accredited body or some other
2 competent person who would take that test certificate
3 and give an assessment as to what they would think would
4 be the outcome if that particular composition was
5 involved in a fire.

6 Q. Would LABC registered details also be a source of
7 information about building control compliance?

8 A. Yes.

9 Q. Mr Hoban stated in his oral evidence that
10 a BBA certificate was "something that we accepted as
11 a standard", and when asked whether these were accepted
12 without question, he said "Yes".

13 Now, is that representative of what was happening
14 more widely in the local authority building control
15 industry?

16 A. I can only say probably, yes.

17 Q. Just to be clear, you don't accept that that was
18 competent practice?

19 A. My experience of BBA certificates is such, yes, I would
20 not take them as the only underlying justification.

21 Q. Yes. Just to be clear, sorry, I should have said for
22 the transcript, that evidence of Mr Hoban was at
23 {Day46/15:20-25}.

24 Now, Mr Hoban said in his oral evidence that he did
25 look at the BBA certificate for the Reynobond ACM

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1 panels. That's {Day45/32:15-21}. Now, you didn't have
2 that evidence at the time you wrote your report. His
3 oral evidence was, if I can summarise it, he said he
4 would not read the certificate in detail, but would pick
5 out the points that concerned him. That's
6 {Day46/16:1-4}. With regard to the Reynobond
7 BBA certificate, he said he couldn't recall, but he
8 maybe just looked at the first page. That's
9 {Day46/18:15-18}.

10 Now, just to be clear, it will be a matter for
11 the Chairman and the panel to decide whether that
12 evidence is accepted, that oral evidence. But can we
13 just assume for the moment that a building control
14 officer did choose to look at a BBA certificate. Would
15 you expect that building control officer to read more
16 than just the first page of the BBA certificate?

17 A. Definitely. The front page just gives a summary. It's
18 usually section 7 or 8 that relates to fire, and that
19 gives any caveats that relate to the use or the reason
20 the BBA certificate says what it says.

21 Q. Yes.

22 Mr Hoban's oral evidence was also that he would
23 treat LABC registered detail certificates as
24 an acceptable standard. That was {Day46/77:14-22}.

25 Would your evidence apply equally to an LABC

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1 registered detail certificate, ie you would read the
2 whole of that --

3 A. Yes.

4 Q. -- rather than just any summary or box of that?

5 A. Read it in its entirety, yes.

6 Q. Yes.

7 Mr Hoban also said in oral evidence that he did not
8 know what a BS 8414 test was. Now, would you expect
9 a reasonably competent building control officer to have
10 known about what a BS 8414 test was at the time of the
11 Grenfell project?

12 A. By virtue of it being referenced in the approved
13 document, I would have thought yes.

14 Q. Yes, it's in paragraph 12.5 of Approved Document B,
15 isn't it?

16 A. Yes. They may not have known exactly what it entailed,
17 but they would know of it, and, by virtue of that,
18 I would hope they would look further if they needed to
19 on a particular job.

20 Q. Yes.

21 Now, you say, "I wouldn't necessarily expect them to
22 know exactly what it entailed". I want to test this
23 a bit further.

24 Precisely what level of understanding would you
25 expect them to have? For example, would you expect them

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1 to understand that that was a system test, and that only
2 the exact system could be used if it satisfied the
3 BR 135 criteria? Would you expect them to have had that
4 knowledge?

5 A. Experience suggests they would not have, but having
6 before them a job that would potentially involve that,
7 and if it was presented to them, I would expect them to
8 then delve into it to establish exactly -- 8414 part 1
9 and 8414 part 2, the difference between them, and the
10 reason why it was used.

11 Q. Yes. So once they've got a project which involves
12 looking at the B4 requirement, you would expect them to
13 read the relevant parts of Approved Document B; yes?

14 A. Yes.

15 Q. See that there is an 8414 test; yes?

16 A. Yes.

17 Q. And then investigate what an 8414 test is?

18 A. Yes.

19 Q. At least in broad terms.

20 A. In broad terms, yes.

21 Q. Which would have told you that it was a system test,
22 wouldn't it?

23 A. Yes, it would.

24 Q. Now, training and CPD, just to ask you some more
25 specific questions about that in the context of what we

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1 know about the Grenfell project.
 2 If we can look at paragraph 31 of your report on
 3 page 9 {BMER0000004/9}, you say there:
 4 "I have not seen sufficient evidence that the
 5 relevant individuals within the [building control body]
 6 were up to date with their CPD."
 7 Do you see that there?
 8 A. Sorry, what --
 9 Q. Sorry, paragraph 31, I apologise. Can you see that
 10 there?
 11 A. At the time, yes.
 12 Q. So when you wrote this, you said you had not seen
 13 sufficient evidence that the individuals were up to date
 14 with their CPD; yes?
 15 A. Correct.
 16 Q. You have now heard the evidence of both Mr Hoban and
 17 Mr Allen about the training and CPD activities that they
 18 personally undertook.
 19 A. Yes.
 20 Q. And the training provided in-house by RBKC's
 21 building control department.
 22 Do you have any comments to make on that now you
 23 have heard that evidence?
 24 A. I expected they would have done other than what was
 25 registered within RBKC, inasmuch as they had continued

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1 membership of their relevant professional bodies.
 2 I would just say that, because you have done CPD, it
 3 doesn't mean to say that it's ten hours on fire,
 4 ten hours on structures and ten hours on something else;
 5 it's just an overall continuing professional development
 6 aspect. It wouldn't be specific to fire. But it would
 7 appear that the relevant CPD for their professional body
 8 was carried out.
 9 Q. Yes, I understand.
 10 Now, we have heard that there was no specific
 11 training provided on part B4 of schedule 1 of the
 12 Building Regulations and the guidance in Approved
 13 Document B on B4, save possibly for some training when
 14 the approved document first came out and if there were
 15 any amendments. That's Mr Hoban's evidence. For the
 16 transcript, that's {Day45/17} and {Day45/20}.
 17 What do you say about that? Would you have expected
 18 there to have been some training, over and above just
 19 when approved documents change, relevant to the B4
 20 requirement?
 21 A. Not unless there was an in-house training programme that
 22 was influenced by events or a particular interest or
 23 changes in legislation or in the approved documents.
 24 Q. Right.
 25 A. I'm afraid some authorities are better than others.

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1 Q. We have also heard that there was no training provided
 2 on industry guidance such as the BCA technical guidance
 3 notes. That's Mr Hoban {Day45/21:12-17}.
 4 Again, what's your view about that, that there was
 5 no training provided on industry guidance? Is that to
 6 be expected or would you have expected more?
 7 A. I'm afraid, again, it would depend on the particular
 8 building control department and the structure within
 9 that department, whether they had somebody who could
 10 give in-house training or whether it could be bought in.
 11 But my experience would be that, when the
 12 legislation changed, there would be some sort of
 13 document would go round or there would be a group
 14 meeting to discuss and highlight aspects of change,
 15 et cetera. Or if you had, say, a Building Control
 16 Alliance document that was particularly relevant to what
 17 was prevalent in the borough at the time --
 18 Q. Yes.
 19 A. -- then I would imagine that would have been made known
 20 to all members.
 21 Q. I see.
 22 Now, in this Inquiry we're particularly focused on
 23 part B of schedule 1 of the Building Regulations and
 24 Approved Document B. A building control officer
 25 obviously has to deal with the whole range of issues

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1 covered by the Building Regulations and the approved
 2 documents.
 3 Is it reasonable, in your view, to expect a local
 4 authority building control department to provide
 5 training to their surveyors on specific aspects of the
 6 Building Regulations or the approved documents in those
 7 circumstances?
 8 A. Yes, because I would expect the management to establish
 9 the weaknesses in knowledge and the specialisms, say for
 10 instance you had a structural engineer who was
 11 a qualified structural engineer, it may be that you
 12 would ask them to deal with the structural aspect of
 13 another person's patch, that area that they dealt with,
 14 because they were more competent to deal with it. But
 15 a manager should be overseeing the staff to know where
 16 their failings or their shortfalls were, and then
 17 instigate training if it was possible to attain it
 18 within that organisation or outside.
 19 Q. Is it reasonable to expect a building control officer to
 20 be a specialist in all 14 parts of schedule 1 to the
 21 Building Regulations and associated guidance?
 22 A. No.
 23 Q. What about the other documents, such as British
 24 Standards and industry guidance referred to in the
 25 approved documents? How aware would you expect them to

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1 be of those?

2 A. I would expect them to be aware of them. I would expect

3 people to have a general knowledge of the documents they

4 need to carry out the function they were performing, and

5 then to be able to access that document and use it as

6 necessary, and to delve into it in the depth necessary,

7 and if they were becoming confused or didn't understand

8 or for whatever reason, to go up the management line to

9 obtain that support to conduct that function.

10 Q. Now, just a final point on training, and I want to go to

11 one of your conclusions. If we look at page 136

12 {BMER0000004/136}, paragraph 445 of your report, you are

13 dealing with cavity barriers at this point, 445 at the

14 bottom of that page, and you say this:

15 "In terms of the installation of cavity barriers on

16 site, I have noted above that John Hoban states he was

17 not trained to check this. I am surprised by this

18 statement as in my opinion it is part of the role of

19 a [building control body] to check whether the

20 installation of cavity barriers on site complied with

21 the manufacturer's guidance."

22 Do you see that there?

23 A. Yes.

24 Q. Now, Mr Hoban's oral evidence was that what he actually

25 meant was that he was not trained to check on the tested

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1 and specified method of installation of cladding

2 systems, but that he had picked up through reading

3 documents how cavity barriers were supposed to be

4 installed. For the transcript, that's {Day46/126:20} to

5 {Day46/128:11}. However, he did also confirm that he

6 did not have formal training on how to check

7 cavity barriers on site. That was {Day46/127:17-22}.

8 Would you expect a building control officer to have

9 formal training on how to check cavity barriers on site?

10 A. In my experience, the training would have been going out

11 with somebody who knew how they should be installed and

12 to be shown what they should be looking for, or somebody

13 going back, getting the information from the

14 manufacturer as to how the tested cavity barrier should

15 be installed --

16 Q. Yes.

17 A. -- and to make sure that that particular barrier was

18 fitted in the required way for that particular barrier.

19 Q. I think you are saying two things there: that you would

20 have expected there to have been some training in the

21 form of at least going out with someone who knew how

22 they should be installed and showing them what to do,

23 but then I think you're saying separately that they

24 should know that they should be getting the information

25 from the manufacturer of the cavity barrier and checking

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1 that carefully to make sure it was installed in

2 accordance with the manufacturer's instructions; is that

3 correct?

4 A. Yes.

5 Q. We have now heard the oral evidence about the training

6 and experience that the building control officers had.

7 Can I ask you: what do you think about whether

8 John Allen was an experienced and competent

9 building control surveyor with the necessary

10 qualifications and experience to be a building control

11 manager at RBKC?

12 SIR MARTIN MOORE-BICK: Well, I wonder whether that's not

13 something for the panel to decide. I mean, of course

14 Ms Menzies can tell us what qualities were required for

15 someone in John Allen's position.

16 MS GRANGE: I understand.

17 SIR MARTIN MOORE-BICK: Do you think?

18 MS GRANGE: I'm happy not to put the question, but it's one

19 I have been asked to put.

20 SIR MARTIN MOORE-BICK: Ms Menzies, perhaps it would help us

21 all if you were just to give us a resume of what

22 qualities you think someone in charge of

23 a building control department should have.

24 A. They should have experience in the building control

25 industry, if you want to put it like that. Generally

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1 know about building. Have professional qualifications.

2 Also be a good manager, and make sure that their

3 department was doing what was required by law for them

4 to do, and that they were following what they'd laid

5 down as being the right processes. But in doing that,

6 they have to put those processes in a manner which the

7 staff can access, retrieve and learn from. There also

8 need to be checks and guards in their systems to make

9 sure that the function was being carried out correctly.

10 I suppose it also takes a certain personable nature to

11 deal with staff, public, et cetera.

12 SIR MARTIN MOORE-BICK: What about on the training front, do

13 you want to say anything about that?

14 A. Well, they should ensure that training is being

15 undertaken as and when necessary. That's knowing the

16 gaps in ability of their various staff, and to keep up

17 with the industry. Now, it might be turning round and

18 saying, "What have you done for your CPD for your RICS

19 or your structural engineering qualification?", just to

20 make sure people are on top.

21 All departments, in my experience, do an appraisal.

22 What the outcome of that appraisal is doesn't always

23 come to fruition, shall we say.

24 MS GRANGE: Yes.

25 SIR MARTIN MOORE-BICK: All right.

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1 Now, do follow any of that up or anything else that
 2 might bear on --
 3 MS GRANGE: I'm going to ask you a related question, which
 4 is now take a building control officer, so not the
 5 manager of the department, can you answer the same
 6 question? What skills, experience, training would you
 7 have expected a building control officer to have had
 8 such as Mr Hoban at the time?
 9 A. Competency comes generally with experience, not
 10 necessarily with qualification, academic qualification.
 11 The competency would be competency to do the job for the
 12 projects they were given. You find people that are
 13 very, very good at doing houses, you find people that
 14 are very, very good at doing commercial projects. If
 15 they don't have -- we'll call it a patch in their area,
 16 if they don't have the experience to gain from the
 17 different types of building, they've -- how can I put
 18 it? -- they often specialise in certain buildings, but
 19 overall a competent building control officer should have
 20 basic structure, structural knowledge, but in all of
 21 these they need to acknowledge their limitations.
 22 Q. Yes.
 23 A. So a basic structure, definitely a basic means of escape
 24 and Fire Brigade access, and linings, because that's not
 25 particularly complicated, and then basic knowledge of

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1 drainage and that type of thing.
 2 But in terms of fire, it would be definitely means
 3 of escape and Fire Brigade access, because they are the
 4 basics of fire safety, shall we say. If you get into
 5 large, complex buildings, then B3 and B4 become
 6 important. If you're dealing with residential, you
 7 would need a knowledge of B3, which is compartmentation,
 8 because that's the basis of the means of escape.
 9 To be a competent building control officer, you need
 10 a knowledge of part B to the effect that every part of
 11 it is linked to them all. You cannot deal with one
 12 without considering the other.
 13 Q. Yes.
 14 A. But the priority, I would say, would be means of escape
 15 and B5, Brigade access.
 16 Q. That's helpful.
 17 Can I perhaps approach this question in a slightly
 18 different way: in general terms, having looked at their
 19 training and qualifications, would you say that their
 20 experience and qualifications and training are
 21 representative of those working in local authority
 22 building control departments at the time?
 23 So take Mr Hoban. Was his training/experience
 24 representative of what you would expect to see in
 25 building control departments at that time, or your

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1 knowledge of that?
 2 A. I would say yes, but adding that I find it strange, the
 3 reliance on the consultant, in-house consultant, for all
 4 matters relating to B1, the means of escape.
 5 Q. I think what you are talking about is that you find it
 6 strange that, within that team, they were so reliant on
 7 Mr Paul Hanson in relation to B1, means of escape
 8 matters; is that what you are saying?
 9 A. Yes.
 10 MS GRANGE: We are going to come back to how they used
 11 Mr Hanson's role a little bit later.
 12 Mr Chairman, I'm now going to turn to --
 13 SIR MARTIN MOORE-BICK: Can I follow up then with a couple
 14 of further questions?
 15 MS GRANGE: Yes.
 16 SIR MARTIN MOORE-BICK: Mr Hoban described how each of the
 17 surveyors was given a patch to look after, which would
 18 no doubt give rise to a lot of different sorts of
 19 buildings. Is that a common way of working, as far as
 20 you know?
 21 A. In local authority, yes. Yes.
 22 SIR MARTIN MOORE-BICK: He also told us or gave us a fair
 23 idea of the number of different projects that he was
 24 juggling at any one time. Some of them would require
 25 immediate action, some wouldn't. I think he said at one

