

OPUS 2

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Grenfell Tower Inquiry

Day 77

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1 Wednesday, 25 November 2020
 2 (10.02 am)
 3 SIR MARTIN MOORE-BICK: Good morning, everyone. Welcome to
 4 today's hearing. Today we're going to hear from another
 5 witness who was employed by Kingspan at the times in
 6 which we're interested.
 7 So, yes, Ms Grange.
 8 MS GRANGE: Yes, could we have Mr Gareth Mills, please.
 9 MR GARETH MILLS (affirmed)
 10 SIR MARTIN MOORE-BICK: Thank you very much, Mr Mills. Do
 11 sit down, make yourself comfortable. All right?
 12 There's some water there if you want it, and I'll give
 13 you a moment just to get organised.
 14 (Pause)
 15 Good, all right?
 16 THE WITNESS: Yes.
 17 SIR MARTIN MOORE-BICK: Yes, Ms Grange.
 18 MS GRANGE: Yes, thank you, yes.
 19 Questions from COUNSEL TO THE INQUIRY
 20 MS GRANGE: Can you give the Inquiry your full name, please?
 21 A. It's Gareth John Mills.
 22 Q. Yes. And can I thank you, first up, for attending this
 23 public inquiry to give your evidence. It's very much
 24 appreciated.
 25 If you have any difficulty understanding any of my

1

1 questions, please ask me to repeat the question or put
 2 the point in a different way. If you feel you need
 3 a break at any time, please let us know.
 4 The other thing I'm going to ask you to do is try
 5 and keep your voice up, because the lady there, just to
 6 your right, is transcribing a note of everything that's
 7 said and we want to get a nice clear record of it. So
 8 if you could keep your voice up to the microphones, that
 9 would be great.
 10 You've provided one witness statement to
 11 the Inquiry, if I can take you to that. It's also in
 12 a folder on your desk and it will appear on the screen.
 13 It's at {KIN00022329/1}. There's the statement.
 14 If we could go to page 25 {KIN00022329/25}, there we
 15 can see it's dated 13 June 2020. Is that your
 16 signature?
 17 A. Yes.
 18 Q. Have you read that witness statement recently?
 19 A. I did read through it last night, yeah.
 20 Q. Yes. Can you confirm that the contents are true?
 21 A. Yeah.
 22 Q. Have you discussed your statement or the evidence you're
 23 going to give with anybody before coming here today?
 24 A. Only with the representatives and that.
 25 Q. Okay, thank you.

2

1 Now, I'm first up going to ask you some questions
 2 about your role at Kingspan, about your background as
 3 well.
 4 What formal qualifications do you have?
 5 A. In terms -- I've got my GCSEs, A-levels.
 6 Q. Yes. Did you do any other form of qualifications after
 7 A-levels?
 8 A. No. I started a degree but I didn't complete that.
 9 Q. Okay, yes.
 10 In terms of your career at Kingspan, if we can pull
 11 up paragraph 1 of your witness statement on page 1 of
 12 your statement {KIN00022329/1}, you tell us there in the
 13 first line there that you first joined Kingspan in
 14 around 2002/2003 --
 15 A. Yeah.
 16 Q. -- as a technical adviser in their offices in Pembridge,
 17 that's in Herefordshire; that's right, yes?
 18 A. Yes.
 19 Q. Yes. How old were you when you first started there?
 20 A. I would have been ... I would have been 21 or 22.
 21 Q. Yes. You tell us in your statement that in that role
 22 you dealt with enquiries from contractors and architects
 23 as to products, installation and meeting the regulatory
 24 requirements; is that correct?
 25 A. Yes.

3

1 Q. Did those products include the K15 product?
 2 A. Yes.
 3 Q. Were you involved with K15 from 2002 onwards, right from
 4 the start?
 5 A. Yes.
 6 Q. Yes.
 7 Then around four to five years later, you tell us in
 8 line 4 of that first paragraph in your statement that in
 9 2006 or 2007 you were promoted to the role of senior
 10 technical adviser; is that correct?
 11 A. Yes.
 12 Q. Yes. Is it right that until 2010, as a senior technical
 13 adviser, you would have reported to Philip Heath?
 14 A. Or his replacement, yeah. He wasn't the manager for the
 15 full time I was there; Tony Millichap took over towards
 16 the end.
 17 Q. Exactly. That was my next question. From 2010 until
 18 you left the company, you reported to Tony Millichap?
 19 A. Yes, yeah. That's right, yeah.
 20 Q. Yes. As senior technical adviser, you say in your
 21 witness statement that you focused on assisting less
 22 experienced technical advisers; is that right?
 23 A. Yes, that was part of the role, yeah.
 24 Q. Yes. So you had technical advisers underneath you that
 25 you were assisting in their job; is that right?

4

1 A. I'm assisting them, yeah. They didn't sort of answer
2 directly to me, so I wasn't their direct manager, but
3 I was assisting them in their role, yeah.
4 Q. Yes. As senior technical adviser, you say that you were
5 also part of an internal proofreading team within
6 Kingspan; is that right?
7 A. Yes.
8 Q. And you would have proofread marketing materials?
9 A. Yes.
10 Q. Did that also include technical bulletins and product
11 literature for products including K15?
12 A. Yes.
13 Q. You also tell us at paragraph 1 of your witness
14 statement -- this is towards the bottom of where we can
15 see on that page -- that a year or two years after you
16 were promoted to senior technical adviser, in around
17 2008, you were tasked with obtaining the UK
18 certification for Kingspan products, including those
19 from the British Board of Agrément; that's correct,
20 isn't it? The BBA.
21 A. Yes.
22 Q. Was it Philip Heath who assigned that particular
23 responsibility to you?
24 A. Yes.
25 Q. Do you know who had been in that role before you took it

5

1 on in around 2008? Had there been anyone in that role?
2 A. I don't know on that, no. I'm not sure if there was
3 anyone specific who had been solely dealing with it
4 before.
5 Q. Yes, yes. So is it possible that was a new post or
6 a new role?
7 A. Yes, it may have been spread between several people
8 beforehand, yeah.
9 Q. Yes, thank you.
10 You also tell us in your statement that in 2010 you
11 were:
12 "... appointed as the competent person within ...
13 Kingspan ... for monitoring the Technical Advisors under
14 the British Board of Agreement Calculation Competency
15 Scheme."
16 Is that right?
17 A. Yes.
18 Q. Yes. You tell us that this involved monitoring about
19 16 employees at technical adviser level at the Pembridge
20 Kingspan office and the Ecotherm office in Basildon; is
21 that right?
22 A. Yes.
23 Q. During that time, so from 2010 onwards, is it right that
24 the BBA would audit your supervision of the technical
25 advisers?

6

1 A. Yes, yeah.
2 Q. How was that done? How would the BBA audit your
3 supervision of the technical advisers?
4 A. So this sort of -- this did relate purely to the sort of
5 calculation side but -- so as part of the -- sort of to
6 do with thermal calculations and that. But they did
7 annual sort of checks on my internal auditing method, so
8 they'd approved the quality plan that I had internally,
9 and then they would also ask for random samples of
10 material that was produced by all the different advisers
11 and checked those to see that those sort of met the
12 requirements.
13 Q. Yes. You say that was primarily on the calculation side
14 in terms of thermal calculations.
15 A. Yeah.
16 Q. To what extent was the BBA also looking at fire safety
17 issues?
18 A. No, that wasn't covered under that scheme, no.
19 Q. I see, yes. How frequently would the BBA audit you as
20 part of that process?
21 A. I -- from memory, I think it would have been annually.
22 Q. Yes.
23 Now, you were in the role of senior technical
24 adviser for about eight years until you left the
25 employment of Kingspan on 22 January 2014; that's right,

7

1 isn't it?
2 A. Yeah.
3 Q. So you were at Kingspan for around 12 years?
4 A. Yeah.
5 Q. Is it fair to say when you left Kingspan it was not on
6 good terms?
7 A. Yeah.
8 Q. But it's right, isn't it, that your dismissal had
9 nothing to do with your role in terms of K15 or any part
10 of your work in relation to that product?
11 A. No. No, I don't -- not that I'm aware of, no.
12 Q. Yes.
13 Now, when you first joined Kingspan in 2002/2003 as
14 a technical adviser in Pembridge, were you supported in
15 that role by a senior technical adviser or advisers?
16 A. Yeah. Yeah, there were other members there that --
17 yeah, that would help me with enquiries while I was
18 learning what to do, yeah.
19 Q. Yes. Can you remember who they were? Was anyone
20 particular helping you at that point?
21 A. The main ones would have been either Andrew Pack,
22 Justin Davies and Ivor Meredith.
23 Q. Yes.
24 In your witness statement, if we go on to page 2
25 {KIN00022329/2} and look at your statement, four or five

8

1 lines down in that top paragraph, which is paragraph 1
 2 on the top of the page, you say, four lines down:
 3 "Where training at Kingspan was concerned, the
 4 training relating to insulation products was very much
 5 'on the job' rather than through any specific courses."
 6 Do you see that there?
 7 A. Yeah.
 8 Q. If we also look at paragraph 26 of your statement on
 9 page 8 {KIN00022329/8}, if we look at the last few lines
 10 on page 8, you say there -- well, let's start at the
 11 beginning of 26. You say:
 12 "I did not receive and I am not aware of any
 13 specific training provided by Kingspan in relation to
 14 the marketing, testing, and certification of K15 ..."
 15 A. Yeah.
 16 Q. Do you see that there?
 17 A. Yeah.
 18 Q. Then you say:
 19 "Whilst that was so, I was able to gain an
 20 understanding about the testing requirements and
 21 certification for the K15 product as a result of
 22 discussions with other Senior Technical Advisors and the
 23 Technical Manager and any follow up reading ..."
 24 A. Yeah.
 25 Q. Do you see that there? So you've helped us in your

9

1 statement about effectively on-the-job training, that's
 2 right, isn't it, that you received?
 3 A. Yeah.
 4 Q. How did you learn, when you first started at Kingspan,
 5 what the particular properties were of each different
 6 product --
 7 A. By --
 8 Q. -- and what they were intended to be used for?
 9 A. By sort of reading through the product brochures for
 10 each product.
 11 Q. Yes. Were you given those and asked to read them to
 12 familiarise yourself?
 13 A. Yes, you were given a folder of all the different
 14 brochures and that -- so you had that as a reference,
 15 yeah.
 16 Q. Yes. Can you remember -- I know it is a long time ago,
 17 but thinking back -- what you learnt about the
 18 properties of K15 when you first started at Kingspan?
 19 A. Well, we would have learnt the applications. It's
 20 commonly used in the sort of thermal performance.
 21 Q. Yes.
 22 A. Those would have been the first sort of things you would
 23 look at and that, yeah.
 24 Q. Did you know it was a phenolic insulation product?
 25 A. Yes.

10

1 Q. Did you know it was a combustible insulation?
 2 A. Yeah, I knew that it wasn't sort of -- yeah, it wasn't
 3 classed as non-combustible, yeah.
 4 Q. Yes. Again, that knowledge that you obtained about the
 5 properties of the products that you were dealing with,
 6 including K15, was that from reading company literature
 7 or was there any other formal process for informing you
 8 about that?
 9 A. No, so it would have been from reading sort of -- yeah,
 10 the actual sort of product brochures and also,
 11 I suppose, some of the approved documents and things, to
 12 see how those sort of related to each other.
 13 Q. Yes?
 14 A. And also as you went through and answered particular
 15 enquiries just from sort of experience of previous
 16 enquiries, you'd then know how to deal with sort of
 17 future ones then. So you'd perhaps get help with an
 18 adviser initially and then know -- for any similar ones
 19 in the future, you'd know sort of what to do then.
 20 Q. Yes. I see, yes.
 21 From what you describe, would you say that there was
 22 a limited amount of training, given it was a technical
 23 role at Kingspan?
 24 A. Yeah, yeah.
 25 Q. Did you ever question that? Did anyone ever discuss

11

1 that or say, "Maybe we need a bit more training in the
 2 technical team, technical advisers?"
 3 A. It wasn't anything that I remember being discussed, no.
 4 Q. Yes.
 5 Now, just a few short questions now about your
 6 understanding of the Building Regulations, the
 7 functional requirements and the associated guidance.
 8 Approved Document B, you've already referred to that
 9 in your evidence. What was your understanding of the
 10 purpose of that approved document when you were working
 11 for Kingspan?
 12 A. It's to do with the -- just the sort of fire safety
 13 requirements for sort of buildings, yeah, so --
 14 Q. Yes. Did you see that as a key document relevant to
 15 your role?
 16 A. Yeah, it was one of the sort of more common ones you'd
 17 get queries on, yeah. I would say sort of Approved
 18 Document L and Approved Document B and C were the ones
 19 that we mainly dealt with queries on.
 20 Q. Yes. Would you have read those documents?
 21 A. Probably not sort of cover to cover --
 22 Q. Yes.
 23 A. -- in one go or anything, but you would have read
 24 sections at lots of different times and that, so you
 25 were quite familiar with the sort of bits that were

12

1 commonly brought up, yeah.
 2 Q. Yes. Did you have your own copy of those or --
 3 A. We had them in sort of -- either a sort of group hard
 4 copy or we also had electronic ones you could just bring
 5 up on your computer and that, yeah.
 6 Q. Yes, yes.
 7 Did you ever receive any kind of training, whether
 8 formal or informal, about the Building Regulations or
 9 the guidance in Approved Document B or L?
 10 A. Not any sort of, you know, like where you'd sort of
 11 maybe go on a sort of course or have an afternoon
 12 sort of training session or anything like that. But
 13 there would have been sort of, I suppose, more
 14 experienced staff who would have, you know, pointed you
 15 to relevant sections and things like that and bits to
 16 sort of read before sort of putting together responses
 17 to clients.
 18 Q. Yes. Would it be fair to say that you were familiar
 19 with the guidance in part B4 of Approved Document B
 20 whilst you were a senior technical adviser?
 21 A. Sorry, which?
 22 Q. Part B4 dealing with external fire spread. Were you
 23 familiar with that part of the approved document while
 24 you were a senior technical adviser?
 25 A. Yes, I would have been at that time, yeah, yeah.

13

1 Q. Now, in terms of the phrase "limited combustibility", if
 2 we can just look at your witness statement at page 8
 3 {KIN00022329/8}, paragraph 21, you tell us this in your
 4 statement:
 5 "'Limited combustibility' is an expression that is
 6 referred to in Approved Document B of the Building
 7 Regulations ... and the Scottish Technical Handbook. To
 8 be regarded as a product of 'limited combustibility'
 9 means that specific standards have to be met under
 10 various parts of BS 476 or EN 13501 which relate to
 11 a wide range of fire testing. In limited circumstances,
 12 specific products could also be regarded as meeting the
 13 'limited combustibility' requirements without having to
 14 be tested ..."
 15 You also tell us those products are set out in
 16 Approved Document B and the Scottish Technical Handbook.
 17 A. Yeah.
 18 Q. Can you tell us, was that always your understanding when
 19 you were working as a technical adviser at Kingspan or
 20 was that an understanding that you came by at some later
 21 stage?
 22 A. No, that would have been -- so through the vast majority
 23 of the time I was at Kingspan, so from the first time
 24 I would have dealt with information relating to that
 25 subject --

14

1 Q. Yes.
 2 A. -- up until sort of I finished there, that would ...
 3 Q. Yes. Is it right that you knew throughout your time at
 4 Kingspan that K15 was not a material of limited
 5 combustibility?
 6 A. Yes, that's right, yeah.
 7 Q. Yes. And that it's a combustible insulation product?
 8 A. Yeah.
 9 Q. You were aware of that?
 10 A. Yeah.
 11 Q. Now, in terms of your understanding about the routes to
 12 compliance with the Building Regulations for the use of
 13 combustible insulation materials, if we look now at
 14 paragraph 16 of your statement on page 7
 15 {KIN00022329/7}.
 16 A. Yeah.
 17 Q. If we could blow that up. So there you tell us:
 18 "My understanding of the requirements for external
 19 cladding systems under the Building Regulations of
 20 England and Wales in relation to fire safety for
 21 buildings over 18 metres in height were that, for
 22 materials not encased in 2 skins of masonry of 75mm or
 23 greater in thickness, they should either be of limited
 24 combustibility or be tested to BS 8414 and have met the
 25 criteria in BR 135."

15

1 Do you see that there?
 2 A. Yeah.
 3 Q. Again, was that your understanding throughout your time
 4 at Kingspan: that there existed these two routes to
 5 compliance, either of limited combustibility or the
 6 8414/BR 135 route?
 7 A. Yes, those are the two sort of simplified methods.
 8 There are other routes you can follow to do with sort of
 9 engineered solutions, but those are the two main ones.
 10 Q. Yes. And they're separate routes to compliance, aren't
 11 they?
 12 A. Yeah.
 13 Q. They're entirely separate: either you follow certain
 14 tests and you meet the limited combustibility
 15 requirements or you go down the full-scale large testing
 16 route under 8414; yes?
 17 A. Yeah.
 18 Q. You understood those at the time to be separate
 19 requirements; is that right?
 20 A. Yeah.
 21 Q. Yes.
 22 Now, given that K15 is not a material of limited
 23 combustibility, was your understanding when you worked
 24 for Kingspan that it had to seek to rely on that
 25 alternative route to compliance offered by a system

16

1 meeting BR 135 criteria after 8414 testing?
 2 A. Yes, that would be the main one, yeah, yeah. So you
 3 couldn't meet the limited combustibility requirements,
 4 so it would be some alternative route, yeah, that you
 5 would have to follow, yeah.
 6 Q. Yes.
 7 At any time, did you read the test standards
 8 BS 8414-1 or 8414-2? Did you ever read those?
 9 A. I would have certainly read sections of them. I don't
 10 know if I would have read the whole sort of standard,
 11 but I would have sort of looked through sort of bits of
 12 it, yeah.
 13 Q. Yes. Did you understand the difference between those
 14 two, part 1 and part 2 of 8414?
 15 A. Yes.
 16 Q. Can you help us: what was the key difference?
 17 A. It's just the substrate that the insulation and cladding
 18 is applied onto. So it's either a masonry component or
 19 a framed system.
 20 Q. Yes, thank you.
 21 Now, if we could look at paragraph 72 of your
 22 witness statement on page 20 {KIN00022329/20}. I want
 23 to pick it up -- you're dealing there with the LABC
 24 registered details certificate, which we're going to
 25 come back to later today, but what I want to do is pick