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1 stage he might have had as many as 130 projects on the
 2 books, so to speak. Did that strike you as unusual or
 3 not?
 4 A. Not really, on the basis, as you said, some could be
 5 dormant, some could be a matter that would take,
 6 you know, one visit and that would be it, others would
 7 be in progress. I think for that number you would need
 8 to be well organised, have very good means of tracking
 9 what you were doing, and a very good diary system or
 10 however you chose to do that, to control that number,
 11 and your manager should be monitoring how you were
 12 dealing with that number.
 13 SIR MARTIN MOORE-BICK: Thank you.
 14 Do you want to follow that up at all, Ms Grange?
 15 MS GRANGE: No, I have some questions on that coming later.
 16 SIR MARTIN MOORE-BICK: Oh, I'm sorry, I got ahead of you.
 17 MS GRANGE: No, it's fine. It's good. It shows we're on
 18 the right track. No, I'll leave those for now.
 19 I was going to say that I'm now going to get to
 20 Ms Menzies' criticisms of what happened on Grenfell, so
 21 it's a good time to stop.
 22 SIR MARTIN MOORE-BICK: Yes, this is a good time to have a
 23 break, then, isn't it?
 24 MS GRANGE: Yes.
 25 SIR MARTIN MOORE-BICK: Good time to have a break for lunch,

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1 then, Ms Menzies.
 2 THE WITNESS: Okay.
 3 SIR MARTIN MOORE-BICK: We will stop now. We will come back
 4 and resume at 2 o'clock, and, as before, please don't
 5 talk to anyone about your evidence over the break.
 6 THE WITNESS: Thank you.
 7 SIR MARTIN MOORE-BICK: All right? Thank you very much.
 8 (Pause)
 9 Thank you, 2 o'clock, then, please. Thank you.
 10 (1.00 pm)
 11 (The short adjournment)
 12 (2.00 pm)
 13 SIR MARTIN MOORE-BICK: All right, Ms Menzies?
 14 THE WITNESS: Yes, thank you.
 15 SIR MARTIN MOORE-BICK: Ready to carry on?
 16 THE WITNESS: Certainly.
 17 SIR MARTIN MOORE-BICK: Yes, when you're ready, Ms Grange.
 18 MS GRANGE: Yes, thank you.
 19 Ms Menzies, in a moment I'm going to start exploring
 20 with you some of the main conclusions that you've
 21 reached in your report.
 22 But just before I do, can you just help us, what is
 23 the usual qualification route that people follow to
 24 become a building control officer? What type of
 25 qualification would they routinely undertake?

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1 A. These days it would be usually a degree in building
 2 surveying, or following the route right the way through
 3 to becoming a member of CABE, Chartered Association of
 4 Building Engineers, or you can actually take a degree in
 5 building control.
 6 Q. Okay, good, thank you.
 7 So your main conclusions, first of all, about RBKC's
 8 building control department. If we can go on page 9
 9 {BMER0000004/9} of your report to paragraph 32, we can
 10 see there that you say:
 11 "Disclosures to date indicate that the building
 12 Control Department lacked a strategic policy to support
 13 the legal obligations of RBKC to achieve and enforce
 14 compliance with the Building Act 1984 and the
 15 Building Regulations."
 16 Can you just help us, when you say lacked
 17 a strategic policy to support those legal obligations,
 18 what exactly do you mean by that?
 19 A. I've not seen anything in the disclosures that suggests
 20 to me that there was a policy that staff were required
 21 to abide by whereby decisions were made within the
 22 statutory time limit, that certain policies were
 23 followed to ensure that the requirements of the
 24 Building Regulations as regards time limits and getting
 25 decisions out and achieving compliance for completion

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1 certificates were within the department.
 2 Q. Would you have expected to have seen such a policy in
 3 a reasonably competent building control department?
 4 A. Yes.
 5 Q. Now, moving on to the relationship with the means of
 6 escape group within the department, you say at
 7 paragraph 34 on that same page that you consider it to
 8 be:
 9 "... a failure on the part of RBKC not to have used
 10 the valuable asset of a qualified fire engineer
 11 (Paul Hanson) to the benefit of the Building Control
 12 Department as a whole.
 13 Then you say at 35:
 14 "It appears to me that the working relationship
 15 between the Means of escape group and the other part of
 16 the Building Control Department was undefined and
 17 unclear to those involved; and did not necessarily
 18 support project surveyors reaching the most appropriate
 19 decisions in relation to Part B of Schedule 1 of the
 20 Building Regulations 2010."
 21 You see that there?
 22 A. Yes.
 23 Q. I think you think that that was an underused resource
 24 focusing predominantly on B1 and B5 issues, when it
 25 could have been used for other issues, including B2 to

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1 B4; is that correct?
 2 A. That's correct. Because a competent building control
 3 officer would have a knowledge of B1, seeking support
 4 perhaps for complicated escape proposals, and would have
 5 a knowledge of B5, I've thought it was a strange set-up
 6 to have a department specifically for those things that
 7 should have been general knowledge to most.
 8 Q. How common is it for a local authority building control
 9 department to have a qualified fire engineer working
 10 within that department?
 11 A. These days it's not uncommon.
 12 Q. And at the time of the Grenfell project?
 13 A. There were building control surveyors with fire
 14 engineering qualifications, yes.
 15 Q. Where local authority building control bodies have
 16 access to a fire engineer, what's your experience of how
 17 access to the skills of that fire engineer are used?
 18 A. They'd be consulted on complex proposals or proposals
 19 for which there was not governance, shall we say, were
 20 not covered in the approved document but were perhaps
 21 covered elsewhere by other guidance, or where
 22 interpretation of the guidance was questioned, perhaps,
 23 between the applicant and the building control body.
 24 Q. Was the structure of the RBKC building control body in
 25 that way uncommon amongst local authorities?

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1 A. Yes, I've never encountered a separate group.

2 It is not clear to me who Mr Hanson actually
3 reported to, where he sat within the building control
4 department, because he's in a subgroup of what
5 I understand is the building control department.

6 Q. Yes.

7 A. But he seems to be quite, you know, frank, underused.

8 Q. Are you aware of any reason why there might historically
9 have been a focus on means of escape at the expense of
10 other aspects of fire engineering?

11 A. I could make guesses, but I have nothing to support my
12 view.

13 Q. One possibility that's been suggested to us is: could
14 this be as a result of the catastrophic Summerlands fire
15 in the Isle of Man in 1973, where 50 people were trapped
16 and died, and in which emphasis was put on the need for
17 regulating authorities to ensure full provision of means
18 of escape. Could that be part of the reason why
19 building control bodies like RBKC have such a focus?

20 A. I would not have thought so.

21 Q. No, okay.

22 Now, pre-application, and looking at the different
23 stages of RBKC's involvement, we know there is the
24 pre-application advice stage, and we know that Mr Allen,
25 Mr Gammon and Mr Hanson provided some pre-application

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1 advice on Grenfell Tower, in particular with relation to
2 B1 and B5 issues.

3 Now, you're going to be giving evidence about the
4 smoke vent system in Module 3, so that will come later.
5 But in general, what level of scrutiny of the proposed
6 works would you expect from a building control body at
7 the pre-application stage?

8 A. It would mainly be via discussion as to adequacy of what
9 was being considered to be proposed. There may have
10 been written comments if there was a particular aspect
11 that was contentious. But not to the degree of giving
12 marked drawings back.

13 Q. Would you expect them at that stage to look at the
14 scheme as a whole and note problems or areas where
15 information might be lacking?

16 A. Yes. The pre-meetings, pre-application meetings, are
17 generally instigated by the applicant because they've
18 got a particular concern.

19 Q. I see.

20 A. And then they would go away and take that. But if there
21 was anything evident, if somebody said, "Oh, we're going
22 to overclad it", I would have expected somebody to say,
23 "Well, what are you going to overclad it with?"

24 Q. Let's take that kind of example. So we know that the
25 Exova outline fire safety strategy, versions 1 and 2,

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1 were provided to RBKC when Studio E sought
2 pre-application advice.

3 Now, at that stage, before the full plans
4 application was submitted, would you have expected RBKC
5 surveyors to pick up on the fact that there was no
6 in-depth analysis of B4 issues?

7 A. It wasn't, is still not -- well, post-fire it is, but
8 pre the fire at Grenfell, it was not unusual for B4, in
9 the context of the actual wall construction, to follow
10 on, because it was probably being discussed at planning
11 anyway.

12 The aspect of B4 I think that was in the Exova, and
13 it was quite common at the time to comment on that at
14 the very early stages, was the space separation, whereby
15 a fire in one building is not transferred by radiation
16 to another building, and because it's an existing
17 building, it would be necessary to do a full analysis to
18 make sure that, if the relevant boundary, which was
19 a notional boundary between the two existing buildings,
20 didn't comply with current standards, it would be said
21 to be most advantageous to the existing buildings and
22 made no worse by the new works.

23 Q. Just to be clear, you said there, "The aspect of B4
24 I think that was in the Exova ... was the space
25 separation". I don't think we do see in any of the

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1 outline fire safety strategies any space separation
2 analysis.

3 A. Correct.

4 Q. We just see a single statement saying --

5 A. That's right.

6 Q. -- "The changes won't affect this, we'll consider it in
7 a future issue of this report".

8 A. Correct.

9 Q. I'm interested in your focus on space separation.

10 Would you say at the time that, to the extent that
11 building control officers were looking at B4 issues,
12 they were focusing predominantly on space separation, ie
13 section 13 of ADB, as opposed to section 12 of ADB and
14 external fire spread?

15 A. I don't think there was any particular focus on B4 full
16 stop, but it was in the Exova. It doesn't actually say
17 space separation, but to me it's inferred that it is the
18 space separation that is being thought about by Exova.

19 Q. I see. So when they talk about an analysis in a future
20 issue of the report, you think they were referring to
21 space separation?

22 A. Yes.

23 Q. I see.

24 Now, Mr Allen's evidence was that during the
25 pre-application stages, he was not aware, even in broad

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1 terms, that the project involved overcladding. That's
2 {Day47/176:1-16}.

3 Would it be common for a building control officer at
4 that stage not to know the broad details of what
5 a project involved?

6 A. Well, in my experience, the person who was the
7 applicant, who had come for the pre-application advice,
8 would give an overview of what was going on, and as the
9 overcladding was a major constituent of that, I would
10 have thought it would have been mentioned, but
11 I honestly don't know if it was mentioned at the time.
12 I can't see anything from the disclosures that I recall.

13 Q. I see.

14 Would you expect a building control officer to ask
15 for an overall summary of what the scheme comprised for
16 any refurbishment works?

17 A. Yes. Yes.

18 Q. Now, moving on to the full plans application, you have
19 said in paragraph 316 of your report on page 98
20 {BMER0000004/98} that you would have expected the
21 building control body review of the full plans
22 application to have been recorded and retained; that's
23 right, isn't it?

24 A. Yes.

25 Q. You have also said that the disclosed P60 tick list

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1 would, in your opinion, have been an inadequate record;
2 that's right, isn't it?

3 A. Yes.

4 Q. Can we just look at that P60. You have it on page 65 of
5 your report {BMER0000004/65}.

6 So here we can see that form P60, which is the full
7 plans decision tick sheet. Can you just help us as to
8 precisely why you say this was inadequate?

9 A. It says "Passed". I wouldn't think, other than for
10 a small domestic, there would be no conditions attached.
11 It says "Conditional", perhaps you would tick it, but
12 there is no place to put any conditions. Condition 1,
13 "Amend deposited plans", I don't know if that meant it
14 was a condition that you shall amend the plans and
15 deposit the plans, but there is nowhere that you would
16 record what those amendments were required or, in the
17 "Further plans required", what those plans should
18 address.

19 Rejected, reason 1, "does not comply with
20 Regulation 4", "would contravene Regulation 4", well,
21 that's no help to anybody going forward.

22 Q. Yes.

23 A. So I'm not quite sure at what stage this would be used
24 on a large project.

25 Q. Yes. I mean, how would the decision on a full plans

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1 application normally be recorded internally? What kind
2 of document would you expect to see?

3 A. In practice, I have used almost like a checklist, A,
4 going down, in my case, B, going down, and making sure
5 that I address every aspect in looking at those plans.

6 Q. Yes.

7 A. For a general building control officer, there are 20
8 approved documents, all of which could apply to
9 a project.

10 Q. Yes.

11 A. And there is no way they could retain that in their
12 head, so they would have to use some form of document to
13 record what they were doing, and to make sure for
14 themselves that they went through a process whereby they
15 were looking at every aspect they had to.

16 Q. Yes.

17 Now, on that topic of checks that you should carry
18 out, if we now look on page 98 of your report
19 {BMER0000004/98}, paragraph 317, at the bottom, you have
20 helpfully explained what the part B review of the works
21 at Grenfell Tower should have comprised, and you have
22 given us a list:

23 "(a) a detailed scrutiny of the fire safety
24 proposals as set out in the plans and documents ...
25 "(b) an assessment by the [building control body] as

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1 to whether there was adequate detail to allow
2 an assessment to be made;

3 "(c) a record of the review noting any variations
4 from recognised guidance;

5 "(d) an assessment of whether the proposal was
6 generally compliant as regards B1 and B5 to allow the
7 Fire Authority consultation ...

8 "(e) the issue of a decision notice as a record of
9 the approved (or rejected) works."

10 So those are certain key things you say should be
11 considered just as part of the part B review. That's
12 right, isn't it?

13 A. In my opinion, yes.

14 Q. We know that the hard copy file cannot be located of the
15 full plans application within RBKC, and the electronic
16 records that are held by them are not complete.

17 However, taking into account the documents you have
18 looked at and the oral evidence you have now heard, to
19 what extent did RBKC's review of the full plans
20 application cover the issues you would expect to see as
21 you have set out in this report?

22 A. The only disclosure that I've seen that addressed your
23 question would be the documentation produced by
24 Mr Hanson under his B1 review.