17

1 this up in the fourth line. So you begin in the middle
 2 of that line, you say:
 3 "It was only in circumstances where the construction
 4 mirrored that which had been tested to BS 8414 that it
 5 could be treated as though it was a product of limited
 6 combustibility" --
 7 A. Yeah.
 8 Q. -- "when assessing compliance against specific sections
 9 of the Building Regulations."
 10 Do you see that there?
 11 A. Yeah.
 12 Q. Just breaking that down, it's right, isn't it, that in
 13 order to rely on a particular set of test results to
 14 BS 8414, you need to use the exact same materials
 15 tested, and that's why you've used the word "mirrored"
 16 in that paragraph; is that correct?
 17 A. Yeah, yeah. So, yeah, you either -- yeah, you'd either
 18 be using sort of the exact same construction or -- yeah,
 19 or if -- you know, I suppose or you're going to have to
 20 go down some sort of engineered solution which has been
 21 created by someone with the appropriate sort of, you
 22 know, knowledge and qualifications to do --
 23 Q. Yes.
 24 A. -- to sort of extrapolate sort of with information from
 25 different tests.

18

1 Q. Yes. Again, did you understand that throughout your
 2 time working for Kingspan as a technical adviser, that
 3 it needed to be the exact same configuration?
 4 A. I knew that -- yeah, that we didn't have the facility to
 5 sort of, you know, internally do any sort of, you know,
 6 engineered solutions ourselves, yeah. So we knew that
 7 we could only sort of quote results or for the
 8 particular test report we had, yeah.
 9 Q. Yes, yes.
 10 In that sentence that I read to you there, you then
 11 say -- so you've said it's "in circumstances where the
 12 construction mirrored that which had been tested to
 13 BS 8414". You say in those circumstances:
 14 "... that it could be treated as though it was
 15 a product of limited combustibility when assessing
 16 compliance ..."
 17 A. Yeah.
 18 Q. Can you help us: what do you mean by that?
 19 A. Well, it's just when you're sort of assessing it against
 20 certain bits of the regulations, it could be treated
 21 like it was limited combustibility although it's not.
 22 So it's -- yeah, so there were particular sections where
 23 it would say -- effectively it says you've either got to
 24 be limited combustibility or have this test. And
 25 because you've got the test, it's effectively -- when

19

1 you're assessing against those paragraphs, it's the same
 2 as if you were limited combustibility, effectively.
 3 Q. I see. Where did you get that from? Where did that
 4 come from, that understanding that if you've done
 5 an 8414 test and you passed that test, you can treat the
 6 material as if it's a material of limited
 7 combustibility? Where does that come from?
 8 A. Well, it's just -- no, it's something that was -- well,
 9 it's just something that -- some of the wording was in
 10 the LABC certificate, how they'd read it, but -- yeah,
 11 and it's also in Approved Document B, that there are
 12 sections where having the test or being limited
 13 combustibility are deemed as sort of equivalent routes.
 14 Q. Yes. You're right that in 12.5 of Approved Document B
 15 it talks about: you either follow the guidance in
 16 Approved Document B, which includes limited
 17 combustibility for insulation, or you go down the route.
 18 A. Yeah.
 19 Q. But it's right, isn't it, that nowhere does it say: if
 20 you've passed an 8414 test, you can treat the products
 21 that you've tested as if they are materials of limited
 22 combustibility?
 23 A. Well, yeah, no, I'm not saying that, you know, the
 24 product is limited combustibility; I was just saying
 25 it's treated in a similar manner. Just in terms of when

20

1 you're assessing compliance, it's -- you know.
 2 SIR MARTIN MOORE-BICK: I think you're possibly getting at
 3 slightly cross-purposes. I don't understand you to be
 4 saying that it can be treated as of limited
 5 combustibility for other purposes.
 6 A. No, it's only within -- it's only within certain
 7 sort of -- against certain paragraphs where -- yeah, so
 8 it's only in specific circumstances where they're
 9 listing the two as effectively the two equivalent routes
 10 to compliance.
 11 SIR MARTIN MOORE-BICK: Yes. Should we understand then that
 12 what you're saying here is that where the material has
 13 been used in a successful BS 8414 test, that is as if it
 14 were of limited combustibility but doesn't tell you
 15 anything about how it will -- or its characteristics in
 16 other circumstances?
 17 A. No, no. That's right, yeah.
 18 MS GRANGE: But, with respect, that's not right, is it?
 19 Because an 8414 test only tells you how the system, the
 20 overall system, performs --
 21 A. Yeah.
 22 Q. -- it doesn't tell you how any individual product
 23 component within that system performs?
 24 A. Yes, I know, yeah.
 25 Q. Yes.

21

1 A. Yes, because it's not -- I'm not -- it doesn't say
 2 there, or in any of my bits, that the product is limited
 3 combustibility; it's just saying you could treat it as
 4 if it were when assessing compliance against a specific
 5 paragraph. We're not saying it's limited combustibility
 6 anywhere.
 7 Q. Yes, but what I'm putting to you is that actually that's
 8 not right; that when you've gone down the 8414 route,
 9 what you get is a system --
 10 A. Yeah.
 11 Q. -- that is deemed to meet the requirements --
 12 A. Yes.
 13 Q. -- of Approved Document B and then the
 14 Building Regulations.
 15 A. Yeah.
 16 Q. That's a system.
 17 A. Yeah.
 18 Q. What you don't get at the end of an 8414 test is
 19 a product that was in that test that can be seen as of
 20 limited combustibility. That's quite an important
 21 point. Do you understand?
 22 A. I know exactly what you're saying, yes. But I don't
 23 think you're getting what I'm saying either, no.
 24 Q. I do understand what you're saying and I'm challenging
 25 you on whether it's correct or not to extrapolate that

22

1 way from an 8414 test. We'll come back to this, because
 2 it comes up in the context of the LABC.
 3 SIR MARTIN MOORE-BICK: Well, let's come back to it. But
 4 I don't think that Mr Mills is trying to tell us that
 5 this has some sort of status for the product.
 6 A. No.
 7 SIR MARTIN MOORE-BICK: I think he's simply seeking to
 8 paraphrase the effect of passing an 8414 test. Maybe
 9 I'm misunderstanding you, but --
 10 A. Yes. No, that was it: that when you're sort of
 11 assessing the system, you could say effectively it's
 12 sort of as if -- similar to if it had -- were that,
 13 although it's not, it's just -- you know, in terms of
 14 when you're assessing if it meets the requirements
 15 overall.
 16 SIR MARTIN MOORE-BICK: Yes.
 17 MS GRANGE: Yes, but are we agreed that following
 18 a successful 8414 test, you can't then take one product
 19 that you've used in that test out of that test and then
 20 say separately, "Here's a material of limited
 21 combustibility"? You can't do that, can you?
 22 A. No.
 23 Q. No, thank you. Yes. I'm sorry to labour that point,
 24 but it's actually very important.
 25 A. No, I hadn't stated that in my statement.

23

1 Q. I understand. I'm just trying to be clear --
 2 SIR MARTIN MOORE-BICK: We understand you, don't worry.
 3 MS GRANGE: -- exactly what you're saying. It is very
 4 important when we get to the wording of the LABC
 5 certificate, which we will come to.
 6 Then going back to page 10 {KIN00022329/10} of your
 7 witness statement now, and if we look at paragraph 33,
 8 from the end of the third line, you say this. So
 9 picking up at the word "Depending", you say:
 10 "Depending on the type of construction that the
 11 customer was proposing to use, we would either explain
 12 to customers that we had carried out a test in
 13 accordance with BS 8414 that indicated compliance with
 14 BR 135 for that same type of construction" --
 15 A. Yeah.
 16 Q. -- "or, if the type of construction was different, we
 17 would explain to customers that we only had a test
 18 result for an alternative type of construction."
 19 Do you see that there?
 20 A. Yeah.
 21 Q. Now, are you absolutely sure about that? Are you sure
 22 that where the type of construction was different, you
 23 would explain to customers that you only had a test
 24 result for an alternative type of construction?
 25 A. Well, yes, because we only had one test result: that was

24

1 the only one that we could supply, yes.
 2 Q. And you're clear that that's the advice you gave, as
 3 a senior technical adviser at Kingspan; yes?
 4 A. Yeah.
 5 Q. Now, turning to BR 135, we know there was a second
 6 edition of that document in 2003 and a third edition in
 7 2013. Is that a document that you read during your time
 8 at Kingspan, either the second edition or the third
 9 edition?
 10 A. Yes.
 11 Q. Yes. Did you understand during your time at Kingspan
 12 that the 8414 test itself doesn't contain any pass/fail
 13 criteria and that the test results have to be
 14 interpreted against the criteria in BR 135 if you're
 15 then going to rely on those tests?
 16 A. Yes.
 17 Q. Did you understand at all times that a classification to
 18 BR 135 is applicable only to the particular tested
 19 system?
 20 A. Yes, I know it was a system test, yeah.
 21 Q. Yes. Does it follow that you therefore understood that
 22 it's not intended as a guarantee of the fire performance
 23 of any individual component part of a tested system?
 24 A. Yes, yeah.
 25 Q. Now, I want to take you at this point to something in