25 Q. Yes.

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1 A. B5 is alluded to as regards the dry riser inlet
 2 relocation, but overall it's not covered, and between
 3 documents and witness statements that I've seen, I'm
 4 still not sure what Mr Hanson was going to give comment
 5 on as standard, because Mr Hoban asked for comments
 6 under part B.
 7 Q. Yes.
 8 A. But he only ever got back B1 comments.
 9 Q. B1, yes.
 10 A. So apart from that, there's nothing that I can suggest
 11 to you says that that was a review of part B --
 12 Q. Yes.
 13 A. -- as such.
 14 Q. Yes.
 15 Now, just then moving on to highlight your
 16 conclusions on the substance of the full plans
 17 application, and this is set out early on in your report
 18 where you have helpfully given a summary of your
 19 opinion, if we can look at page 9 of your report
 20 {BMER0000004/9}, paragraph 37. You say there in
 21 paragraph 37:
 22 "In my opinion, the information submitted to the BCB
 23 at the time of the full plans application was
 24 insufficient to demonstrate compliance with the Building
 25 Regulations. The BCB ought to have requested further

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1 information about the proposed works, and, in particular
 2 the cladding panels and insulation. The BCB also failed
 3 to acknowledge that some information was out of date and
 4 contradictory. For example, the fact that the Exova
 5 fire strategy did not address the actual proposals
 6 indicated on the submitted plans was not mentioned in
 7 Paul Hanson's response."
 8 So we can see that there.
 9 Then at paragraph 38 you state that the
 10 building control body -- effectively what you say is
 11 they should have asked for a new or updated
 12 fire strategy, that's in the fourth line:
 13 "... should have been requested from the applicant
 14 to reflect the full extent of the works ..."
 15 That's correct, isn't it?
 16 A. Yes, the Exova fire strategy addressed the initial
 17 proposal; it did not address the additional residential
 18 units that were ultimately built.
 19 Q. Yes.
 20 Then at 39, importantly for our purposes, on the
 21 cladding particularly, you say:
 22 "As far as I have been able to ascertain an in depth
 23 review of the cladding was not undertaken. The
 24 disclosures to date indicate that no comprehensive
 25 details of the cladding systems were submitted to the

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1 BCB for review and the BCB does not appear to have
 2 sought details from the applicant or sought to ascertain
 3 or corroborate that the materials individually or the
 4 cladding system as a whole were in accordance with the
 5 recommendations of AD B or BS 9991 for a building of
 6 this height and use. The failure to ask for detailed
 7 information about the cladding system was, in my
 8 opinion, a fundamental failing on the part of the BCB."
 9 Do you see that there?
 10 A. Yes.
 11 Q. Just picking up on that, sometimes in your report you
 12 have said there was a "fundamental failing", sometimes
 13 you have just said there was a "failing" or
 14 a "procedural failing".
 15 Can you just help us and help the panel: how have
 16 you distinguished between those things in your report?
 17 So when you say here this is a fundamental failing, what
 18 do you mean by that?
 19 A. By fundamental, I think it's the outcome and the result
 20 of not gaining that information. I don't know why there
 21 was no cladding package, as I describe it, because it
 22 wouldn't only address part B, but it would address
 23 part L for the thermal aspect of the project, which was
 24 a major feature and one of the reasons, as I understand
 25 it, the project was undertaken. There was also aspects

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1 of acoustic separation between the units that would have
 2 been influenced.
 3 So there just seems to be a fundamental failure, as
 4 I describe it, a basic failure with fire spreading
 5 consequences of not gaining that package information.
 6 Q. So where we read "fundamental failing", I think you have
 7 said there basic failing or serious failing, would we
 8 take it to mean that?
 9 A. Yes.
 10 Q. Now, at paragraph 40 {BMER0000004/10} you then go on to
 11 say:
 12 "Due to the number of issues found in respect of
 13 requirement B1 alone, the full plans application should
 14 have been rejected when first received. The plans
 15 should have been reviewed within the five week statutory
 16 time limit. This would have been a simple exercise
 17 based on comparison with the P1 annotations."
 18 Now, you have explained in detail in your report --
 19 and I'm not going to take you through it today because
 20 we don't have time -- all the reasons why the
 21 requirement B1 alone would have justified rejecting the
 22 plans. Does that remain your evidence, even having
 23 heard the oral evidence of the witnesses?
 24 A. Yes. Yes.
 25 Q. Now, if we can go to paragraph 328 of your report, which

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1 starts on page 100 {BMER0000004/100}, at the bottom, we
2 can see, and this is picking up at this full plans
3 stage:

4 "Mr Hanson states in his response that 'RBKC is not
5 in a position to approve the proposals at this stage due
6 to the need for the design team to establish
7 an acceptable extract rate for the powered lobby
8 ventilation system and the provision of ventilated lobby
9 protection to all stairway connections to residential
10 and other uses.' Further details were requested,
11 including the fire alarm system, escape lighting,
12 mechanical ventilation, fire signage, the powered smoke
13 shafts and the alternative power supplies to life safety
14 systems. The formal consultation with the
15 Fire Authority was undertaken ..."

16 And I am going to come back to that later.

17 So in circumstances where that was the position,
18 where RBKC are saying they're not in a position to
19 approve the proposals due to the need to establish all
20 these things, do you consider that it would be
21 acceptable to approve the full plans application in
22 those circumstances?

23 A. If they had been given a structured conditional
24 approval, it could have been approved subject to
25 conditions.

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1 Q. Yes.

2 A. But no such decision was made.

3 Q. At least as far as you've seen, you have seen no
4 evidence of a conditional decision being made?

5 A. No evidence at all.

6 Q. No.

7 Now, in terms of the drawings that were submitted
8 with the full plans application, you have helpfully
9 analysed those in paragraphs 277 to 281 of your report.
10 That's on page 88 {BMER0000004/88}. You have explained
11 that there are some inconsistencies, mislabelling of the
12 drawings, missing drawings.

13 Mr Hoban's evidence is that he didn't notice that
14 some of the drawings were missing or mislabelled.
15 That's his evidence at {Day45/163} to {Day45/164}.

16 My question is: would you expect a reasonably
17 competent building control officer to have picked up
18 these issues about the drawings that you have identified
19 in your report?

20 A. Yes, I would. You would be looking at the revision
21 number or date, et cetera, to make sure you had the most
22 up-to-date drawing, or indicated that it was, and the
23 fact it spoke about a music school I think was quite
24 evident that it was mislabelled.

25 Q. Yes. So we have drawings that appear to refer to

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1 a school --

2 A. Yes.

3 Q. -- in the label. To be fair, I think they do look like
4 they're Grenfell drawings, but they've got the wrong
5 label.

6 A. They're definitely Grenfell footprint of the plan, but
7 it's mislabelled.

8 Q. And you would have expected him to have picked up things
9 like that?

10 A. Yes.

11 Q. You have also referred in your report to what's called
12 the "meaningful response" to the full plans application,
13 which is on Acolaid. That was the electronic document
14 system that they were using.

15 If we can go to that, that's at {RBK00044876/69}.

16 If we can blow this up, this is a screenshot from
17 Acolaid, and we can see that the meaningful response is
18 what we see there, where it says, "requested details of
19 the works John E Hoban". Do you see that there?

20 A. Yes.

21 Q. That's said to have been the meaningful response. You
22 say that, in your opinion, that does not describe
23 a meaningful response to a Building Regulations
24 application; that's right, isn't it?

25 A. Correct, yes.

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1 Q. Can you just help us, what should a meaningful response
2 look like in general terms? How much detail would you
3 expect to see?

4 A. If it was indicating a total non-compliance, that would
5 probably have been an adequate -- "The submission
6 indicates non-compliance in respect of X, Y and Z",
7 I would expect that to be followed by a rejection.

8 Q. Yes.

9 A. Or it would be, "Further details required in respect of
10 X, Y and Z", having established that what was there was
11 a viable proposition anyway, and it was just the main
12 detail that was not available.

13 But the term "meaningful response", I'm more
14 familiar with that in terms of an approved inspector,
15 where it's used in their various documents and
16 procedures that are common to an approved inspector.
17 I would expect that to have said "Approved" or
18 "Accepted" or "Rejected".

19 Q. Yes.

20 A. But a meaningful response, if it had been in terms of
21 a pre-application discussion, I could understand the
22 term "meaningful response". But that may just be my
23 established thinking. And it comes up on Acolaid, the
24 approval section is "Meaningful Response", but it says
25 "Meaning" ...

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1 Q. "Meaning of Response".
 2 A. "Meaning of Response"?
 3 Q. Yes, I think, in that -- it's a bit unclear under the
 4 "Action" box.
 5 A. Yes.
 6 Q. Actually, it might be "Meaningful Response", to be fair.
 7 A. Yes. I'm not sure what that's meant to refer to.
 8 Q. Yes.
 9 Now, if we can then pick up a little bit more about
 10 your conclusions about the cladding aspect of the work,
 11 if we go to page 96 of your report {BMER0000004/96},
 12 paragraph 303, at the bottom of that page we have the
 13 heading "The cladding", and you say this:
 14 "Importantly, I have not seen any documents or
 15 exchange of emails between any party and Building
 16 Control that refers to the compliance (or
 17 non-compliance) of the cladding system/external wall
 18 construction. As far as I have been able to ascertain
 19 the BCB made no request for details /information
 20 regarding the construction of the over cladding and/or
 21 new external walls at the lower levels and their ability
 22 to resist fire spread (internally or across their
 23 surfaces). Some limited information was provided by the
 24 applicant, piecemeal and not specifically related to
 25 compliance with Requirement B4. No comprehensive

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1 cladding package was ever provided. I would have
 2 expected such a package to be provided, and if it was
 3 not then the BCB ought to have requested it."
 4 So your views are very clear on that there.
 5 You talk about that you would have expected
 6 a comprehensive cladding package to be provided. At
 7 what stage would you have expected that to have been
 8 submitted? At the full plans stage or at a later stage?
 9 A. At a later stage, but certainly before the works
 10 commenced, or in the very early stages of the works.
 11 Q. Yes.
 12 A. Just in case it had to be taken off and replaced.
 13 Q. Would you expect there to be a clear statement from the
 14 applicant that it considered the design complied with B4
 15 as part of that full plans application or part of the
 16 information that followed it?
 17 A. Yes, and if it was not evident, then I'd ask for
 18 justification of that statement.
 19 Q. Yes.
 20 Now, Mr Hoban gave evidence that he passed the full
 21 plans application but with conditions. That was his
 22 oral evidence. He said that one of the conditions was,
 23 "The cladding system shall be in compliance with
 24 section 12 of ADB, please provide further information".
 25 That's what he says one of the conditions was. This is

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1 {Day45/189:2-7}.
 2 Now, again, it's going to be for the panel to decide
 3 whether they accept that evidence by Mr Hoban, but just
 4 sticking with it for the moment, if such a condition was
 5 applied, does that represent the sort of condition that
 6 would be applied in circumstances where information was
 7 lacking?
 8 A. Yes.
 9 Q. So for him to say, "The cladding system shall be in
 10 compliance with section 12 of ADB", that's the kind of
 11 condition you think would be reasonable to impose?
 12 A. Yes.
 13 Q. Yes.
 14 SIR MARTIN MOORE-BICK: Well, can we just have a look at
 15 that a bit further. I thought as a result of our
 16 exchanges this morning that you had told me that the
 17 condition would be a condition of submitting further
 18 plans, not doing it correctly, and there is quite
 19 an important distinction, isn't there? Because
 20 building control's role is to ensure that what is
 21 proposed will be in accordance with the regulations if
 22 it's constructed in accordance with the proposal.
 23 A. Yes. So the wording that Mr Hoban says he used would
 24 normally have been followed by, "Full details shall be
 25 submitted" --

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1 SIR MARTIN MOORE-BICK: Right.
 2 A. -- "to indicate compliance".
 3 SIR MARTIN MOORE-BICK: Before the work was done?
 4 A. There's nothing that building control can do to stop the
 5 work starting.
 6 SIR MARTIN MOORE-BICK: Right.
 7 A. It can go on to site and find a non-compliance and serve
 8 a notice if they don't change it by good -- by a word.
 9 There is nothing to stop the work going ahead. They
 10 would do that at their own risk, carrying on with the
 11 knowledge, hopefully he would have told them, "If you
 12 carry on, and I'm not satisfied, then it could end up
 13 that all this work needs to be undone".
 14 SIR MARTIN MOORE-BICK: That seems to be a rather
 15 complicated way of going about it. You would have
 16 thought the preferable course would be to impose
 17 a condition saying, "I'm passing this on condition that
 18 you provide me some plans which demonstrate compliance".
 19 A. That is what you would do. As I say, "The work shall
 20 comply with B4, full details shall be submitted". What
 21 would normally happen is that the applicant would make
 22 the statement, "The work will comply", and then
 23 building control would say, "Prove it to me, show it to
 24 me on the plans".
 25 SIR MARTIN MOORE-BICK: All right, thank you.

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1 Yes, Ms Grange.
 2 MS GRANGE: Thank you.
 3 Sticking with that theme, if we could go to page 61
 4 {BMER0000004/61}, paragraph 244 of your report, you say:
 5 "A conditional decision will also request details of
 6 elements/installations that may not be available at the
 7 time of the initial submission. Any request for details
 8 of the over cladding should have at the same time or
 9 following their receipt, required the submission of any
 10 fire tests or assessments to attest to whether the
 11 relevant materials were of limited combustibility,
 12 surface spread of flame, fire resistance of the
 13 individual materials and/or assembly forming the
 14 overcladding."
 15 Do you see that there?
 16 A. Yes.
 17 Q. Now, just to be clear, you say there, "Any request for
 18 details of the over cladding", but can we be clear, in
 19 circumstances where you say it would have been
 20 acceptable to apply a condition that you comply with
 21 a part of ADB on B4, would it also have been expected
 22 that those details would in fact be submitted?
 23 A. Yes.
 24 Q. Yes.
 25 A. Yes.

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1 Q. So you as the building control officer wouldn't just
 2 leave it to them, just say, "You have got to comply with
 3 section 12" and then leave it to them; you would require
 4 proof that it had or was going to comply, and the type
 5 of information you would expect is what you're
 6 describing here, including fire tests and assessments;
 7 is that right?
 8 A. Yes. My answer to you previously was incomplete.
 9 I should have had -- always, wherever you request
 10 details, you always request details on every aspect to
 11 prove to you that it is compliant.
 12 If they said the walls are going to be made of
 13 120-mil masonry block throughout the height, you would
 14 probably have taken that as acceptable, but you would
 15 have asked for: how would you restrain those walls,
 16 et cetera, et cetera.
 17 Q. Yes.
 18 Just then taking the Grenfell example specifically,
 19 for example for the ACM panels on Grenfell, if the
 20 drawings had shown ACM panels, what in your opinion
 21 ought to have been requested by the building control
 22 officer in relation to the compliance of those
 23 materials?
 24 A. Details of the individual materials and/or an assessment
 25 under BR 135, or as set out in the Building Control

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1 Alliance, an assessment, a fire engineered proposal, to
 2 support their statement that they thought it complied
 3 with the building regs.
 4 Q. Again, would you require the same for the insulation
 5 product to be used? Would you require some supporting
 6 test evidence or other certificate that suggested that
 7 that insulation was compliant with the requirements,
 8 either of ADB and the linear route, if that's what
 9 they're following, or a BR 135 certification if they're
 10 following the system testing route? Is that right?
 11 A. Yes. If the components of the wall had individually
 12 been known to be non-combustible, then the details of
 13 the insulation would be requested to make sure that that
 14 was non-combustible. But it should be known to
 15 a building control officer that the materials in
 16 combination do not always work as individual materials.
 17 So if you mixed combustible and non-combustible, you may
 18 still be up to the required standard, or you may be
 19 quite the converse, by virtue of the reaction of the
 20 combustible materials relative to the ventilation paths
 21 and the backing material and the support.
 22 Q. And you would have expected a reasonably competent
 23 building control officer to have been aware of those
 24 matters, would you --
 25 A. Yes.

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1 Q. -- that you were just describing?
 2 A. Yes.
 3 Q. Is it realistic to expect that an applicant would be
 4 able to provide test data and supporting evidence of
 5 compliance at the full plans stage, ie before work has
 6 commenced on site?
 7 A. If they were proposing a material that formed part of
 8 the submission, albeit it was still in negotiation
 9 perhaps with planners, by virtue of the fact that they
 10 were proposing it, they should then go to the
 11 manufacturers, the suppliers, to get that test evidence.
 12 Q. Yes.
 13 A. It's down to them to provide it.
 14 Q. Yes.
 15 A. Most manufacturers, if you approach them for their test
 16 data, will not give it to you, because they fear it
 17 would be commercially beneficial to other parties. But
 18 if you're buying it off them, they seem to be more
 19 willing to actually give you the information. And
 20 sometimes you have to sign a non-disclosure agreement.
 21 Q. Right.
 22 A. But it is available.
 23 Q. Would you say you sometimes have to be persistent about
 24 getting hold of that information?
 25 A. Yes, I mean, sometimes the applicant comes back and

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1 says, "They won't give me one, they won't give me the
2 test certificate."

3 "Well, go back and tell them you need it, otherwise
4 you can't use their material."

5 Q. You and Mr Hyett have come to the conclusion through
6 a review of the documents that there was no form of
7 tracker used by RBKC building control to monitor the
8 refurbishment. Would you accept, though, that there was
9 no specific requirement for local authority
10 building control services to operate a tracker system
11 for such applications?

12 A. That's correct.

13 Q. In your opinion, would a reasonably competent
14 building control body have in place a tracker or
15 an equivalent to a tracker to monitor the progress of
16 that application through its lifecycle?