25

1 Mr Tony Millichap's witness statement, if we can go to
 2 that, {KIN00020821/10}, and I want to look at
 3 paragraph 4.11 of his statement on page 10. So if
 4 I just read this to you, he says:
 5 "During my time as Head of Technical, the Technical
 6 Team at Kingspan had a very good understanding of these
 7 routes to compliance. However, it was not uncommon for
 8 Kingspan to get questions from other professionals
 9 within the industry who clearly did not understand the
 10 requirements within the building regulations and
 11 associated guidance documents to achieve compliance to
 12 the same extent. We hoped that our 'Routes to
 13 Compliance' document would assist in the industry's
 14 understanding of this."
 15 Do you see that there?
 16 A. Yeah.
 17 Q. Now, do you agree with what Mr Millichap says there in
 18 the first few lines: that during his time as head of
 19 technical, the technical team at Kingspan had a very
 20 good understanding of the routes to compliance?
 21 A. Yeah, the majority of people in the technical team would
 22 have been quite familiar with the documents, yeah.
 23 Q. Yes. Was there anyone in the technical team that
 24 wasn't, would you say?
 25 A. I would say maybe some of the, you know, more recent

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1 advisers and things like that wouldn't have been
 2 familiar, but then they would tend to deal with the less
 3 complicated enquiries while they were gaining
 4 experience, so ...
 5 Q. Yes. Do you agree with him that it was not uncommon for
 6 Kingspan to receive queries on the regulatory
 7 requirements and guidance?
 8 A. Yeah, no, that was a big chunk of what we did, yeah,
 9 yeah.
 10 Q. Yes. Would you say that a lack of understanding about
 11 the requirements within the Building Regulations and
 12 Approved Document B was widespread among professionals
 13 in the industry at the time you were advising?
 14 A. I would say that, you know, depending on exactly who you
 15 were dealing with, then people would tend to be more
 16 specialised in particular areas and maybe not familiar
 17 with all of the documents and things like that. So
 18 there would be -- yeah, you would deal with some people
 19 who maybe knew about the energy requirements but weren't
 20 as familiar with the fire side or the other way round.
 21 So there were -- yeah, there would be some people where
 22 they wouldn't know, you know, all of it, yeah.
 23 Q. Was there any pattern to that in terms of which type of
 24 professionals appeared to understand it and which
 25 didn't?

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1 A. I suppose I -- yeah, I can't remember exactly now
 2 because it's quite a long time ago. But I suppose
 3 generally perhaps some of the things, say, with like
 4 architects, they would maybe have a brief overview of
 5 sort of all of it but not be experts in a particular
 6 one, but some of the sort of maybe like cladding
 7 consultants and things like that would maybe, you know,
 8 have a more detailed knowledge on more specific sections
 9 and things like that.
 10 Q. Yes, thank you.
 11 Where individuals didn't have a good knowledge of
 12 the regulatory requirements in this area, was it your
 13 experience that reliance tended to be placed by
 14 professionals on the advice given to them by Kingspan
 15 about those matters?
 16 A. It wouldn't solely be us. But they would turn to
 17 product manufacturers, yeah.
 18 Q. Yes. Were you aware that from time to time people were
 19 placing reliance on what Kingspan was saying to them?
 20 Did they make that clear to you, that they were looking
 21 to you for --
 22 A. They were looking sometimes for us to advise and steer
 23 them, yes. But, you know, we weren't the people taking
 24 responsibility for the specifications or the buildings,
 25 so, you know, they had their own due diligence. But

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1 yeah, they did ask us for -- you know, to give -- you
 2 know, advise and give our opinions, yeah.
 3 Q. Yes, yes. In your experience, did Kingspan ever take
 4 advantage of that, take advantage of that lack of
 5 knowledge to persuade them about the product in a way
 6 that wasn't entirely truthful?
 7 A. I would say that they -- you know, they promoted their
 8 products, obviously. But yeah, I wasn't aware of them
 9 sort of lying or anything like that about information
 10 that they held, no.
 11 Q. So you don't think Kingspan did take advantage of that
 12 lack of knowledge in the industry at the time?
 13 A. Not that I know of, no.
 14 Q. Okay, yes.
 15 A. I can't think of specific examples, no.
 16 Q. Yes, okay.
 17 Now, I want to move on to quite a big topic that
 18 I want to deal with, with you, which is about the BBA
 19 certificates for K15.
 20 A. Yeah.
 21 Q. That was a key part of your role, wasn't it? You were
 22 tasked with obtaining the BBA certificates and then you
 23 were involved with each new draft and issue of the
 24 BBA certificate?
 25 A. Yeah.

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1 Q. Yes.
 2 If we go on page 9 {KIN00022329/9} of your witness
 3 statement and look at paragraph 26, in the final five
 4 lines of paragraph 26 there on that page, what we see
 5 there, if we go five lines up, is you say:
 6 "I was tasked by the Technical Manager,
 7 Phillip Heath, to obtain a certificate from the BBA for
 8 K15 to cover the use of the product in external
 9 rainscreen systems and, as part of this role, I assisted
 10 by responding to requests from the BBA and providing the
 11 information and documents they required such as quality
 12 control data and test reports for the product."
 13 Do you see that there?
 14 A. Yes.
 15 Q. Can you remember when you were first tasked with that
 16 role, roughly?
 17 A. Specifically for the K15 one?
 18 Q. Yes.
 19 A. I can't remember the sort of -- the date offhand, no.
 20 Q. Yes. Is it likely to have been sometime around in 2008?
 21 A. Yes, it probably would have been round about there,
 22 yeah. There probably would be sort of a signed contract
 23 for it somewhere which would have the date on it.
 24 Q. Yes. Were you given any guidance or instruction on how
 25 to approach that task?

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1 A. Well, the contract which -- or the quote which we got
 2 back from the -- so it was effectively just to sort of
 3 run -- you know, explain to the BBA what we wanted and
 4 then they sent us a quote outlining what would be needed
 5 to do to basically get that, and then just sort of
 6 follow their sort of contract in terms of the list of
 7 information they needed.
 8 Q. Yes. Were you ever told to ensure that the certificate
 9 covered the use of K15 on all building heights,
 10 including those over 18 metres?
 11 A. Yes, I was told to send the BS 8414 report, yes, to show
 12 that as an example of a situation where it had met the
 13 requirements, yeah.
 14 Q. Right. But were you ever given a broader instruction
 15 than that: to make sure that the certificate covered the
 16 use of K15 on all building heights, regardless of the
 17 system tested? Was there ever an instruction you were
 18 given?
 19 A. There wasn't specifically, say, all construction types,
 20 no, no.
 21 Q. You mentioned the contract with the BBA recently in your
 22 answers. Did you ever read that BBA contract?
 23 A. I would have done at the time, yes.
 24 Q. Yes.
 25 A. Yeah.

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1 Q. Did you take a close note of what you were required to
 2 tell the BBA in terms of the K15 product?
 3 A. I -- to be honest with you, I don't remember exactly
 4 what was in it offhand, no, so ...
 5 Q. Yes. Was there any pressure on you at any time to
 6 ensure that the certificate covered all heights,
 7 including over 18 metres?
 8 A. Well, yes, we would -- I was told to sort of include
 9 that, yes. So they wanted ... yes.
 10 Q. Did you feel under pressure to achieve that?
 11 A. Well, they asked me specifically to do it, yes, yeah.
 12 Q. And you took that as a direct instruction to do that;
 13 yes?
 14 A. Yes, yeah.
 15 Q. Would you agree that by 2008 K15 was being actively
 16 marketed to the over-18-metre market?
 17 A. I would -- primarily most of the marketing didn't list
 18 a specific building height, it was just generally listed
 19 as for use in rainscreens. Like the title of the
 20 brochure doesn't make any mention of the building
 21 height, it was just generally marketed for use in
 22 rainscreens, and then they would deal with issues to do
 23 with the building height on a project-specific basis.
 24 Q. Yes. But were you aware, prior to starting this work,
 25 that Kingspan was actively promoting K15 for use on

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1 high-rise buildings?
 2 A. I knew that they were dealing with projects which were
 3 over 18 metres, yes.
 4 Q. Yes, in which it was being suggested that K15 was
 5 suitable; yes?
 6 A. Yeah, they would -- I can't remember the exact
 7 constructions and projects. But yeah, there were
 8 certainly high-rise buildings which they were looking at
 9 using K15, yes.
 10 Q. Yes.
 11 Now, if we go and look at page 11 {KIN00022329/11}
 12 of your witness statement now, paragraph 39. You're
 13 talking in this paragraph about the purpose of obtaining
 14 a BBA certificate, and you say this:
 15 "The purpose of obtaining a BBA certificate was
 16 an additional marketing tool which would give customers
 17 greater confidence in the products which Kingspan were
 18 selling (including K15)."
 19 A. Yeah.
 20 Q. Then you say:
 21 "This is because these certificates verified the
 22 properties within the products from the more basic
 23 initial type testing, which were carried out in external
 24 laboratories, and factory production control testing in
 25 Kingspan's own factory."