17 A. Yes, and I know that many building control officers in
18 all different offices, even if there is no policy within
19 their office for such a tracker, set up their own
20 trackers, or quite often they're instituted by the
21 applicant or generally the architect, because
22 everybody's got so much to deal with, that's a way of
23 dealing with the regulatory side as regards
24 Building Regulations.

25 Q. Yes.

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1 Now, Mr Hoban has described his plan check record
2 sheet to the Inquiry. He referred to that in his oral
3 evidence at {Day45/79:19}.

4 Do you know what he was referring to there? Are you
5 familiar with something called a plan check record
6 sheet?

7 A. Yes, I mean, there is no set formula for it. It would
8 be probably a spreadsheet or something he may have
9 devised individually, or it may have been in the office,
10 where it would be effectively an aide memoire and
11 a record of what you would look at and what you had come
12 to the conclusion of.

13 Q. Yes.

14 A. Because when you get all that information in, it's
15 a quicker way of referring back to the initial review to
16 see what you were looking for and the particular aspect
17 of what you were looking for. It just helps the process
18 all the way along. It improves efficiency and it
19 records -- if you haven't got a record and it's months
20 between, you know, you don't want to do it twice, so to
21 speak.

22 Q. Is that the same thing as a tracker or is a tracker
23 different?

24 A. A tracker usually comes after the decision --

25 Q. Yes.

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1 A. -- because it will have the conditions, if any, on it.
2 The record is your record of your work going through
3 and recording what you found acceptable or not.

4 Now, if it was due(?) with a detailed initial
5 decision sheet, whatever you want to call it, you can in
6 fact then turn that into the tracker.

7 Q. Yes. But they're not the same thing?

8 A. Not in my mind, no.

9 Q. I'm going to come back a little bit later, because the
10 next stage in the process is consultation with the
11 fire authority, but I want to press on at the moment
12 with your main conclusions and we will come back to that
13 topic.

14 So, now, assessment of compliance. What I want to
15 do is take you through RBKC's assessment of compliance
16 with part B of the Building Regulations and just pick up
17 what your overall conclusions were.

18 Now, we have already discussed B1, means of escape,
19 and the full plans stage, and your evidence that it
20 should have been rejected purely on B1 grounds at that
21 stage. I just want to pick up your overall conclusions.

22 For the transcript, in paragraphs 355 to 341 on
23 pages 101 to 105 {BMER0000004/101} of your report, you
24 have summarised the updated information that was
25 provided by Studio E, and also the second consultation

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1 with the fire authority.

2 At paragraph 342 {BMER0000004/105} you conclude that
3 although you have highlighted several issues with the
4 proposals, your view is that the review of the later
5 proposals, the S2 proposals, ie the updated
6 fire strategy drawings and the smoke control system
7 proposals, was adequate and acceptable. Is that
8 correct?

9 A. Yes, in relation to B1, yes, yes.

10 Q. And that aspect of the building control application was
11 reviewed by Paul Hanson; that's right, isn't it?

12 A. Yes.

13 Q. Yes.

14 Now, in terms of your conclusions on B2, internal
15 fire spread, linings, they're set out at 346 to 349 of
16 your report on page 106 {BMER0000004/106}. Again, just
17 to try and get to the nub of your overall conclusion,
18 you say at paragraph 347 that part B2 was addressed in
19 the Exova outline fire safety strategy version 3 of
20 November 2013, and it fully reflected the
21 recommendations of Approved Document B. Is that right?

22 A. Correct.

23 Q. At the end of that paragraph, you note that the Exova
24 fire strategy did not reflect the proposals.

25 Does that have a bearing on your overall conclusion

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1 that the information submitted to building control
 2 demonstrated compliance with the B2 condition?
 3 A. B2, if it's stated it will comply, you would look --
 4 from my aspect, I would then -- if on site, and it was
 5 other than something I knew and recognised as being
 6 acceptable --
 7 Q. Yes.
 8 A. -- I would then at that stage ask for the details.
 9 Q. Yes.
 10 A. If it had been a hotel, shall we say, or a high-end
 11 office block boardroom, I would have asked for details
 12 because I would know it would not be emulsion on block,
 13 it would be some laminate or something like that, and
 14 I would ask for details or evidence that it complied.
 15 Q. I see. So depending on what they're choosing to do with
 16 their internal linings, that might affect the level of
 17 scrutiny you gave to that?
 18 A. Yes.
 19 Q. Now, B3, because the key things for our purposes are
 20 predominantly B3 and B4.
 21 Now, in terms of cavity barriers, and turning first
 22 to cavity barriers around openings --
 23 A. Yes.
 24 Q. -- you say at paragraph 390 of your report, page 114
 25 {BMER0000004/114} -- perhaps we can just bring that

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1 up -- picking it up in the second line:
 2 "... the [building control body] failed to recognise
 3 that no cavity barriers had been indicated to seal the
 4 cavities at openings within the walls (for example,
 5 around the windows)."
 6 We can see that there.
 7 A. Yes.
 8 Q. Just breaking that down, would you expect
 9 a cavity barrier strategy showing the location of
 10 cavity barriers to be submitted at the full plans stage?
 11 A. Not necessarily. Quite often it's covered by
 12 a statement that cavity barriers will be provided around
 13 all openings to close the cavities.
 14 Q. So if you saw that kind of statement, you might not
 15 worry that they weren't marked in the drawings; is that
 16 what you're saying?
 17 A. At that stage, yes.
 18 Q. But what if there was no such statement, and what if the
 19 drawings you had as part of the full plans application
 20 didn't show any cavity barriers around the windows,
 21 would you expect that to be picked up at that stage?
 22 A. Yes.
 23 Q. Now, if we can just look at Mr Hoban's evidence on this
 24 topic, and I want to look at the transcript of his
 25 evidence here. This is {Day46/95:6}. So this is

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1 Mr Hoban being asked questions by Mr Millett, and at
 2 line 6 he says:
 3 "Question: Looking at this one, did you notice that
 4 there were no cavity barriers indicated at the head,
 5 jamb or sill of the windows?
 6 "Answer: It was my understanding that the framework
 7 supporting the window would act as a cavity barrier.
 8 "Question: What was the basis of that
 9 understanding, Mr Hoban?
 10 "Answer: If you look at Approved Document B, it
 11 calls up that a steel frame -- framework over a certain
 12 thickness can act as a cavity barrier.
 13 "Question: Yes, I don't want to argue with you, but
 14 that's right, isn't it, only if it's made of
 15 a particular material, like steel?
 16 "Answer: Metal -- steel, yes.
 17 "Question: Steel, not aluminium.
 18 "Answer: Yes, from my understanding it was steel."
 19 Do you see that there?
 20 A. Yes.
 21 Q. Then if we just, before I ask you some questions, look
 22 at what he says just over the page at page 96
 23 {BMER0000004/96}. He's asked:
 24 "Question: Who told you that?
 25 "Answer: I can't say. It was always my

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1 understanding that the framework supporting the window
 2 was of a thickness of steel that could act as the
 3 cavity barrier.
 4 "Question: Well, it could as a matter of theory
 5 under ADB. My question is: did you ever see any
 6 drawing, any plan, any note or have any discussion --
 7 "Answer: I --
 8 "Question: -- let me finish the question, please --
 9 about steel being the material used in those positions
 10 to act as a cavity barrier?
 11 "Answer: That was, as I say, my understanding."
 12 Now, that was his oral evidence.
 13 I want to ask you: have you seen anything in the
 14 information provided to RBKC building control that could
 15 have led Mr Hoban to conclude that there was steel
 16 framework supporting the windows?
 17 A. No. Not that I can recall.
 18 Q. In circumstances where an applicant is relying on
 19 a steel framework of a window instead of
 20 a cavity barrier, would you expect this to be recorded
 21 somewhere in the submission to building control?
 22 A. Yes.
 23 Q. Would you expect it to be clearly indicated on
 24 a drawing?
 25 A. Or a statement down the side of the drawing or in the

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1 detail submitted, yes.
 2 Q. What inspection would you expect a building control
 3 officer to carry out on site in those circumstances
 4 where you have then been told that information?
 5 A. On the assumption it was steel, to go and make sure the
 6 steel was of the requisite thickness and to make sure it
 7 was forming a barrier between the cavity and the
 8 opening.
 9 Q. So you would actually go and do some checks for
 10 yourself, you wouldn't just take their word for it that
 11 the steel was going to be compliant with
 12 a cavity barrier?
 13 A. Yes.
 14 Q. Or synonymous with a cavity barrier as given in the
 15 guidance in ADB; yes?
 16 A. Yes. Wouldn't look at every opening, wouldn't be there
 17 long enough on the daily basis to do it, but you would
 18 judge by the standard of the work generally how often
 19 you would go --
 20 Q. Yes.
 21 A. -- and check, and to what extent you would check.
 22 Q. Now, Mr Hoban's evidence was that he did not check
 23 around the windows because, when he visited the site,
 24 the windows were either not there or had already been
 25 enclosed. For the transcript, that's {Day46/98:8-25}.

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1 In your opinion, should he have asked to have
 2 a window removed so he could inspect it, if he couldn't
 3 otherwise see what was around the windows?
 4 A. It would have been the decision on the knowledge of the
 5 particular job and the standard of the work, et cetera,
 6 but if he hadn't said that, I would have expected him to
 7 have said, "When you're going to put that window in the
 8 opening, I want to see it before it goes in", something
 9 like that to check that there was at least ... again,
 10 a lot of it is judgement of the person that you're
 11 dealing with and the standard of work.
 12 Q. Yes.
 13 A. But in best practice it would have been to take the
 14 window out and have a look.
 15 Q. Yes. Or, as I think you have said, one possibility
 16 would be to then arrange a specific time to visit --
 17 A. Yes.
 18 Q. -- in the future when he could be shown an area around
 19 an installed window before it was covered up; yes?
 20 A. Correct, yes.
 21 Q. Now, you say at paragraph 396 on page 117
 22 {BMER0000004/117} of your report -- let's just look at
 23 that. This is a bit of your report where what you're
 24 discussing is what was shown on the Studio E drawings,
 25 and if you recall, on the Studio E drawing, as you note

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1 in the middle of this paragraph, 1279 (06) 120 00, there
 2 is a cavity barrier above the head of the window in line
 3 with the compartment floor. Do you recall that?
 4 A. Yes.
 5 Q. You say this:
 6 "In principle, a [building control body] may have
 7 considered this cavity barrier to be effective as
 8 a window cavity barrier. However, I have seen no
 9 evidence that John Hoban adopted this approach."
 10 Then you go on and explain what the Harley drawings
 11 showed.
 12 A. Yes.
 13 Q. Moving on to your conclusions on cavity barriers within
 14 the cladding system at compartment wall and floor lines,
 15 you have explained the history of this in your report at
 16 paragraphs 363 to 389 on page 113 {BMER0000004/113}.
 17 I just want to focus on your opinion about the standard
 18 of fire resistance required by the cavity barriers.
 19 What we know is that Mr Hoban, in March 2015,
 20 initially advised that firestops were required, and that
 21 these should be 120 minutes' fire resistance. Do you
 22 remember that?
 23 A. Yes.
 24 Q. Then eventually he changed his mind, having been
 25 provided with some further information, and advised that

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1 only a cavity barrier was required at compartment wall
 2 and floor lines. You recall that?
 3 A. I don't know why he changed his mind. There's nothing
 4 that's been disclosed to me on the reasoning behind his
 5 ultimate decision.
 6 There is a confusion between a cavity barrier and
 7 a fire barrier to maintain compartmentation. The big
 8 debate with rainscreen is where that fire barrier sits.
 9 I believe that was the whole debate that was going on --
 10 Q. Yes.
 11 A. -- and there is still some discussion within the
 12 industry at the moment.
 13 Q. Yes. I'm going to take you to diagram 33 in a moment
 14 and you can just explain that to us.
 15 Let's just look, before we get to that, at what you
 16 say in your report. So you refer to diagram 33 in your
 17 report at paragraph 381 and again at 382. If we can go
 18 to 382 on page 112 {BMER0000004/112}, you say this, and
 19 it's consistent with exactly what you have just been
 20 saying:
 21 "This diagram caused much debate in the industry at
 22 the time of the application and continues to do so. The
 23 debate centred on whether the required cavity barrier in
 24 a rainscreen cladding system should be 30FR or the same
 25 as the fire resistance of the compartment lines the

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1 cladding passed over. The compartment lines at Grenfell
2 were between the flats and between the flats and any
3 other areas."

4 Then if we can just look at what you say at 386 on
5 page 113 {BMER0000004/113}, you say:

6 "If I had been the building control officer on the
7 Grenfell refurbishment, I would have required a 120FR
8 fire stop at compartment lines to extend
9 compartmentation out through the rainscreen system.
10 This would have been the starting point and I would have
11 required any proposals to use 30FR cavity barriers in
12 these locations to be justified."

13 A. Yes.

14 Q. So that's your view there.

15 If we can look at the version of diagram 33 that you
16 have helpfully provided in your report, this is on
17 page 111 {BMER0000004/111}. Now, here, if we blow this
18 up, what you have helpfully done is change some of the
19 colour-coding, so that here we've got the firestopping
20 in green and the cavity barriers in blue, which makes it
21 actually clearer, looking at this diagram, than in
22 Approved Document B.

23 A. Yes.

24 Q. I think that's why you have done it; is that right?

25 A. Yes.

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1 Q. So blue are cavity barriers and green is firestopping.

2 Now, do you agree that for this building that's
3 being shown here in this diagram, it appears to show
4 cavity barriers in the location between the external
5 wall and the rainscreen cladding, ie the little blue
6 rectangles; yes?

7 A. Yes. This diagram is on the assumption that the wall
8 complies with the requirements of B4.

9 Q. Right. Yes. So is what you're saying that where
10 there's perhaps some doubt about whether the B4
11 requirement is met, you need to potentially apply
12 a higher standard of resistance to the cavity barriers
13 and make them equivalent of a firestop? Is that what
14 you're saying?

15 A. My view is that this diagram doesn't actually relate to
16 rainscreen cladding.

17 Q. Yes.

18 A. It reflects a cavity wall, and the weather line and the
19 thermal line can vary on rainscreen cladding. This
20 looks like a cavity wall where the thermal line would be
21 effectively inside, so the compartmentation from, say,
22 the floor goes up to the external wall, which would be
23 to standard.

24 Q. Yes?

25 A. In a high-rise building, it would be effectively

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1 non-combustible.

2 Q. That's the green bit, is that what you're saying?

3 A. Correct.

4 Q. The green bit takes you to a solid wall?

5 A. Yes. Then there is a cavity in the wall that needs to
6 be subdivided to stop the unseen spread of fire.

7 Q. Yes.

8 A. Then round the openings there are cavity barriers to
9 stop fire from the compartment going into the cavity and
10 then spreading beyond the cavity.

11 Q. Yes. But applying this and assuming a rainscreen on the
12 outside, can you just explain to us why you get to
13 a slightly different result in a rainscreen application?

14 A. Why I think the compartment should be continued through
15 the rainscreen?

16 Q. Yes, and why you need a 120-minute firestop where the
17 little blue square is, rather than a 30-minute
18 cavity barrier?

19 A. To my mind there is potential for a fire in the
20 compartment, which is stopped by the green on the end of
21 the compartment, breaking into the cavity where the blue
22 stops are, and spreading up to and entering another
23 compartment.

24 Therefore, to my mind, the compartment line should
25 go out as far as possible, such that any void is

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1 firestopped, has a fire barrier in it.

2 Q. Why do you say there is that potential for fire to break
3 out from the compartment if you have closed around
4 openings with cavity barriers?

5 A. Because it can go up and go back in.

6 Q. Right. I see.

7 Now, in paragraph 383 of your report on page 112
8 {BMER0000004/112}, you say that this diagram is only
9 an indication of where in principle to locate
10 cavity barriers and firestopping to deter the unseen
11 spread of fire; yes?

12 A. Yes.

13 Q. Can you just help us as to what you mean exactly by
14 that? Why is it only an indication? Is that because
15 you're saying it applies perhaps more to a standard
16 masonry construction?

17 A. Yes, it applies to the majority of whatever one
18 determines would be normal buildings.

19 Q. You refer to a debate in the industry on that topic.
20 Can you just help us as to what that debate was at the
21 time?

22 A. Some people take diagram 33 and apply it to every form
23 of external wall. Some of us don't agree that it's
24 relevant to a rainscreen cladding, and again, the
25 rainscreen cladding is not a standard formation, and so

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1 it would depend on what that rainscreen cladding is made
 2 of and the extent it continues beyond compartment lines.
 3 But that diagram 33 sets out the principle of
 4 firestopping to maintain compartmentation,
 5 cavity barriers to stop the unseen spread into the
 6 cavity and through the cavity.
 7 Q. Yes.
 8 A. So you would apply that principle. The debate comes
 9 where you're sitting down discussing with somebody where
 10 the barriers are appropriate or not.
 11 Q. Just to be clear, on either interpretation, it was
 12 clear, wasn't it, that cavity barriers needed to be
 13 provided round openings?
 14 A. Yes.
 15 Q. Do you agree that it is cavity barriers, not firestops,
 16 that are referred to in some of the industry guidance
 17 giving assistance about external walls? For example, in
 18 BCA Technical Guidance Note 18, under the heading "Key
 19 Issues", that talks about the importance of
 20 cavity barriers rather than firestops. Do you agree
 21 with that?
 22 A. Whether they -- in the context of ...? Sorry.
 23 Q. Let's look at that, {CEP00057294}. This is the
 24 Building Control Alliance technical guidance note, "Use
 25 of Combustible Cladding Materials on Residential

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1 Buildings". Then under "Key Issues", it's talking
 2 about:
 3 "Fire spread ... is exacerbated by the use of
 4 combustible materials ...
 5 "Statutory guidance addresses these issues [in the
 6 second paragraph] ..."
 7 Then in the last bullet it says -- so it starts
 8 with:
 9 "A Surface Spread of Flame Classification does not
 10 infer any resistance to combustibility, it is solely
 11 a measure of the spread of a flame across the surface."
 12 Then it says:
 13 "The BR 135/BS 8414 tests deal solely with the
 14 spread of fire once it has entered the cavity. Hence,
 15 the requirements for cavity barriers in accordance with
 16 Section 9 of AD B2 are required in all cases including
 17 around openings in the façade."
 18 Now, I appreciate that this isn't saying it's just
 19 specific to rainscreen systems, but this guidance at the
 20 time suggests that it's cavity barriers that are
 21 required.
 22 A. I would suggest it's talking about when the fire has
 23 entered the cavity, stopping it spreading.
 24 Q. Yes.
 25 A. And it's not specifically relating to maintaining

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1 compartmentation.
 2 Q. I see. I see.
 3 Now, at paragraph 387 of your report
 4 {BMER0000004/113}, you say that:
 5 "... there is logic in questioning the rationale of
 6 a fire barrier in a cladding system that has no
 7 fire resistance and may, when attacked by fire, fail and
 8 collapse within 30 minutes thereby rendering any
 9 firestopping or cavity barriers ineffective."
 10 Yes?
 11 A. Yes.
 12 Q. What do you mean by the cladding system failing in that
 13 context?
 14 A. In very few circumstances, the wall, the external wall,
 15 would have to be fire rated. Generally, I've never seen
 16 a rainscreen cladding that has had to be fire rated,
 17 which means it doesn't have to withstand fire from
 18 inside the building for any particular time. If it's
 19 aluminium, it will fail relatively early in a fire.
 20 Q. Yes.
 21 A. So you could have a fire raging in a two-hour building
 22 and the cladding has fallen off. Then there is the
 23 question, if you having the cladding disintegrating,
 24 falling off or even just bowing, is that cavity barrier
 25 going to have any effect whatsoever?

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1 Q. In your view, does that risk of failure justify omitting
 2 cavity barriers entirely?
 3 A. No. No.
 4 Q. Why?
 5 A. Because the cavity barrier and the rainscreen will be
 6 there for a period of time, by which time hopefully
 7 other measures may have come into play, and definitely
 8 the evacuation will be under way. The big risk then
 9 comes -- well, there is a bigger risk of the falling
 10 cladding falling on to firefighters, which is why we
 11 would generally aim to put the entrance and the set-down
 12 point for firefighters away from the potential for
 13 cladding to fall on to them. There have been stories of
 14 large sheets of glass falling out and literally cutting
 15 through the hoses that are going into the buildings.
 16 Q. Right, yes.
 17 Now, on this point about whether it should have been
 18 a firestop or a cavity barrier, your overall conclusion
 19 is that requiring a cavity barrier instead of a firestop
 20 was within the range of reasonable responses for
 21 a building control body at the time; that's right, isn't
 22 it?
 23 A. I think so, yes.
 24 Q. So you say there's a debate, there's different views on
 25 it, but you're not critical of Mr Hoban for ultimately

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1 accepting a 30-minute cavity barrier in that location ;
 2 is that right?
 3 A. Yes, I think a number of building control officers would
 4 have come to the same conclusion.
 5 Q. Do you find it surprising that Mr Hoban, despite his
 6 years of experience in building control, had never
 7 advised on diagram 33 in the context of a rainscreen
 8 cladding system? That was his evidence at
 9 {Day46/123:7-10}. In your experience, would it be
 10 surprising for someone, particularly of his length of
 11 experience, not to have come across and had to deal with
 12 diagram 33 before?
 13 A. Yes, particularly if he's worked, as he has, in an urban
 14 situation .
 15 Q. You do find that surprising?
 16 A. Somewhat surprising, yes.
 17 Q. Yes.
 18 Now, finally on this issue, you have commented on
 19 the crown at paragraph 405 on page 123
 20 {BMER0000004/123}. If we could pick that up, page 123
 21 of your report, paragraph 405, you say:
 22 "Finally, as far as I can ascertain the BCB was not
 23 provided with any detail of how the crown of the Tower
 24 was to be constructed/clad. The initial submission of
 25 details in September 2014 indicated 'zinc crown

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1 elements' but this was changed. I would expect that
 2 once the BCB saw the crown on site, he should have asked
 3 for further information. I have not seen any evidence
 4 that this was done. The site visit notes make no
 5 reference to the crown. I now know from inspections by
 6 others that no cavity barriers were installed at the
 7 junction between the rainscreen cladding system and the
 8 crown or within the crown itself. In my opinion, this
 9 ought to have been noted and questioned by the BCB."
 10 Now, it's right, isn't it, though, that there was
 11 nothing, say in Approved Document B, which assisted
 12 about whether you should have cavity barriers in
 13 an architectural feature like a crown? That's right,
 14 isn't it?
 15 A. Correct. My statement is that it ought to have been
 16 noted and questioned by the BCB. He may have come to
 17 the conclusion that they didn't need cavity barriers.
 18 Q. I see, but you think it should have been something he
 19 was thinking about when he was looking at this building?
 20 A. Yes.
 21 Q. Now, Mr Hoban's evidence was that he inspected the crown
 22 on site, that's {Day46/148:3}.
 23 If that evidence was to be accepted by the panel --
 24 and, again, that's going to be up to their assessment --
 25 and if we assume that he did inspect it on site, do you

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1 have any comment on what he ought to have noticed or
 2 recorded in his notes of any such inspection?
 3 A. I'm presuming he looked at it from a structural aspect,
 4 if he wasn't interested it from the fire aspect, but it
 5 should have registered with him what the material was,
 6 and questioned whether it constituted part of the
 7 external enclosure or was an attachment, which, again,
 8 since the fire have become quite prominent, controlled.
 9 Prior to that, as you say, there was nothing as regards
 10 an attachment, an architectural feature, but I would
 11 have expected him to have looked at it as to, if there
 12 had been a fire, would it have caused the fire to
 13 progress.
 14 Q. His evidence was also that his understanding was that
 15 cavity barriers were not required within the crown
 16 because it was not a concealed space. That was
 17 {Day46/102:10-21}. Do you agree with that?
 18 A. I don't know the full details of the construction of the
 19 crown, so I couldn't, without seeing the details,
 20 comment on that.
 21 Q. Okay.
 22 He also said that he considered the cavity barrier
 23 at the head of the window, at the very top of the
 24 building, would act as a cavity barrier at the junction
 25 of the spandrel cladding and the crown. Again, that was

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1 {Day46/103:17-18}.
 2 Do you agree with that, that that cavity barrier at
 3 the head of the very top windows, before you get to the
 4 crown above, would have acted as a cavity barrier in
 5 that location?
 6 A. Without looking at the plan at this point, I couldn't
 7 say, or the elevation. But irrespective of where the
 8 cavity barrier to the opening was, if there was no
 9 barrier to the side of the opening, if the fire could
 10 have gone sideways and then up and spread into the
 11 crown, that would have been a concern.
 12 Q. Yes.
 13 Now, we have heard evidence during this Inquiry,
 14 oral evidence, that in fact on site the horizontal
 15 cavity barrier above the head of the window was moved
 16 even further up from the location shown in the Harley
 17 drawings. If you remember, it was shown at the head of
 18 the window, immediately at the head, in the Studio E
 19 drawings.
 20 A. Yes.
 21 Q. It was shown slightly higher in the Harley drawings, and
 22 then the evidence of Osborne Berry to the Inquiry was
 23 that on site a decision was taken to move it up even
 24 further than that.
 25 Now, is that something you would have expected

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1 Mr Hoban to have noticed on site as part of his site
 2 inspections, that the cavity barriers, the horizontal
 3 ones, were located higher up than shown on the Studio E
 4 or Harley drawings?
 5 A. As a general rule, building control officers don't walk
 6 around with all plans of everything, but as he wasn't
 7 looking for cavity barriers at openings at all, he
 8 probably would not have noticed it had been moved up.
 9 But the principle of having it at or about the opening
 10 should have registered with him. The fact that it had
 11 moved slightly probably wouldn't have registered with
 12 him.
 13 Q. Yes, okay.
 14 Now, B4. On your conclusions on B4, we know that no
 15 comprehensive cladding package was ever submitted, and
 16 we have looked at your views on that already, but I want
 17 to briefly explore with you how the guidance in Approved
 18 Document B should be interpreted and should have been
 19 interpreted.
 20 You have set out your views at paragraphs 413 to 419
 21 of your report at pages 126 to 127 {BMER0000004/126}.
 22 At paragraph 414 you have referred to paragraph 12.5 of
 23 Approved Document B, and we know that the cladding on
 24 Grenfell Tower purported to follow the linear route, ie
 25 the guidance in Approved Document B, except perhaps for

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1 the insulation, where it seems possible that an 8414
 2 test plus BR 135 may have been relied upon, at least by
 3 some of those responsible for the design of the
 4 cladding.
 5 Do you have a view as to whether it is appropriate
 6 for a project to pick and choose which route to
 7 compliance applies for different materials in
 8 a rainscreen cladding system?
 9 A. In a composite, unless they are all totally
 10 non-combustible, I don't think you can pick and choose
 11 which bit goes to make up that composite. That
 12 composite as a whole must be looked, and the effect of
 13 one material on the other.
 14 Q. Mr Allen seemed to suggest in his oral evidence that if
 15 the linear route was adopted -- you know what I mean by
 16 the linear route? You follow 12.6, 12.7 of ADB rather
 17 than your BR 135 route.
 18 A. Yes.
 19 Q. So it's the two routes that are suggested in 12.5 of
 20 ADB.
 21 Now, he seemed to suggest that if the linear route
 22 was adopted and the insulation was not of limited
 23 combustibility, this would be non-compliant; do you
 24 agree?
 25 A. He said that the insulation was non-compliant or

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1 non-combustible -- sorry, could you repeat your
 2 question?
 3 Q. He said if the insulation was not of limited
 4 combustibility, this would be non-compliant. Do you
 5 agree with that?
 6 A. Yes.
 7 Q. That was {Day47/29:12-20}.
 8 Now, you refer in your paragraph 415 on page 126 to
 9 paragraph 12.6 of Approved Document B, which addresses
 10 the external surface of walls and the requirement that
 11 over 18 metres the external surface should achieve --
 12 one option is should achieve national class 0.
 13 Would you expect a reasonably competent building
 14 surveyor to understand what national class 0 means?
 15 A. Yes.
 16 Q. Would you expect them to understand that you can have
 17 a product where the surface achieves national class 0,
 18 but it nonetheless contains combustible material inside?
 19 A. Yes.
 20 Q. Would you expect them to have an appreciation of the
 21 risk in terms of external flame spread that that limited
 22 testing to national class 0 might pose?
 23 A. Yes, because it's purely a surface spread of flame
 24 description.
 25 Q. Now, in paragraphs 416 and 417 you give your

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1 interpretation of paragraph 12.7 of Approved Document B.
 2 If we can just look at the text of ADB there. If we go
 3 to {CLG00000173/96}, there we have 12.7. It will be
 4 very familiar to many of us by now. We have looked at
 5 it a number of times in this Inquiry.
 6 Now, you say in paragraph 416 of your report that
 7 you interpreted 12.7 as referring to elements of the
 8 wall but not the fabric protecting the building against
 9 weather. Can you help us as to what you mean by that?
 10 A. The wall in itself comprises of those components. When
 11 I referred to the aspect of weather -- I'm trying to
 12 recall why I've phrased it in this particular way.
 13 SIR MARTIN MOORE-BICK: Would it help to see the passage in
 14 your report?
 15 A. If I may.
 16 MS GRANGE: Yes, I'm sorry, so paragraph 416 of your report
 17 on page 126 {BMER0000004/126}. So you have set out in
 18 the first few lines a quote from 12.5.
 19 A. Yes.
 20 Q. Then you say:
 21 "The requirement required resistance to the spread
 22 of fire over the walls and from one building to
 23 another."
 24 Then you say this:
 25 "12.7 of AD B referred to any insulation product,

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1 filler material (except gaskets, sealants and similar
 2 etc). I interpreted that as referring to elements of
 3 the wall but not the fabric protecting the building
 4 against the weather."
 5 Do you see that there?
 6 A. Yes.
 7 Q. We were just wanting you to just try and help us as to
 8 exactly what you meant by that.
 9 (Pause)
 10 A. To be quite honest, I'm struggling myself to explain why
 11 I've put it in that particular way.
 12 SIR MARTIN MOORE-BICK: Tell us what you were trying to say
 13 and then we will worry less about the words you've
 14 chosen.
 15 MS GRANGE: Do you want to go back to 12.7 of ADB? Would
 16 that help?
 17 A. Yes, please.
 18 Q. So that's {CLG00000173/96}.
 19 A. Right. The components that make up that wall as
 20 a whole -- or the components of the wall. Well, it's
 21 entitled "Insulation Materials".
 22 Q. Yes.
 23 A. And it quite clearly says that it should be of limited
 24 combustibility where the building is over 18 metres.
 25 Q. Yes.

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1 A. The intent of B4 is to stop spread of fire across the
 2 surface of the building, which would not necessarily be
 3 the insulation of the building.
 4 Q. Yes.
 5 A. Most insulants require protection, I think I'm right in
 6 saying, against the weather because they will
 7 deteriorate.
 8 Q. Yes.
 9 A. So it's almost like two distinct aspects. So it's the
 10 insulation needs to be of limited combustibility, and
 11 then the wall elements that make up the external aspect
 12 of the wall --
 13 Q. Yes.
 14 A. -- have to have a surface spread of flame restriction
 15 and a limited combustibility in themselves.
 16 Q. Yes. It's where you get that limited combustibility
 17 from that is interesting.
 18 We know in 12.6, the paragraph before, that it says
 19 that external walls have to meet certain requirements,
 20 and that's where we get national class 0 above 18 metres
 21 in diagram 40, for example, as it applied to Grenfell.
 22 But can you help us as to why you think that the
 23 external wall element also had to be of limited
 24 combustibility, not just the insulation?
 25 A. By virtue of the -- is it 12.5?