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1 A. Yeah.
 2 Q. Do you see that there?
 3 You also say, if we look at the next paragraph, that
 4 customers would have "a greater confidence in the
 5 product, knowing that its properties had been
 6 independently verified" --
 7 A. Yeah.
 8 Q. -- by the BBA; that's right, isn't it?
 9 A. Yeah.
 10 Q. Is it right that you also knew that some house-building
 11 companies would only use insulation which had been
 12 approved by a certification body, so that it was in
 13 Kingspan's interest to have K15 certified by the BBA?
 14 A. Yes, yes. It's the last line of that section that says,
 15 yeah, about the NHBC.
 16 Q. Yes. Were you aware that the intention was that this
 17 would help increase sales substantially by having the
 18 product certified?
 19 A. I didn't know exactly in terms of volumes by how much it
 20 would increase sales, but I knew it would help, yes.
 21 Q. Yes. Given those considerations, do you agree it was
 22 important that the technical content of the BBA
 23 certificates was accurate?
 24 A. Well, it needed to reflect the product, yes, yeah.
 25 Q. And it needed to be accurate about its fire safety

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1 properties; yes?
 2 A. Yeah, yeah, it would want to be, yeah.
 3 Q. Now, turning first then to your role in obtaining the
 4 first BBA certificate, which was 08/452, issue 1, and it
 5 was issued on 27 October 2008.
 6 If we look at your witness statement on page 9
 7 {KIN00022329/9}, paragraph 26. I want to look at the
 8 last three lines of paragraph 26. We looked at this
 9 a little bit earlier. You say there that:
 10 "... [you] assisted by responding to requests from
 11 the BBA and providing the information and documents they
 12 required such as quality control data and test reports
 13 for the product."
 14 Do you see that there?
 15 A. Yeah.
 16 Q. Did you give that assistance at all stages, including
 17 prior to the issue of that first certificate for K15 in
 18 October 2008?
 19 A. Yes, yeah. So I was dealing with that from the initial
 20 sort of signing of the contract through to the issue of
 21 the certificate, yeah.
 22 Q. Yes.
 23 Then if we go on page 12 {KIN00022329/12} of your
 24 witness statement and look at paragraph 43(A), you say
 25 this:

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1 "As I haven't seen the contract for original
 2 assessment of K15, which would list the majority of the
 3 items requested by the BBA, I can't be certain on what
 4 documents, test data, and records were specifically
 5 requested by the BBA of Kingspan during the period
 6 2008-15."
 7 A. Yeah.
 8 Q. And you say:
 9 "From memory, I suspect that these were test reports
 10 and quality control data relating to water vapour
 11 transmission, reaction to fire, thermal conductivity,
 12 dimensional stability ..."
 13 And then you go on, including tolerances and bending
 14 strength.
 15 A. Yeah.
 16 Q. Do you see that there?
 17 A. Yeah.
 18 Q. So you say:
 19 "As I haven't seen the contract for original
 20 assessment of K15 ..."
 21 Just to be clear, does that mean you never saw the
 22 contract --
 23 A. No, I would have seen it at the time. That's referring
 24 to the documents that were released to me at the time of
 25 writing my statement.

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1 Q. I understand, thank you. Yes.
 2 Can you recall whether you ever provided to the BBA
 3 any test reports to BS 476-6 and 7?
 4 A. I believe I did, yes. I think those were sent for K15,
 5 as far as I remember, yeah.
 6 Q. Can you remember the BBA specifically asking for those?
 7 A. I can't remember specifically if they were asked for or
 8 not, because it -- I suppose it may not have been
 9 compulsory because they're not listed in the European
 10 Standard, so they may have been optional ones.
 11 Q. I see, yes. What was your understanding at the time
 12 about the significance of testing to 476-6 and 7?
 13 A. Well, it wasn't a requirement because all the sort of --
 14 it relates to, I suppose, where the surface of the
 15 product may be exposed to fire. So things like the
 16 spacing of cavity barriers and things like that, it has
 17 an effect of, in Approved Document B. You can quote
 18 a result to the European method, Euroclass, or you can
 19 do it to the old British Standard method. So the
 20 Approved Document B listed both routes. So --
 21 Q. Yes.
 22 A. -- it was sort of an optional sort of option, you know,
 23 sort of one --
 24 Q. Yes.
 25 A. Yeah.

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1 Q. Part 7 was about surface spread of flame. Did you
 2 understand what part 6 of BS 476 --
 3 A. It's the fire propagation test, yeah.
 4 Q. Yes. And you understood that at the time?
 5 A. Yeah.
 6 Q. Now, if we look back at your witness statement, this
 7 time page 13 {KIN00022329/13}, paragraph 43(H), you say
 8 this. You say:
 9 "The BBA was not informed by Kingspan of tests to
 10 BS 8414 on systems incorporating K15 which did not meet
 11 the criteria in BR 135."
 12 A. Yeah.
 13 Q. "This is because it didn't affect the scope of the
 14 certification that we were seeking from the BBA."
 15 A. Yeah.
 16 Q. Do you see that there? So this is about 8414 testing.
 17 A. Yeah.
 18 Q. And you're saying there that a negative result, failed
 19 tests, were not relevant to the BBA certification and
 20 therefore did not need to be reported; is that what
 21 you're saying?
 22 A. Yeah.
 23 Q. But a positive result was relevant?
 24 A. Yes, because it affected the scope of approval and --
 25 yeah.

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1 Q. Can you explain why you believed that to be the case:
 2 that you could tell them about positive results but
 3 didn't need to tell them about negative results?
 4 A. Because effectively, if you had a failed test or
 5 an absence of a test, it was assessed the same under the
 6 regulations, so it didn't affect what you were approved
 7 to do; whereas if you had a positive test, that affected
 8 what approval you had. So if you had a different
 9 construction type to the one that was successfully
 10 tested which had a failed test, it was still the same
 11 under the regulations as if you hadn't done a test at
 12 all.
 13 Q. I see. But if you change your product and you change
 14 what you're selling, and then you test and you fail
 15 those tests, would you agree that the BBA ought to be
 16 made aware of those failed tests?
 17 A. Well, they would need to be aware of a change in the
 18 product, yes.
 19 Q. Yes. Were you aware that there was a change in the K15
 20 product: that from 2006 it became a new technology,
 21 Kesteren technology product, which was different to the
 22 K15 sold before 2006?
 23 A. I knew there was a changeover. I didn't know the exact
 24 dates of when manufacture changed. But yes, I did know
 25 at some time it changed, yes.

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1 Q. Did you ever tell the BBA about that change in the K15
 2 that was being sold?
 3 A. Well, specifically I passed on information relating to
 4 production. So when we had a BBA quality plan, which
 5 would list all of the components which are used to
 6 manufacture the product and the manufacturing process,
 7 so we would get -- I would get the production managers
 8 to fill out and update any changes on that and forward
 9 that on to the BBA.
 10 Q. But you did send fire test information, didn't you, to
 11 the BBA from time to time?
 12 A. Yes.
 13 Q. So when there were failures to 8414 tests in 2007 and
 14 2008 on the new-technology K15, why weren't those
 15 communicated to the BBA?
 16 A. Well, I -- to be honest, I -- you know, it wasn't
 17 something that the test reports listed what technology
 18 they were, so that wasn't something that, you know,
 19 generally people in the technical department would have
 20 been aware of. So we were just passed test reports that
 21 were relevant when we had them, and asked to pass them
 22 on.
 23 Q. But you knew, didn't you, that the K15 you were selling
 24 from 2006 onwards was all new-technology K15?
 25 A. I wouldn't have known exactly when the date of change

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1 was, no.
 2 Q. But by 2008 you would have known that, wouldn't you?
 3 A. I would have, yeah.
 4 Q. Yes. But at no point was the BBA told, was it, that
 5 there had been this change to the composition of K15,
 6 including not just the chemical composition but
 7 perforations to the foil facer? Were you aware of that?
 8 A. That would have been in the -- yeah, so it would have
 9 known there was an updated facing which Gwyn had listed
 10 in the quality plan, yeah.
 11 Q. Was the BBA ever made aware of that change to the facer?
 12 A. Yes, yeah. It was in the quality plan, yeah.
 13 Q. It was made aware?
 14 A. Yeah.
 15 Q. Did you ever bring to the BBA's attention the difference
 16 in fire performance that was witnessed by Kingspan, by
 17 Kingspan Offsite and by the BRE in 2007 and 2008, when
 18 that new-technology K15 was tested to 8414?
 19 A. No.
 20 Q. Can you help us as to why not?
 21 A. Well, I wasn't at the test and didn't witness it and
 22 wasn't given any information about it, so ...
 23 Q. So are you saying you weren't aware that it had
 24 performed very badly in those tests?
 25 A. No, we didn't -- I didn't have any information about the

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1 test, to be honest, yeah. It was only -- I only knew
 2 that the test had happened because of just general
 3 little bits of discussion and gossip at the office and
 4 that. So I had nothing to do with it, yeah. So, yeah.
 5 Q. Let's take a look then at that first BBA certificate
 6 from 2008. It's at {BBA00000038/1}. We can see the
 7 date on it in the bottom left-hand corner --
 8 A. Yeah.
 9 Q. -- 27 October 2008.
 10 Then if we look at the top of page 1 {BBA00000038/1}
 11 there, as it is in the screen -- it's fine just as it
 12 is -- under "Key Factors Assessed" we get some different
 13 headings and the third one down is "Behaviour in
 14 relation to fire". Do you see that there?
 15 A. Yeah.
 16 Q. That section reads:
 17 "... the boards will not contribute to the
 18 development stages of a fire or present a smoke or toxic
 19 hazard (see section 7)."
 20 A. Yeah.
 21 Q. Do you see that there?
 22 A. Yeah.
 23 Q. Now, that phrase there, "the boards will not contribute
 24 to the development stages of a fire" --
 25 A. Yeah.

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1 Q. -- can you help us: what does that mean?
 2 A. I don't know, to be honest.
 3 Q. You don't know. Did you understand at the time that
 4 that assertion was based on some actual test data or
 5 test standard?
 6 A. I don't know what the BBA based that on, no.
 7 Q. Did you believe that that assertion was correct, that
 8 K15 wouldn't contribute to the development stages of
 9 a fire?
 10 A. Yeah, I -- well, it wasn't something I'm an expert in,
 11 so, yeah, I ... yeah, I didn't have any information to
 12 disagree with it, no.
 13 Q. Can you help us as to where that wording came from? Who
 14 was it suggested by, the BBA or Kingspan?
 15 A. The BBA.
 16 Q. The BBA. Did you ever go back to them and say, "It's
 17 not very clear, that"?
 18 A. No, it's not something I remember querying with them,
 19 no.
 20 Q. Or ask them what it meant?
 21 A. No.
 22 Q. Were you happy with the wording, were you content with
 23 it?
 24 A. Yeah, it's something which -- yeah, it ... we didn't
 25 have any specific problems with it. We didn't have

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1 any -- I didn't have any information to say that it was
 2 definitely not correct, so, yeah.
 3 Q. And you have a clear recollection of that being them
 4 suggesting it, do you?
 5 A. Yes, yeah, they put that in -- it's in a -- I think it's
 6 in various phenolic certificates, yeah. It's some of
 7 their standard wording they put in a lot of
 8 certificates. It's in lots of other product
 9 certificates as well.
 10 Q. Yes. You weren't troubled that you might get technical
 11 queries thereafter about what it meant, and that you
 12 didn't have an explanation as to what it meant?
 13 A. No, we would have -- if we did, we would have had to go
 14 and ask the BBA at the time when the query came in,
 15 I suppose, is how we would have looked at it, yeah.
 16 Q. I see.
 17 Let's go to section 7 now, which that introductory
 18 section refers to, which starts towards the bottom of
 19 page 5 {BBA00000038/5}. So here we've got the section
 20 on "Behaviour in relation to fire".
 21 What we see at 7.1 is a description of the system
 22 tested to BS 8414-1. Do you see that there?
 23 A. Yeah.
 24 Q. It says it was a 60-millimetre thick board with those
 25 dimensions, it was mechanically fixed to

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1 a non-combustible substrate?
 2 A. Yeah.
 3 Q. And then it's got 6-millimetre thick cement particle
 4 boards mechanically fixed as well?
 5 A. Yeah.
 6 Q. And then further down it says:
 7 "The cement particle boards provided the
 8 overcladding for the rainscreen system."
 9 Do you see that there?
 10 A. Yeah.
 11 Q. Now, the date of that test is not given in this
 12 certificate. Can you help us as to why that was?
 13 A. I don't know, no. It doesn't -- it's something the BBA
 14 don't seem to list, yes.
 15 Q. Yes.
 16 A. The same for the sort of fire resistance one underneath,
 17 yeah, they don't seem -- it's not something they used to
 18 list in the certificates.
 19 Q. Right, yes.
 20 Just at the end of that paragraph, giving the
 21 description of the system, we can see that it says --
 22 this is in the last three lines, starting right on the
 23 right-hand side with the word "Within". It says:
 24 "Within the stated test time the temperature at the
 25 level 2 thermocouples did not exceed 600°C" --

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1 A. Yeah.
 2 Q. -- "therefore displaying limited fire spread away from
 3 the fire source and that the product meets the criteria
 4 stated within BRE 135."
 5 A. Yeah.
 6 Q. Do you see that?
 7 A. Yeah.
 8 Q. In your witness statement you tell us that you did
 9 believe that that wording was correct; is that right?
 10 A. Yeah.
 11 Q. On what basis did you think it was correct that the
 12 product had met the criteria in BRE 135? You can see it
 13 very clearly in the last few words of that paragraph.
 14 It says:
 15 "... and that the product meets the criteria stated
 16 within BRE 135."
 17 Do you see that there?
 18 A. Yeah. Well, it's referring to that particular test,
 19 isn't it? So it's when it's tested in that
 20 construction, it met ... It's referring to a specific
 21 test.
 22 Q. It is, and that's why I'm asking about the word
 23 "product" there.
 24 A. Yeah.
 25 Q. Rather than saying that the system meets the criteria

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1 stated, wouldn't it have been accurate to state that the
 2 system met that criteria --
 3 A. Possibly, yes.
 4 Q. -- if that was the case -- and we'll come to that --
 5 rather than that the product met it?
 6 A. Yeah, might -- possibly.
 7 Q. Would you agree with me, looking at that now, that the
 8 word "product" shouldn't be there and it should have
 9 talked about the system?
 10 A. Personally, I don't think it matters that much because
 11 it's sort of -- it's in the section written specifically
 12 about a specific test. So it's saying in that specific
 13 situation it met the requirements. So I -- yeah,
 14 I personally don't see as there's a lot of difference
 15 between them, but that's opinions.
 16 Q. I see, yes.
 17 Can we just look at what Philip Heath has said about
 18 this in his witness statement. We'll come back to this
 19 certificate again in a moment. If we go on page 48 of
 20 his statement, {KIN00020709/48}, and I want to look at
 21 paragraph 7.35.
 22 He says in the first four lines there:
 23 "Having reviewed this statement in preparation of
 24 this witness statement ..."
 25 And he's talking about this certificate:

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1 "... I note that the BBA certificate should have
 2 said that the 'system' rather than the 'product' meets
 3 the criteria stated within BRE 135 although I was not
 4 aware of this error at the time the BBA certificate was
 5 issued."
 6 Do you see that there?
 7 A. Yeah.
 8 Q. Would you agree with Mr Heath that that was an error?
 9 A. Well, I suppose maybe, maybe it would have been clearer.
 10 But yeah, it's ... I didn't -- didn't at the time see it
 11 as a particular issue. But it might have been perhaps
 12 clearer for people not familiar with the testing and
 13 things, possibly.
 14 Q. Yes. Do you remember, was the draft certificate
 15 approved by Philip Heath before it was issued?
 16 A. Yes, he saw it, yes.
 17 Q. Yes. So he would have seen that wording and had the
 18 chance to pick up on that error?
 19 A. Well, he certainly was sent it. I don't know if he read
 20 it or not. But he was sent it and came back and said it
 21 was okay, yes.
 22 Q. Okay, yes. Thank you.
 23 If we can go back to the certificate then: it was
 24 {BBA00000038/5}. Yes, so we've looked at 7.1. If we go
 25 on to page 6 {BBA00000038/6} and look at 7.3. It says

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1 here:
 2 "In buildings with a floor more than 18 m above
 3 ground level, advice should be sought from the
 4 Certificate holder."
 5 Do you see that there?
 6 A. Yeah.
 7 Q. Can you help us as to how that wording ended up being
 8 included in this certificate ?
 9 A. I don't remember offhand, no. No.
 10 Q. If we just look at your witness statement at this point,
 11 on page 13 {KIN00022329/13} of your statement,
 12 paragraph 44(A), you say this. You say:
 13 "In respect of Issue 1 of Certificate ..."
 14 And that's the one issued on 27 October 2008:
 15 "... the BBA did request a copy of the BS 8414 test
 16 report."
 17 A. Yeah.
 18 Q. "Although it was not compulsory to provide this, a copy
 19 was supplied to the BBA because Kingspan wanted the BBA
 20 to omit some standard wording from the certificate that
 21 said that the product definitely could not be used on
 22 buildings with a floor above 18 metres from ground
 23 level."
 24 A. Yeah.
 25 Q. Do you see that there?