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1 Q. Yes.
 2 A. If we go back. Could we go back down?
 3 Q. Yes, of course, if we go back, there we go, at the
 4 bottom of page 95 {CLG00000173/95} you have the general
 5 warning in 12.5 at the beginning:
 6 "The external envelope of a building should not
 7 provide a medium for fire spread if it is likely to be
 8 a risk to health or safety. The use of combustible
 9 materials in the cladding system and extensive cavities
 10 may present such a risk in tall buildings."
 11 Is it that part of 12.7(sic) which you're saying
 12 then informs how broad you think you ought to interpret
 13 12.7? Is that right?
 14 A. Yes, well, 12.7 relates specifically to the insulation.
 15 Q. Yes.
 16 A. This is the external wall construction.
 17 Q. Yes.
 18 A. And the limited spread, as dictated by 135 or compliance
 19 with 12.6 to 12.9 inclusive.
 20 Q. Yes.
 21 A. And 12.6 to 12.9 cover, as it says, external surfaces,
 22 the surface spread of flame externally.
 23 Q. Yes.
 24 A. So if a refuse bin caught alight, what would it do to
 25 the surface? How fast would the flame spread up the

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1 external surface? Then you have got the insulation and
 2 then you have got the actual components forming the
 3 overall format of wall.
 4 Q. Yes.
 5 A. I hope that helps.
 6 Q. So I think what you are saying is that the external
 7 surface, here it would be the rainscreen, are you saying
 8 that you need to look at it from two angles: one is its
 9 external surface, and the other is whether or not it
 10 could propagate fire? Is that what you're saying?
 11 A. Yes, they are two distinct things in my mind.
 12 Q. I see. And is that why you then interpret 12.7 perhaps
 13 more broadly than others do?
 14 A. I didn't realise I did.
 15 Q. Right.
 16 A. But to me, the external surface, limited surface spread
 17 of flame, whether you adopt the national class or the
 18 European class.
 19 Q. Yes.
 20 A. The overall wall construction must not propagate the
 21 spread of fire.
 22 Q. Yes.
 23 A. That would include in the test the reaction of the
 24 surface spread of flame.
 25 Q. Yes.

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1 Now, if we can go back to 417 of your report on
 2 page 126 {BMER0000004/126}, there you say this:
 3 "My interpretation of the recommendation of
 4 paragraph 12.7 was that for a building such as
 5 Grenfell Tower, the elements of the external wall, save
 6 for gaskets and sealants and similar, should be of
 7 limited combustibility as that interpretation reflects
 8 the overall functional requirement of B4. This view is
 9 also supported by BCA Technical Guidance Note 18, which
 10 I have referred to elsewhere in my report and which
 11 states that the "insulation, internal lining board and
 12 external facing material" should be of limited
 13 combustibility."

14 Then you say that in December 2018 you think some
 15 amendments have clarified that, but in your view that
 16 was clear already, is that what you're saying?

17 A. Yes.

18 Q. Yes.

19 A. I think what the amendment subsequent to the fire
 20 related to was the question over what they termed as the
 21 insulation in the actual ACM panel, which to me was not
 22 insulation in terms of the insulation referred to in the
 23 approved document.

24 Q. I see. So you accept it's not insulation, and so
 25 strictly it's not the kind of product that 12.7 seems to

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1 be primarily focused on; do you agree with that?

2 A. That was my interpretation at the time, yes. To me it
 3 was a stiffener, if anything, and I, like many, assumed
 4 it was completely encapsulated within the aluminium.

5 Q. Yes. We're going to go on to that in just a moment.

6 You have also said that you don't consider the core
 7 of an ACM to be a filler, within the meaning of how that
 8 term is referred to in 12.7; is that right?

9 A. Correct, yes.

10 Q. Is that because you have said that the core provides
 11 "little insulation"? Is that why you say it's ...?

12 A. To my mind at that time, filler would be something like
 13 you put in an imperfection of fit.

14 Q. Yes.

15 A. A material you would use to infill a gap to form
 16 a shadow gap or similar. It would not have been in the
 17 terms of that material within the actual cassette panel.

18 Q. Yes. Was there a view at the time --

19 SIR MARTIN MOORE-BICK: Ms Grange, if we're going to pursue
 20 these sort of questions, I wonder if they ought to be by
 21 reference to the understanding within the industry,
 22 rather than the witness's personal --

23 MS GRANGE: Yes, absolutely, that's fine, I was about to ask
 24 that very question.

25 SIR MARTIN MOORE-BICK: I was also going to ask you whether

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1 we're --

2 MS GRANGE: When we're going to break, yes, don't worry,
 3 I've got just a couple more questions and then I think
 4 we can break.

5 SIR MARTIN MOORE-BICK: Very well.

6 MS GRANGE: Was there a view held at the time within the
 7 industry that the core of an ACM panel might be
 8 "filler"? Were you aware of that view at the time?

9 A. Personally, no.

10 Q. But were you aware of others within your industry
 11 sharing your view as to how 12.5 through to 12.7 should
 12 be interpreted?

13 A. I can't recall at that time any major discussion, to be
 14 quite honest. I cannot recall any discussion where what
 15 the Government now calls filler was being discussed.
 16 But that is just my involvement in the industry at that
 17 time.

18 MS GRANGE: Yes.

19 Mr Chairman, I'm midway through this topic, but we
 20 are coming on to a slightly different subtopic now, so
 21 I think we'll break.

22 SIR MARTIN MOORE-BICK: Yes, I think we probably should have
 23 a break at this point.

24 Ms Menzies, we're going to have another break now.
 25 We will come back at 3.40, please.

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1 No talking to anyone -- well, about your evidence,
 2 that is -- while you're out of the room. Thank you very
 3 much.

4 THE WITNESS: Okay.

5 (Pause)

6 SIR MARTIN MOORE-BICK: Thank you, 3.40, please. Thank you.
 7 (3.25 pm)

8 (A short break)

9 (3.40 pm)

10 SIR MARTIN MOORE-BICK: All right, happy to carry on?

11 A. I am.

12 May I clarify a response that I made earlier?

13 MS GRANGE: Yes, of course.

14 A. I believe you asked me whether there was a debate in the
 15 industry about cladding.

16 Q. Yes. Hang on, which debate? We talked about --

17 A. About the actual cladding and what it comprised of and
 18 the solution to dealing with it.

19 Q. In terms of cavity barriers and firestopping or in terms
 20 of how 12.7 applies?

21 A. 12.7.

22 Q. Okay, yes.

23 A. I feel the debate, to my mind, was before the full plans
 24 application, the cladding at Grenfell, and the response
 25 to that was the BCA Technical Note 18.

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1 Q. Yes.
 2 A. So that in my mind, and I think the industry's mind,
 3 that was the solution that you went forward with. So
 4 I'm not saying the debate wasn't going on, but it wasn't
 5 a primary debate at the forefront of everything at the
 6 time.
 7 Q. I see. So you are saying in June 2014, when the BCA
 8 Technical Guidance Note 18 comes out, referring to,
 9 I think, something like all key elements of the wall
 10 being limited combustibility, in your view the debate
 11 was settled at that point, was it?
 12 A. That was the view at the time of the way to deal with
 13 the aspect of the composite cladding, yes.
 14 Q. I see, thank you.
 15 Now, at paragraph 436 on page 135 {BMER0000004/135}
 16 of your report, you have said, in the first few lines
 17 there:
 18 "I believe it was generally thought at that time an
 19 ACM panel fully encapsulated the core material in the
 20 panel and that panels were not generally cut on site
 21 i.e. that the core material was not exposed."
 22 Can you explain why you think that that was the
 23 general view at the time, that these panels were fully
 24 encapsulated?
 25 A. When I had discussed them previously on projects, that's

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1 how they were described to me, and post-fire, discussing
 2 it with various colleagues, several had agreed that they
 3 thought they were, like I did, fully encapsulated.
 4 Q. Can you just explain how that was relevant to what
 5 building control officers ought to have been doing at
 6 the time?
 7 A. Well, the exposed face would have been another exposed
 8 face of a combustible material.
 9 Q. And something that you think Mr Hoban should have
 10 noticed on site?
 11 A. Yes.
 12 Q. Now, just to finish off your conclusions, your
 13 conclusions on B5, "Access and facilities for the
 14 fire service", are at paragraph 451 to 460 of your
 15 report, that's pages 137 to 139 {BMER0000004/137} and
 16 then at paragraph 460 {BMER0000004/139} you say that the
 17 smoke control system will be the subject of a separate
 18 report; that's right, isn't it?
 19 A. Yes.
 20 Q. At this stage, are you able to give any view about
 21 whether the assessment for compliance with B5 was
 22 appropriate?
 23 A. I think the assessment was appropriate, but I'm unclear
 24 as to the conclusion as what the final system was,
 25 because the acceptance of the system preceded some

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1 amendments required by building control that I don't
 2 actually know whether they were carried out and what
 3 they actually related to.
 4 Q. That's helpful, thank you.
 5 Now, at this point I just want to go back to the
 6 question of consultation with the fire authority which
 7 we've referred to a number of times. You deal with that
 8 topic at paragraphs 298 to 299 of your report on page 96
 9 {BMER0000004/96}. Just for the benefit of the public
 10 and those who have not read your report, I'm just going
 11 to summarise what a fire authority consultation is, and
 12 you can just tell me if you agree.
 13 Is it right that Article 45 of the 2005 order
 14 requires a local authority in receipt of a full plans
 15 application for a building or part of a building that
 16 will be the subject to the 2005 order on completion of
 17 the works to consult the fire authority before passing
 18 the plans?
 19 A. Correct.
 20 Q. And the 2005 order applied to parts of Grenfell Tower,
 21 didn't it?
 22 A. Yes.
 23 Q. That meant RBKC had to consult the London Fire and
 24 Emergency Planning Authority as the relevant fire
 25 authority; is that correct?

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1 A. Correct.
 2 Q. We know as a matter of fact that RBKC did do that on two
 3 occasions, first on 11 November 2014 and again later in
 4 February 2016; that's right, isn't it?
 5 A. Yes.
 6 Q. Now, in terms of that first consultation, the Inquiry,
 7 RBKC and the London Fire Brigade have been unable to
 8 locate the substantive response from the London Fire and
 9 Emergency Planning Authority, and you record that at
 10 paragraph 298 of your report on page 96
 11 {BMER0000004/96}, so we don't know what the substantive
 12 response was.
 13 A. No.
 14 Q. I just want to ask you a few things about that
 15 consultation and what it did and didn't comprise.
 16 Is it correct that the role of the fire authority
 17 was advisory, so it had no power itself to reject the
 18 plans or impose conditions?
 19 A. Correct.
 20 Q. In terms of the scope of the consultation, if we just
 21 look at what you have said at paragraph 466 on page 139
 22 {BMER0000004/139}, right at the bottom of that page, you
 23 say:
 24 "In my experience for all but high risk, very high
 25 rise or complex projects, and where no dispensation of

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1 the Building Regulations relating to fire was proposed,
2 the consultation expected by both the [building control
3 body] and the Fire Authority related to B1 and B5
4 matters only."

5 Do you see that there?

6 A. Yes.

7 Q. Now, in your view, was Grenfell Tower a high risk, very
8 high-rise or complex project?

9 A. In my experience, not high risk, on the basis if it
10 complied, it would have not been high risk.

11 Q. Very high-rise or complex project?

12 A. It's high-rise, and I wouldn't say it was complex.

13 Q. Right.

14 The words you have used in that -- perhaps if we can
15 go back and look at the bottom of that page -- I think
16 are "very high rise":

17 "In my experience for all but high risk, very high
18 rise ..."

19 Do you see that there?

20 A. Yes.

21 Q. Can you help us, what do you mean by very high-rise
22 projects?

23 A. At the time I would have thought of something like 50 or
24 60 metres high.

25 Q. Right.

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1 A. Now it would be over 30 metres, or over 18 now.

2 Q. I think Grenfell was around 62 metres high.

3 A. Is it?

4 Q. So does that mean that Grenfell -- 67, Mr Millett is
5 correcting me.

6 A. On the basis it was an existing building, I wouldn't
7 have -- it's not something I would have thought on the
8 basis of what was proposed would have gone to the
9 Fire Brigade fire engineering department who dealt with
10 the higher risk type buildings.

11 Q. I see. Yes.

12 Now, have you had the opportunity before giving
13 evidence today to review the second witness statement of
14 Lynsey Seal of the LFB?

15 A. Yes, I have.

16 Q. If we can bring that up, this is at {LFB00118998}.

17 (Pause)

18 It's not coming up. We will check that.

19 Perhaps what I can do is just explain to you while
20 we find that what she says in her witness statement.

21 I know you have read it already. She says:

22 "... inspecting officers are more likely to offer
23 observations in relation to the Building Regulations in
24 terms of means of warning and escape (B1) and access and
25 facilities for the fire service (B5). This does not

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1 amount to restriction or limitation on what inspecting
2 officers should and do consider and if there are other
3 critical issues apparent in the consultation
4 documentation provided, then it would be illogical for
5 such issues to be ignored."

6 Just pausing there, do you agree with that, that
7 although they're more likely to offer observations on B1
8 and B5, that's not a restriction or limitation on what
9 inspecting officers should and do consider if there are
10 other critical issues apparent in the consultation?

11 A. Yes, because they can comment on whatever they like,
12 really, in relation to fire safety. Yes.

13 Q. Yes, and then she says:

14 "However an expecting officer can only consider and
15 consult upon the information provided and within the
16 bounds of their competence. It is not the role of that
17 officer to second guess/peer review compliance decisions
18 made by the [building control body]."

19 Do you agree with that?

20 A. I do.

21 Q. So I was just reading, for the transcript, that is
22 paragraph 11 on page 5.

23 Then at paragraph 12 she says:

24 "Matters relating to means of escape and
25 firefighting access/ facilities are the main areas upon

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1 which the experience and knowledge of inspecting
2 officers can be brought to bear in their consideration
3 of simple and standard consultations, hence the focus
4 upon them."

5 Again, do you agree that that's the reason why they
6 often focus on B1 and B5?

7 A. Yes.

8 Q. Then at paragraph 23 on page 9 she says this:

9 "I would not expect our locally based inspecting
10 officers to offer any specific observations in relation
11 to the Building Regulations beyond anything they have
12 noted from their review of the consultation relating to
13 general means of escape and firefighting
14 access/ facilities."

15 Pausing there, would you agree with that, that you
16 wouldn't expect the locally-based fire officers to offer
17 any specific observations beyond anything they've noted
18 from their review relating to means of escape, B1, and
19 firefighting access, B5?