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1 A. Yeah.
 2 Q. So I think you're telling us that it would have been
 3 standard wording for the BBA to say the product could
 4 not be used on buildings with a floor above 18 metres?
 5 A. Yeah.
 6 Q. But Kingspan, is this right, wanted the BBA to omit that
 7 wording --
 8 A. Yeah.
 9 Q. -- from the certificate ?
 10 A. Yeah.
 11 Q. On what basis did Kingspan want the BBA to omit that
 12 wording?
 13 A. Well, it was based on the test that they'd done, the
 14 BS 8414 test.
 15 Q. The test in 2005?
 16 A. Yes.
 17 Q. Was this a compromise with the BBA, instead of having
 18 that wording that the BBA wanted, to put in this
 19 "contact the manufacturer" clause at 7.3?
 20 A. There would have been then some alternative wording,
 21 yeah. I don't know exactly how that specific wording
 22 was created, if it was some -- yeah, I can't remember
 23 exactly how that sentence in itself was -- how that came
 24 together. If it was a standard BBA clause or if it was
 25 something that resulted from drafts being changed or

50

1 anything, I can't remember on that.
 2 Q. Okay. We're going to come to various bits of
 3 correspondence on this. But it's just whether you
 4 remember Kingspan succeeding in persuading the BBA to
 5 delete the wording about not being suitable above
 6 18 metres and instead inserting wording about seeking
 7 advice from Kingspan on the over 18-metre question?
 8 A. Well, yes, they said if -- well, they told us that if
 9 they were going to take out the standard wording, that
 10 they would need a test report to BS 8414.
 11 Q. Yes.
 12 In your witness statement -- I don't think we need
 13 to go to this -- you say that you circulated the draft
 14 wording for section 7 of the certificate to the
 15 proofreading team. For the transcript, that's at
 16 page 15 {KIN00022329/15}, paragraph 45(H) of your
 17 statement.
 18 A. Yeah.
 19 Q. Who was in the proofreading team that would have looked
 20 at the draft wording of the certificate ?
 21 A. I can't remember offhand, no.
 22 Q. You can't remember?
 23 A. No. It was just a -- it was a group email thing that we
 24 had set up on the system, but I can't remember who was
 25 actually in it.

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1 Q. Yes. Were they members of the technical team that would
 2 have proofread or were they --
 3 A. There would have been some. There would have been some
 4 people from the sales side and some people from the
 5 marketing side as well.
 6 Q. Yes. So a mixture of people across different divisions
 7 would have looked at the language used --
 8 A. Yeah.
 9 Q. -- and proofread it?
 10 A. Yeah.
 11 Q. Yes.
 12 You also tell us in that same paragraph, 45(H), that
 13 you would have collated comments and sent them back to
 14 the BBA, but that you can't remember -- at the time of
 15 preparing your statement, you couldn't remember what
 16 those comments were?
 17 A. Yes, that's right, yeah.
 18 Q. Let's go to an earlier draft of the certificate now,
 19 which we think is dated 4 June 2008. It's at
 20 {BBA00000249/1}. So this is an earlier draft of that
 21 certificate .
 22 A. Yeah.
 23 Q. We can see under "Key Factors Assessed" on that page:
 24 "Behaviour in relation to fire -- the insulation
 25 will not contribute to the development stages of a fire

52

1 or present a smoke or toxic hazard ..."

2 We've got that there.

3 A. Yeah.

4 Q. Then if we can go to page 4 {BBA00000249/4}, where we

5 get the detailed section on fire. It's at the bottom of

6 that page; in this draft it's section 4. We see at 4.1

7 there it says:

8 "The ... Kooltherm K15 component of the wall will

9 not contribute to the development stages of a fire or

10 present a smoke or toxic hazard."

11 Then there's something about:

12 "The board must not be carried over junctions

13 between roofs and walls ..."

14 That's continued at 4.2, about not carrying it over

15 to junctions between roofs and walls.

16 A. Yeah.

17 Q. Then at 4.3 is what I want to ask you about. So it says

18 this, 4.3:

19 "When installed with an internal lining board,

20 eg 12.5mm thick plasterboard, the insulation will be

21 contained between the external wall and internal lining

22 board until one is destroyed, Therefore, the insulation

23 will not contribute to the development stages of a fire

24 or present a smoke or toxic hazard."

25 A. Yeah.

53

1 Q. Do you see that there?

2 A. Yeah.

3 Q. So it would appear that perhaps the wording about "the

4 insulation will not contribute to the development stages

5 of a fire" originated from a clause which is longer and

6 is telling us that when it's installed with an internal

7 lining board, 12-millimetre-thick plasterboard, and it's

8 contained between the external wall and an internal

9 lining board. Do you see that?

10 A. Yeah.

11 Q. If we go over to page 5 {BBA00000249/5}, at 4.7, towards

12 the top of the page, we can see there the wording in

13 this draft. It says:

14 "The insulation component is combustible ..."

15 And then someone has put "QUERY":

16 "... but it may be used in a wall not more than

17 one metre from a boundary where no storey is at a height

18 of more than 18 m above ground unless the insulation is

19 within a cavity of two leaves of masonry / concrete at

20 least 7.5 mm thick with cavity barriers around all the

21 openings and at the top of the wall in accordance with

22 Mandatory Standard 2.6 and Annex 2 ..."

23 And then there's another query about that. Do you

24 see that there?

25 A. Yeah.

54

1 Q. So this is very much an unfinished draft, it would

2 appear.

3 A. Yeah.

4 Q. But this was the draft as it stood when the BBA first

5 sent it to you; is that right?

6 A. I don't know if this is the first version or not, but

7 it's at some stage during it, yeah.

8 Q. Yes.

9 Now, I want to look at an email where you provide

10 some comments on the draft.

11 A. Yeah.

12 Q. It's from July 2008. If we go to {BBA00000244/1}. It's

13 your email to George Lee of the BBA, dated 1 July. You

14 say there to George Lee:

15 "Attached is the 1st draft for the Kooltherm K15

16 certificate which I collected from yourselves during my

17 meeting, I have included with our comments and requested

18 revisions and a test report to support some of the data

19 we have requested to be inserted.

20 "In addition I have included a number of drawings

21 for inclusion section."

22 Do you see those there?

23 A. Yeah.

24 Q. Then you say:

25 "If you could return a timescale for production of

55

1 the revised draft this would be of assistance. If you

2 have any queries regards the information in this please

3 let me know."

4 A. Yeah.

5 Q. The test report attached is a BRE test report from 2004

6 to EN 1364-1 --

7 A. Yeah.

8 Q. -- produced for Kingspan Metl-Con Limited.

9 A. Yeah.

10 Q. We don't need to go to it, but it's a fire resistance

11 test; do you agree?

12 A. What was the standard again, sorry?

13 Q. 1364-1.

14 A. Yes.

15 Q. Yes.

16 Now if we can go to your comments on the draft,

17 {BBA00000250/1}. What this appears to be is a table in

18 which you've explained paragraph by paragraph what the

19 comments are.

20 A. Yeah.

21 Q. Did you prepare this table? Did you write this?

22 A. Yes, that probably would have been myself, yes.

23 Q. I think we see your -- are those your initials in the

24 left-hand side --

25 A. Yeah.

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1 Q. -- of each row?
 2 A. Yeah.
 3 Q. Can you help us: why did you do that? Why did you put
 4 your initials in for --
 5 A. I can't remember, to be honest. I'm not sure what that
 6 relates to now, offhand.
 7 Q. In providing these comments, would you have had
 8 discussions with others in the technical team, including
 9 people senior to you, prior to going back to the BBA?
 10 A. Yes, so this would be collating different bits of
 11 information from, yeah, lots of people.
 12 Q. Yes. Can you recall who would have discussed it with?
 13 A. I don't know the exact -- I can't remember the exact
 14 people, no, no.
 15 Q. No, okay.
 16 On page 1 {BBA00000250/1}, the fifth row down of the
 17 table, you ask that section 4.1 of the certificate be
 18 replaced with the following wording. So you want it
 19 replaced with:
 20 "The product is classified by ..."
 21 So first of all you've got the quote, and the quote
 22 is:
 23 "'The product has a classification of QUERY for
 24 reaction to fire in accordance with EN 13501-1:
 25 2007' ..."

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1 That's the quote.
 2 A. Yeah.
 3 Q. And you want "the following statement & test results".
 4 A. Yeah.
 5 Q. And you want instead:
 6 "The product is classified by the Building
 7 Regulations as being Class 0 and Low Risk by the
 8 Technical Standards in Scotland."
 9 A. Yeah.
 10 Q. Do you see that there?
 11 A. Yeah.
 12 Q. Then you've got the test result, 476-6 and 476-7.
 13 A. Yeah.
 14 Q. Do you see that there?
 15 A. Yeah.
 16 Q. Does that make sense to you, why you were asking for
 17 class 0 and those test results to replace what was said
 18 there previously? Can you explain why you did that?
 19 A. Erm ... Well, the -- I think the statement before was
 20 just an incomplete one anyway: it doesn't list
 21 a particular result. And the new wording is an extract
 22 from the K15 brochure.
 23 Q. Yes.
 24 A. That's a section of text taken from the K15 brochure.
 25 Q. I see.

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1 Now, there were no BS 476 test results or reports
 2 attached to your email of 1 July 2008.
 3 A. Right.
 4 Q. We've checked carefully: none of those attachments are
 5 BS 476 tests.
 6 A. Yeah.
 7 Q. Do you think that any BS 476 test data on K15 was ever
 8 sent to the BBA, or did you just propose this wording?
 9 A. We definitely had test reports during the time I was
 10 there, so some would have been sent at some point.
 11 I don't know the exact date of when they were sent,
 12 but ...
 13 Q. Do you remember whether you had test reports to 476-6
 14 and 7 for the new-technology K15 that you were selling
 15 by this time?
 16 A. I wouldn't have known what technology, I suppose,
 17 I couldn't say definitely offhand what technology, yeah,
 18 because, you know, there were -- with the changeover
 19 they were doing trials on the new product a long time
 20 before they changed over standard production. So a lot
 21 of testing that was done before they did the new
 22 technology standardly was done on new-technology
 23 product. So it wasn't a straightforward thing as to,
 24 you know, a test before this date was one particular
 25 technology. So ...