20 A. That would be the norm, yes.

21 Q. Then she says this:

22 "Any comment upon B2-B4 was and is likely to be made
23 by the Fire Engineering Group following an internal
24 referral although, as I explain below, such comment,
25 particularly in relation to the external wall

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1 construction was unusual."
 2 Again, does that accord with your experience, that
 3 any comments that you might get from the fire authority
 4 on B2 to B4 were more likely to be made by their fire
 5 engineering group? Is that right?
 6 A. Yes, that's correct.
 7 Q. Would you agree with her that, particularly in relation
 8 to external wall construction, such comment was unusual?
 9 A. Yes.
 10 Q. Then at paragraph 46 on page 16 she says:
 11 "In terms of external fire spread (B4) the Exova
 12 strategy issue 3 that was provided with the first
 13 consultation detailed that."
 14 Then she sets out a quote from that Exova
 15 fire strategy, and it's the quote we're familiar with,
 16 I'm going to read it now:
 17 "It is considered that the proposed changes will
 18 have no adverse effect on the building in relation to
 19 external fire spread but this will be confirmed by
 20 an analysis in a future issue of the report."
 21 So she records that there, and she says this:
 22 "Due to this statement and there being nothing in
 23 relation to B4 highlighted by the [building control
 24 body] within either consultation with us, there would be
 25 no reason to comment or question this area of the

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1 design. The expectation would therefore be that, unless
 2 otherwise advised, the design would comply with the
 3 Building Regulations in this regard."
 4 Do you see that there?
 5 So what she is saying is the combination of the
 6 statement that was made in the Exova fire strategy that
 7 the proposed changes will have no adverse effect but
 8 will be considered in a future issue, together with the
 9 fact that there was nothing in relation to B4
 10 highlighted to them as the fire authority, meant that
 11 they would have no reason to comment on that area of the
 12 design.
 13 A. I agree.
 14 Q. Do you agree with that?
 15 A. I do.
 16 Q. In your opinion, should the building control officer on
 17 Grenfell Tower have highlighted to the fire authority
 18 that there was a lack of information about the cladding
 19 proposals and compliance with B4 at the time of
 20 considering the full plans application? Should that
 21 have been communicated to the fire authority?
 22 A. I don't think there would have been anything to gain
 23 from those comments, and I think, as I've said in my
 24 report, I don't think the application should have been
 25 accepted to start with. Because the building control

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1 body had categorically stated that they couldn't say it
 2 was acceptable to them, I don't think it should have
 3 gone on the initial stage to the Fire Brigade.
 4 Q. So you're saying it was so inadequate that, actually, it
 5 shouldn't have been sent to the fire authority for
 6 consultation at all at that stage?
 7 A. Even on the basis of B1, because what was said to be
 8 proposed and supported by the outline fire safety
 9 strategy was not in fact what was shown on the plans to
 10 be built.
 11 Q. Yes, I understand.
 12 Now, just on this topic of consultation, but
 13 a different kind of consultation now: are you yourself
 14 aware of any requirement to consult residents as part of
 15 considering a building control application where it
 16 involves renovation of an existing occupied building?
 17 A. To consult them? No.
 18 Q. So you are not aware of any requirement to do that kind
 19 of resident consultation?
 20 A. No.
 21 Q. Now, in terms of your compliance assessment overall,
 22 I just want to ask you a few general questions about
 23 Mr Hoban's approach to checking compliance with the
 24 Building Regulations.
 25 We now know that he says he gleaned some evidence

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1 from site, knowledge from site. For example, he says
 2 that he saw the insulation and the ACM on site. Then he
 3 says he went away to check for further information.
 4 Now, again, subject to the caveat that that factual
 5 evidence will have to be considered by the panel, but if
 6 we take that as our starting point and assume that's
 7 right for present purposes, would that be a common way
 8 of doing things in the industry, for example to get
 9 information from site and then go away to check other
 10 information relating to what you have seen on site?
 11 A. I would say it is often done. It usually triggers
 12 a contact to the applicant to say, "I have seen on site
 13 X, Y, Z, I need details of it and justification for your
 14 using it".
 15 Q. So you put the onus back on them to justify to you what
 16 you have seen or been told on site?
 17 A. Yes. You might go away, look it up and have an idea in
 18 your mind from the details provided, but then when those
 19 details came in, you could then sort of compare what you
 20 knew about it to what was being proposed --
 21 Q. Yes.
 22 A. -- as the detail.
 23 Q. Just to be clear, I think what you have said is there
 24 needs to be a very clear written record of what you have
 25 seen on site and what further information you're

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1 requiring; is that correct?

2 A. Yes, for lots of reasons, yes.

3 Q. Yes.

4 Now, we also know that Mr Hoban said in his oral
5 evidence that he trusted Studio E and believed that they
6 knew what they were doing, and he thought it reasonable
7 to expect that they would know and understand the
8 Building Regulations. That was his evidence at
9 {Day45/202:23} to {Day45/203:25}.

10 In your opinion, is it ever reasonable for
11 a building control officer to make assumptions about the
12 level of skill and competence of an architect or
13 a builder?

14 A. Not to make assumptions, no. That's the American way,
15 where the plumber or whoever writes an affidavit, signs
16 an affidavit that it complies. But that's not the way
17 we do it in this country, no.

18 Q. You wouldn't ever assume, perhaps based on -- I mean,
19 what he said is that he had worked with them previously
20 on the KALC project. If you have worked with someone
21 previously and you think they have done a decent job,
22 would that perhaps reasonably lead you into assuming
23 that they knew what they were doing and perhaps that you
24 didn't need to check everything as thoroughly as you
25 otherwise would?

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1 A. No, because the academy was a school, wasn't high-rise,
2 and Grenfell Tower was a high-rise residential block,
3 completely different.

4 Q. Does the fact that a fire engineer had been engaged on
5 the project and provided some advice affect the level of
6 scrutiny that a building control officer should exercise
7 on a project?

8 A. No. It just, if they're a competent engineer, makes
9 your job easier, because the justification and the
10 information is usually set out for you.

11 Q. Was it reasonable for Mr Hoban to assume that compliance
12 had already been checked by the design team?

13 A. He may have assumed it, but he didn't have any evidence
14 of it.

15 Q. And therefore, in your view, it wasn't reasonable?

16 A. Was not reasonable.

17 Q. Yes.

18 Do you agree that the task of building control is
19 made markedly more difficult if members of the
20 professional team don't work collaboratively with it,
21 don't attempt to make its task easier, and don't inform
22 it if they identify themselves areas of non-compliance
23 or potential non-compliance?

24 A. Yes.

25 Q. Have you seen any evidence of that kind of behaviour on

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1 the Grenfell project from what you have reviewed?

2 A. I can't say that I have, but there has been no request
3 from building control for that, so it may be -- I can
4 only surmise that, because they weren't asked, they
5 assumed that it wasn't required, but that was wrong.

6 Q. Yes.

7 Now, we have heard from Mr Hoban that he was given
8 various verbal assurances on site about the compliance
9 of the cladding. If we can look at your report,
10 paragraph 42, page 11 {BMER0000004/11}, you say this:

11 "Mr Hoban appears to have relied on the
12 unsubstantiated word of the contractors that the
13 cladding achieved Class 0 classification for fire
14 surface spread of flame and met the criteria within AD B
15 for cladding incorporating combustible materials for
16 a building exceeding 18.0m in height. This was
17 a fundamental failing on the part of the
18 [building control body]."

19 So we have that there.

20 Has anything you have heard in the oral evidence
21 changed your view in any way about that?

22 A. No.

23 Q. Now, we have been through your evidence of the failings
24 that you have identified in RBKC's scrutiny of the
25 refurbishment project. You have heard the oral evidence

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1 of Mr Hoban and Mr Allen and the reasons they gave for
2 why they didn't do things, and he now accepts on some
3 occasions, with hindsight, things ought to have been
4 done.

5 Do you have any further comment you want to make in
6 relation to that evidence as relevant to your
7 conclusions in your report?

8 A. I don't believe so. Having heard the evidence of
9 Mr Hoban, and subsequently had sight of the HR records,
10 I feel he was struggling. He appears to -- in the joint
11 meetings between the two gentlemen, it was stated and
12 recorded that he was at one stage 50% behind on his site
13 record-keeping, and yet during that time, as that figure
14 was going up, he was asked to take on, and did accept,
15 two additional patches into his overall control, which
16 seems a bad management decision as regards getting the
17 best out of a building control officer.

18 Q. Yes.

19 Now, having heard evidence about the size of the
20 building control department and the number of projects
21 that Mr Hoban was overseeing, are you able to give us
22 your opinion on whether the building control department
23 in your view appeared to be overstretched at the time of
24 the Grenfell project?

25 A. The department as a whole, I can't say. Mr Hoban

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1 appeared to be. But, having said that, without details
 2 of all the other jobs, whether they were dormant, the
 3 size of them, et cetera, I can't categorically say he
 4 was overburdened.
 5 Q. Yes.
 6 I think the Chairman's already asked you this
 7 morning about the number of projects that Mr Hoban was
 8 working on at a given time. I think he said at its
 9 highest it was 120 to 130 projects, and you have already
 10 provided some comment on that this morning. Do you have
 11 anything else to say about that?
 12 A. No.
 13 Q. Now, quality control now, as a separate topic.
 14 Now, is it right that you found no evidence of RBKC
 15 having a quality control policy or document management
 16 system?
 17 A. That's true. It's mentioned several times in documents,
 18 but I've found no evidence of it.
 19 Q. I think you explain that in the building control
 20 performance standards that were in force at the time, it
 21 was left to a local authority to create a business
 22 policy to enable maximum effectiveness in achieving
 23 compliance, and formulate its own documented quality
 24 control management system; is that right?
 25 A. Correct. Some building control bodies go for

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1 British Standard quality control attainment, which is
 2 reviewed occasionally, but not all.
 3 Q. Just in terms of the transcript, the reference for those
 4 performance standards are at {INQ00013959} and
 5 {CLG10006814}.
 6 Now, you have also said in your report -- this is at
 7 paragraph 33 in your summary at the beginning on page 9
 8 {BMER0000004/9} -- that you have not seen evidence of
 9 a quality control system or quality audits being
 10 undertaken by RBKC; is that right?
 11 A. Correct.
 12 Q. Can you just help us as to what you mean by a quality
 13 control system and quality audits?
 14 A. Monitoring by management that the work being produced by
 15 their officers was as required and fulfilling the
 16 requirements, procedural requirements and technical
 17 requirements, of the Building Regulations.
 18 Q. What kind of quality audits would you have expected in
 19 a competent building control department?
 20 A. Checking that decisions were being made within their
 21 time limits, checking that all aspects that were
 22 necessary were being achieved on the jobs by randomly,
 23 perhaps, picking out a job and basically peer reviewing
 24 it, or sitting down with your junior members and going
 25 through their jobs to make sure that they were actually

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1 doing what was required, and making sure that, where
 2 completion certificates were required, they were
 3 actually being issued and issued on time and issued
 4 correctly.
 5 Q. Yes.
 6 Now, you have talked about peer review there in the
 7 context of a quality audit. In your view, would it ever
 8 be the case that a building control department would
 9 have more formal peer reviews of work on projects, to
 10 check that they were being done correctly, or a second
 11 check? Would that ever happen? Was that common?
 12 A. Not a technical check that I know of being common. It
 13 would be if you were going for ISO registration, that
 14 they would be looking at your processes and your
 15 documents to see if you had documents that were giving
 16 the information that was available to everybody, as in
 17 who needed it.
 18 Q. Yes.
 19 A. But it may be, but I can't give any detail, that perhaps
 20 an authority would ask another authority to come in and
 21 review, but I can't give any examples of that.
 22 Q. In practice, how would you expect building control
 23 bodies to ensure that quality was maintained in the work
 24 of that department?
 25 A. I would expect the manager to have processes in place

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1 whereby there was periodic review of what actually was
 2 taking place within the department, and the quality of
 3 the response to the applications.
 4 Q. To what extent would you expect there to be a system for
 5 line managers to check the work of those working beneath
 6 them?
 7 A. There should be sort of an appraisal, if you like,
 8 definitely annually from the point of view of the
 9 employment. Also they're keeping up with technical
 10 information. And generally just reviewing to make sure
 11 they weren't being overburdened and were doing what's
 12 expected of them at that level.
 13 Q. Would that ever be as specific as checking on physical
 14 inspections that have been done on site, or checking
 15 test certificates and that they'd been looked at? Would
 16 you ever take it to that level in terms of quality
 17 control?
 18 A. Yes, I think so. I mean, it was not uncommon for the
 19 head building control officer to arrive on sites
 20 unannounced to check that his men had been there and had
 21 done what was supposed to have been done.
 22 Q. Do you agree that there is no specific requirement for
 23 a local authority building control body to have in place
 24 a quality control system?
 25 A. I believe that's so, yes.

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1 Q. Yes.
 2 Now, site visits. I want to ask you about the site
 3 visits carried out at Grenfell Tower. In paragraph 125
 4 of your report on page 36 {BMER0000004/36}, you state
 5 that there is no generally available guidance as to how
 6 many inspections should be undertaken; is that correct?
 7 A. Inasmuch as there is no minimum. A local authority
 8 building control body is not required to inspect, but as
 9 an offence can only occur on site --
 10 Q. Yes.
 11 A. -- that's the only means of checking that the
 12 regulations are being complied with.
 13 Q. Yes.
 14 A. So you would -- there is guidance in the latest draft of
 15 the BCPSAG and documents as to the number of
 16 inspections, but it's all based on the complexity, the
 17 knowledge of the builder, whether they are competent,
 18 et cetera. So it is a judgement. But once it's set
 19 out, it doesn't mean that you can't do ten more or ten
 20 less.
 21 Q. I think it follows from what you have just said that you
 22 would agree that it's difficult to be too prescriptive
 23 and specific about the number or frequency of
 24 inspections given the multitude of different building
 25 project scenarios a building control officer might deal

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1 with.
 2 A. It is. I mean, the recommendation -- again, it's an
 3 informal recommendation -- is that you should visit
 4 a dormant site periodically to ensure that it is still
 5 dormant --
 6 Q. Yes.
 7 A. -- et cetera.
 8 Q. Yes.
 9 You have helpfully referred to those building
 10 control performance standards. We know that the 2017
 11 version of those -- that's {CLG0000042/27}, we don't
 12 need to go to it -- they say that the scope and
 13 frequency of inspections should be determined and
 14 incorporated in a formal written plan.
 15 But then this was a change, I think, from the 2014
 16 guidance, which we can see if we bring this up. This is
 17 {CLG10006814/16}, under the heading "Inspection
 18 frequency". In the middle of that page, you can see
 19 there is a heading "Inspection frequency", and it says
 20 there:
 21 "The scope and frequency of inspection should be
 22 determined, and incorporated in a formal written plan.
 23 This plan should be kept under review as the project
 24 proceeds."
 25 Then in the next paragraph:

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1 "All sites should be inspected frequently: this is
 2 unlikely to be less than 1 visit every 28 days for all
 3 live and reasonably active sites, and 3 months maximum
 4 for non-active sites to ensure that legal control is
 5 maintained."
 6 Do you see that there?
 7 A. Yes.
 8 Q. Was that kind of frequency common practice within the
 9 industry? So it's saying there unlikely to be less than
 10 one visit every 28 days for all live and reasonably
 11 active sites, would you agree with that, that that was
 12 common practice?
 13 A. Yes. Generally, yes.
 14 Q. Mr Hoban's evidence was that he endeavoured to visit
 15 site once a month. That's {RBK00050416/19}, in his
 16 second statement, at paragraph 48.
 17 In your opinion, was that reasonable, to endeavour
 18 to visit site once per month?
 19 A. I would say that was a minimum. But when visiting, it
 20 should be established what was likely to come before the
 21 next visit, and it may be that you would have to come
 22 the next day because there was something that was going
 23 to be covered up. So you needed to adopt a flexible
 24 approach to it.
 25 What I would say is the site visits anticipated was

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1 probably reflected in the fee, because the fees are
 2 separate.
 3 Q. I see.
 4 A. But it's a case of a visit will likely dictate when you
 5 come back the next time.
 6 What I did find strange in Mr Hoban's evidence was
 7 that he said it was not a site you could just turn up
 8 to. Well, I appreciate if you would go to a site, you
 9 can't just wander all over it for health and safety
 10 reasons, but I find it a little strange that he would be
 11 dictated to as and when he could in fact go on to the
 12 site.
 13 Q. That wouldn't be normal in your experience?
 14 A. I don't think anybody would -- unless they had something
 15 to hide, shall we say -- refuse a building control
 16 officer access to a site, unless it was particularly
 17 dangerous at that time to do so.
 18 Q. Having heard the evidence and considered the documents
 19 that have been disclosed, and in particular the revised
 20 chronology from RBKC, would you agree that Mr Hoban
 21 generally did manage to visit site once a month?
 22 A. I think there are a couple of periods when it was longer
 23 than a month, but it may have been when he was ill.
 24 Q. Right.
 25 A. I did notice in his HR or the appraisal notes that they

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1 found it difficult to cover when he was off sick,
 2 because they couldn't find the files or his notes.
 3 Q. Overall, what is your opinion on whether the number of
 4 inspections was appropriate for the project?
 5 A. I think at the time when the site was running as they
 6 had hoped it would run, if it was just repeat after
 7 repeat -- it's difficult to say, but if he was there at
 8 least once a month, that was probably anticipated as
 9 being acceptable. But, in retrospect, knowing what he
 10 didn't look at, probably not.
 11 Q. Okay.
 12 Do you agree it would be good practice for
 13 a building control officer to arrange visits with
 14 a contractor so as to ensure that they visit when there
 15 is something to see that needs to be inspected?
 16 A. That would not be the only time. That would be
 17 definitely a time to visit, but there would be
 18 additional visits no doubt.
 19 Q. Would past experience of a contractor ever be a relevant
 20 factor in determining the frequency of inspections?
 21 A. I believe it would, yes.
 22 Q. Now, RBKC accepts that the site visit notes were not
 23 sufficiently detailed. However, do you agree that it
 24 would not have been normal practice at the time for
 25 local authority building control services to compile

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1 a detailed report of each site visit?
 2 A. I don't think poor notes is common practice. It's the
 3 only method of recording that you have actually done
 4 your job.
 5 Q. Would you have said at the time that it was common for
 6 building control services to compile detailed reports of
 7 each site visit?
 8 A. Depends what you mean by a report. There would be notes
 9 of what you had seen --
 10 Q. Yes.
 11 A. -- what you found was not acceptable, and the action
 12 that you took at the time to get that put right.
 13 Q. Yes.
 14 A. But not a full report, there just wouldn't be time
 15 probably to do that.
 16 Q. If we go to paragraph 528 of your report on page 152
 17 {BMER0000004/152}, you have helpfully indicated there in
 18 a list what records of site inspections should have
 19 indicated. Then below that at paragraph 529 you have
 20 said:
 21 "The recorded notes do not contain sufficient
 22 detail."
 23 Do you see that there?
 24 A. Yes.
 25 Q. Now, is that something that those supervising Mr Hoban's

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1 work ought to have picked up on at the time, that the
 2 site visit notes he was recording on Acolaid or
 3 elsewhere were not sufficiently detailed?
 4 A. Yes, I believe that should have been picked up. Having
 5 said that, I don't know what the general level of detail
 6 was at RBKC. I've got no knowledge of other projects.
 7 Q. Okay.
 8 Now, regulation 38 now. I'm on to my last three
 9 topics, one of which is very short.
 10 We have heard evidence from Mr Hoban that it was
 11 RBKC's practice to accept a verbal assurance that
 12 regulation 38 had been complied with, ie the handing
 13 over of fire safety information to the responsible
 14 person by those carrying out the works. That's
 15 {Day46/201:19-23}. Mr Allen also gave evidence that
 16 this was his practice, {Day47/190:2-14}.
 17 Is it right that you are aware of this practice in
 18 other building control bodies as well, ie accepting
 19 a verbal assurance of compliance with regulation 38?
 20 A. Yes.
 21 Q. Is it your view that this was an acceptable approach for
 22 a building control body to take?
 23 A. At the time, yes, provided it was recorded that they had
 24 accepted that as being adequate -- as being the
 25 indication that it had been passed over.

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1 Q. I see. So you're saying it was okay to accept the
 2 verbal assurance, but that verbal assurance needed to be
 3 documented?
 4 A. Yes.
 5 Q. Can you help us as to how that fits with the requirement
 6 of the regulations to take "all reasonable steps" to
 7 satisfy themselves that it complies with the relevant
 8 provisions, including regulation 38, before issuing any
 9 completion certificate under regulation 17?
 10 A. Regulation 38 requires that the person carrying out the
 11 works passes over that documentation. In hindsight,
 12 it's proven to be an inadequate method of satisfying
 13 oneself that that is adequate, verbal is adequate. But
 14 the onus was on the person carrying out the work to pass
 15 that information over. The responsibility of the
 16 building control body was to obtain information that
 17 that the information had been passed over.
 18 Q. I see.
 19 A. The level of that information would have been determined
 20 by what the building control body thought was adequate
 21 in the circumstances, or what they should have attained.
 22 Q. Do you think the building control body would have had
 23 any role in checking the information provided to see if
 24 it did in fact satisfy regulation 38?
 25 A. As best practice, yes.

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1 Q. Does your referring to best practice mean that you
2 wouldn't think it fell below reasonable standards at the
3 time not to check?
4 A. The way of complying with regulation 38 at the time
5 varied. As I say, some would take a verbal
6 confirmation; others would have a slip at the bottom of
7 the Building Regulations application form that people
8 would sign and tear off and send back as confirmation
9 the information had been passed over. I honestly cannot
10 recall anybody who has received all the documents and
11 checked that they were adequate for the purpose.
12 Q. I see. So does it follow, then, that you don't think
13 a reasonably competent building control body needed to
14 receive all the documents and check them?
15 A. That would have been my view at the time, yes.
16 Q. Your view now, looking back on it, was that an adequate
17 way of dealing with regulation 38, just to have it in
18 a slip?
19 A. No, there should have been some evidence as to what had
20 gone. I have subsequently asked building control bodies
21 what evidence they require as to compliance with
22 regulation 38, and they have said variously: a copy of
23 the O&M manual, the operation and maintenance manual, or
24 lists of the documents.
25 On some projects, the O&M manual, which contains

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1 this information generally, can be six, eight or ten
2 volumes.
3 Q. Sitting here now, do you think reasonably competent
4 building control bodies, if provided with the O&M
5 manual, should do at least some check of that, to check
6 that it contains the right information to be handed
7 over?
8 A. Yes. I think it would be good practice in asking for
9 that evidence that the evidence is extracted from the
10 O&M manual, rather than them having to plough through
11 how to clean the toilets and the carpets and everything
12 else that goes into an O&M manual.
13 Q. Yes.
14 Now, you have given your view in your report on the
15 options for who the person carrying out the work is
16 under regulation 38.
17 A. Yes.
18 Q. Ultimately that's a legal issue for the panel to decide.
19 A. Yes.
20 Q. To summarise your view, you say the building owner can
21 be the person carrying out the works because they're the
22 ones who decide whether to carry out building work, and
23 that the overall aim of ensuring a building has
24 a reasonable standard of safety is to take effective
25 action, ie to enforce against a person capable of

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1 correcting deficiencies. So those two points lead to
2 your view, I think, that you think the person carrying
3 out the works is normally the building owner; is that
4 right?
5 A. Yes.
6 Q. But you're also aware of a contrary view that the
7 contractor is the person carrying out the work.
8 Would you accept the proposition that, because
9 regulation 38 requires the provision of information
10 about building works, the party best placed to provide
11 that to the responsible person is the contractor,
12 because they're the ones with intimate knowledge of the
13 works?
14 A. Yes.
15 SIR MARTIN MOORE-BICK: This is really sidling up to
16 a question of construction of the regulations, isn't it?
17 MS GRANGE: It is, but I'm interested in this witness's
18 understanding of the regulation, and ultimately I have
19 made it clear it's a matter for the panel.
20 A. As a building control officer, I don't think it matters
21 where the information particularly comes from, but it
22 should be accompanied by a statement that, you know, the
23 person carrying out the works is aware that that's gone
24 over to the responsible person under the order. If it's
25 the building owner, they won't have that information,

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1 they would have to get it from their agents, whoever's
2 responsible for compiling that on their behalf and
3 pulling that together.
4 Q. Yes.
5 Do you agree that if the TMO was both the person
6 carrying out the work and the responsible person -- and
7 that will be a question of law to determine -- in those
8 circumstances, is it your opinion that there would be no
9 need for formal notification for the purposes of
10 regulation 38 because, effectively, it's going within
11 the same body?
12 A. No. The building control body needs to be satisfied
13 that information has been passed over.
14 Q. Yes.
15 A. If it's just passing it from one desk to the other, that
16 may be the practical, physical aspect, but it should be
17 shown that it's been compiled and given to the people
18 who are going to operate the building.
19 Q. Yes. So you wouldn't just accept that it was going
20 within an organisation; your practice at the time, would
21 it have been to check and ask whether it has been
22 formally handed over?
23 A. By acceptance of that verbally, yes, it had been handed
24 over, yes.
25 Q. Now, you referred to RBKC's failure to check that the

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1 fire safety information had been provided as
2 a procedural failure and a lack of rigour in their
3 processes. That's at paragraph 494 on page 145
4 {BMER0000004/145}.

5 Can you just explain what you mean by a procedural
6 failure?

7 A. I can find nothing in the documents that I've seen that
8 the question was asked or written confirmation was
9 sought that the information had been passed over to the
10 responsible person.

11 Q. Yes.

12 A. I've seen no process whereby that information was
13 required as part of the procedure within RBKC
14 building control.

15 Q. Yes.

16 Now, finally on this topic, just to confirm, we know
17 that you yourself have not undertaken a detailed review
18 of the O&M manual, but Dr Lane has.

19 Do you defer to Dr Lane's analysis of the O&M manual
20 in terms of compliance with regulation 38?

21 A. I must confess I've not looked at that particular part
22 of her report in detail, but I'm sure she's covered it.

23 Q. Okay.

24 Now, record-keeping. This is my penultimate topic.

25 We know that RBKC has accepted that there were

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1 shortcomings in aspects of the record-keeping on this
2 project. Can you just give us your overall opinion
3 about the standard of record-keeping for the
4 Grenfell Tower project?

5 A. From what I've seen, it was inadequate to allow any
6 third party who was reviewing the project to ascertain
7 whether compliance had been achieved.

8 Q. In your view, was there a failure to comply with the
9 standards contained in the building control performance
10 standards 2006 and 2014 in regards to record-keeping?

11 A. Yes.

12 Q. Would a competent building control body have had in
13 place a policy requiring each building control body to
14 identify the means by which compliance was being
15 achieved, and recording what evidence, substantiation,
16 the person had seen that compliance by such a route was
17 being achieved?

18 A. I would hope so. It's the only means by which they can
19 be shown to have been carrying out their duty.

20 Q. Do you accept that it would have been normal practice at
21 the time for local authority building control services
22 to weed their files at the end of projects, ie filter
23 out material and dispose of material, rather than
24 keeping the whole file, provided that sufficient
25 documentation was retained to enable a reader to

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1 identify the key decisions?

2 A. Weeding is common practice and it's done for all sorts
3 of reasons, but you have to be careful and have to know
4 what you're doing when you're weeding. From what I've
5 seen, the policy at RBKC, as stated by the officers, it
6 was effectively weeding down to the point where
7 everything went, which is obviously no good in looking
8 back or having any records of what's gone before, which
9 allows you to determine if you're making it worse by the
10 next proposal.

11 Q. Yes.

12 Now, finally I just want to go to your overall
13 conclusion about the completion certificate. Can we go
14 to paragraph 47 of your report on page 11
15 {BMER0000004/11}. There you say that:

16 "A completion certificate should only be issued by
17 a BCB if it is satisfied that the fire safety
18 information required by Regulation 38 has been given to
19 the person defined as the responsible person ..."

20 You say this in the last sentence:

21 "In the absence of evidence that Regulation 38 had
22 been complied with I can only determine that
23 a completion certificate should not have been issued."

24 Now, does that remain your view?

25 A. Yes.

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1 Q. Is it also your opinion that a completion certificate
2 should not have been issued because the works did not
3 comply with the Building Regulations, including B4?

4 A. When the certificate was issued, I can only assume that
5 the officers concerned were of the opinion that it did
6 comply, the works did comply.

7 Q. But is it your evidence that, in fact, the works didn't
8 comply and the certificate shouldn't have been issued?

9 A. Following the fire, everything I've seen indicates that
10 the building did not comply.

11 MS GRANGE: Yes.

12 Mr Chairman, I've come to the end of my questions.

13 SIR MARTIN MOORE-BICK: Yes.

14 MS GRANGE: I'm sorry that I have taken until 4.30 to do
15 that.

16 SIR MARTIN MOORE-BICK: All right, don't worry.

17 MS GRANGE: This is an important expert for the Inquiry.

18 SIR MARTIN MOORE-BICK: Anyway, we had better have a bit of
19 a break now, hadn't we?

20 MS GRANGE: Yes. I think let's take ten minutes. That
21 should be sufficient.

22 SIR MARTIN MOORE-BICK: Yes. You can let me know if it
23 isn't.

24 MS GRANGE: Thank you.

25 SIR MARTIN MOORE-BICK: Well, Ms Menzies, we're going to

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1 have a short break in case something else comes to mind
 2 or somebody else's mind as to questions which should be
 3 asked. So 4.40, please, and no talking to anyone.
 4 Thank you very much.
 5 (Pause)
 6 Right, you can let us know if you need more time.
 7 MS GRANGE: Yes, thanks.
 8 SIR MARTIN MOORE-BICK: Thank you.
 9 (4.31 pm)
 10 (A short break)
 11 (4.41 pm)
 12 SIR MARTIN MOORE-BICK: Right, well, we will see if there
 13 are any more questions.
 14 Yes, Ms Grange, are there any more questions?
 15 MS GRANGE: Just on one very short topic, which is about
 16 photographs.
 17 A. Yes.
 18 Q. Would it have been common practice at the time for
 19 building control officers to take photographs on site
 20 and then retain those as part of the record of what they
 21 had seen?
 22 A. Yes. Yes, it would.
 23 Q. Yes.
 24 A. Yes.
 25 Q. Does it follow from that that you're surprised that

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1 there are no photographs in any of the records that
 2 we've seen? I mean, I know we don't have the full
 3 records, unfortunately, but would you have expected to
 4 see some photographs taken on site by relevant
 5 building control officers that formed part of the
 6 documentary record for a project like this?
 7 A. Yes, it was and is common practice. To be quite blunt,
 8 it saves writing a lot of notes.
 9 Q. Yes.
 10 A. But it would have been quite common, yes, particularly
 11 for key points, yes.
 12 MS GRANGE: Yes. Thank you.
 13 Mr Chairman, those are all of my questions. It just
 14 goes to say -- and I know you will say it as well --
 15 just to thank Ms Menzies for all the incredible hard
 16 work that's gone into the report, and thank her very
 17 much for taking the time to come and give evidence
 18 today. We really appreciate it.
 19 THE WITNESS: Pleasure, thank you.
 20 SIR MARTIN MOORE-BICK: I certainly endorse all that. It
 21 has been a pleasure to listen to your evidence today,
 22 and very helpful to do so, but I know a great deal of
 23 work has gone on before you came into the hearing room
 24 this afternoon, and we're all very grateful for your
 25 efforts and your support. So thank you very much

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1 indeed, and now you are free to go. Thank you very
 2 much.
 3 THE WITNESS: Thank you.
 4 (The witness withdrew)
 5 SIR MARTIN MOORE-BICK: Yes. Well, that's it for the day,
 6 then.
 7 MS GRANGE: Yes, thank you, and we have another expert
 8 tomorrow. We have Dr Lane.
 9 SIR MARTIN MOORE-BICK: Yes, good.
 10 Well, thank you very much. That's it for today. We
 11 will resume at 10 o'clock tomorrow.
 12 MS GRANGE: Thank you.
 13 SIR MARTIN MOORE-BICK: Thank you very much.
 14 (4.45 pm)
 15 (The hearing adjourned until 10 am
 16 on Wednesday, 28 October 2020)
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