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1 Q. Yes. Mr Meredith has told us in his evidence that once
 2 the new technology was introduced, Kingspan struggled to
 3 get it to pass 476-6, the fire propagation test.
 4 A. Right.
 5 Q. Were you aware of that when you worked at Kingspan?
 6 A. No, I wasn't involved with the fire tests, no.
 7 Q. No. So although you understood that there were some
 8 tests of 476-6 and 7, you weren't aware, were you, when
 9 those tests originated from or what K15 product they
 10 were on?
 11 A. No.
 12 Q. I think we can agree that in terms of these exchanges,
 13 the BBA haven't been sent those test results, have they?
 14 A. Not in this email, no.
 15 Q. No.
 16 A. No. But there would have been other emails with
 17 information on, because this is during the drafting
 18 process, so this is a later part of the certification
 19 process. So this is not all of the information they
 20 were sent.
 21 Q. I see. We've looked at a lot of documents that we've
 22 been sent as an Inquiry: we haven't been able to see any
 23 476-6 --
 24 A. Yeah.
 25 Q. -- and 7 tests being sent to the BBA.

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1 A. Yeah.
 2 Q. I'm not saying that doesn't mean it didn't happen, but
 3 we can't see it in any of the documents at the moment.
 4 A. Right, yeah. I couldn't say the date because like even
 5 these bits here weren't disclosed to me when I was doing
 6 my statement, so ... There's quite a bit of the stuff to
 7 do with certification which didn't get sent to me, so
 8 I wasn't able to really fill in the details.
 9 SIR MARTIN MOORE-BICK: Can you just help with this: you
 10 feel confident that certain materials were sent to the
 11 BBA?
 12 A. I -- as far as I -- yeah, I seem to remember there being
 13 tests to BS 476-6 and 7, certainly. As far as I can
 14 remember, I thought the K15 and K10 ones were the first
 15 ones, because they've got a thicker facing, that they
 16 actually got the results on. But ...
 17 SIR MARTIN MOORE-BICK: How were they sent to the BBA?
 18 A. It would have been email, if we'd sent them, yeah.
 19 That's how we sent everything to them.
 20 SIR MARTIN MOORE-BICK: So if we have a full run of records,
 21 we ought to have the email to which they're attached; is
 22 that right?
 23 A. Should be, yeah. I would have thought, yeah, yeah.
 24 SIR MARTIN MOORE-BICK: All right. Thank you.
 25 MS GRANGE: Yes.

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1 Now, this wording that you've proposed --
 2 A. Yeah.
 3 Q. -- just one more question: it doesn't state, does it,
 4 when those test results to 476-6 and 7 had been
 5 achieved, does it?
 6 A. No.
 7 MS GRANGE: Mr Chairman, I need to keep going with this
 8 document.
 9 SIR MARTIN MOORE-BICK: All right.
 10 MS GRANGE: But I think if we're going to have a break, this
 11 is probably as good a moment as any.
 12 SIR MARTIN MOORE-BICK: Oh, is it? All right.
 13 MS GRANGE: Yes. So why don't we break now --
 14 SIR MARTIN MOORE-BICK: Yes, we can do that.
 15 MS GRANGE: -- if that's okay.
 16 SIR MARTIN MOORE-BICK: Mr Mills, we have a break during the
 17 morning and the afternoon --
 18 THE WITNESS: Yeah.
 19 SIR MARTIN MOORE-BICK: -- and this is obviously a good time
 20 to take the one for the morning. So we'll stop there.
 21 We'll resume at 11.30, please.
 22 THE WITNESS: Okay.
 23 SIR MARTIN MOORE-BICK: I have to ask you, on this and other
 24 occasions when you leave the room, please don't talk to
 25 anyone about your evidence or anything relating to it

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1 while you're away.
 2 THE WITNESS: Yeah, all right.
 3 SIR MARTIN MOORE-BICK: Thank you very much. Would you like
 4 to go with the usher, please.
 5 (Pause)
 6 Right, 11.30, please.
 7 MS GRANGE: Thank you.
 8 (11.16 am)
 9 (A short break)
 10 (11.32 am)
 11 SIR MARTIN MOORE-BICK: Right, Mr Mills, ready to carry on?
 12 THE WITNESS: Yes.
 13 SIR MARTIN MOORE-BICK: Thank you very much.
 14 Yes, Ms Grange.
 15 MS GRANGE: Yes, Mr Mills. Just before we go back to your
 16 detailed comments, which we'll come to again, in terms
 17 of how this process started with the BBA, would you
 18 agree with me that you don't get an email from the BBA
 19 saying, "This is everything we need"? The first contact
 20 you had over this was that draft certificate being sent
 21 to you; is that right?
 22 A. No. No, that's not right, no.
 23 Q. So what happened then?
 24 A. You have the contract, which outlines what -- the
 25 initial information they'll need.

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1 Q. Right.
 2 A. So that would give the main list of information --
 3 Q. Yes.
 4 A. -- which we would have supplied probably about
 5 18 months/two years before that draft was produced.
 6 Q. Right.
 7 A. And then after they've assessed that, they would
 8 possibly come back by email and ask for any additional
 9 information they may have decided they needed during the
 10 certification process.
 11 So that draft would be very late in the process:
 12 that would be nearly -- when you're nearly complete.
 13 Q. I see. Okay, thank you.
 14 Let's go back to your comments then, in terms of the
 15 table that we were looking at, {BBA00000250/1}, and just
 16 staying with that comment on 4.1.
 17 A. Yeah.
 18 Q. So what you're wanting replaced is something that's
 19 dealing with EN 13501, so Euro classifications?
 20 A. Yeah.
 21 Q. Do you see that there?
 22 A. Yeah.
 23 Q. But would you accept that class 0 is not the same as
 24 testing to the European classifications, is it?
 25 A. It's listed within the approved documents. There's two

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1 alternative routes you can use: you could still use the
 2 old British Standard route or the Euroclass routes. So
 3 they listed two routes you could follow.
 4 Q. Yes, but would you agree with me that national class 0
 5 testing to 476-6 and 7, they're very different tests to
 6 the tests that are carried out under the European
 7 classification system?
 8 A. The actual test methods themselves may not be exactly
 9 the same, no.
 10 Q. No. So can you help us as to why you're replacing
 11 something that's talking about the European
 12 classification with national class 0?
 13 A. Because in all the applications where the Euroclass can
 14 be used in the approved documents, they list an
 15 alternative method of compliance following the old
 16 British Standard tests, which was the BS 476-6 and 7.
 17 So that is an alternative route in both the Scottish and
 18 English and Welsh documents.
 19 Q. Was part of the reason for that that Kingspan were
 20 struggling to get good Euroclass classification for the
 21 K15 product?
 22 A. Possibly, yeah.
 23 Q. When you say, "Possibly", is that something you have
 24 a memory of?
 25 A. I can't remember exactly, no, no.

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1 Q. Okay.
 2 The wording that you want it replaced with, "The
 3 product is classified by the Building Regulations as
 4 being Class 0 and Low Risk", and then you just set out
 5 the test standards; do you see that there?
 6 A. Yeah. So those would be the results you need to
 7 achieve, which are to be -- so that's what results you
 8 need to those two tests to be classed as class 0 or low
 9 risk. That's listed in the Building Regulations.
 10 Q. Yes, you've set out what those test standards are, but
 11 you're not setting out what the product has achieved
 12 pursuant to those test standards --
 13 A. Yes, yeah. The class 1 surface spread of flame and the
 14 index of performance of 12 and sub-index of less than 6
 15 were the results.
 16 Q. Yes. You're not out setting those, are you?
 17 A. Yes, they're listed there.
 18 Q. Well, those are the standards.
 19 A. No, BS 476-6 and then the fire test standard title, and
 20 then the second sentence is the result.
 21 Q. "12 and sub index (i ...)": I see, you're saying those
 22 are the results, are they?
 23 A. Yeah.
 24 Q. Okay. I may come back to that.
 25 Let's go to the second row of the table on page 2

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1 {BBA00000250/2}. These are comments on section 4.7 of
 2 the draft certificate. Your comments read as follows:
 3 "The BS 8414 test result supplied an assessment of
 4 these results following BRE 135 is an alternative method
 5 of compliance to the non combustibile request for walls
 6 within 1 m of a boundary under the Scottish Technical
 7 Standard, England & Wales B1 only requests Class 0
 8 external finish with the same in B2 plus the request for
 9 any product facing into a ventilated cavity to be
 10 Class 0 ..."
 11 A. Yeah.
 12 Q. "... Northern Ireland Technical Booklet ... requests
 13 Class 0 although this is only need to be both sides of
 14 the cladding, all regulations refer to the BRE 135
 15 assessment as possibly means of compliance with
 16 requirements above 18m ..."
 17 A. Yeah.
 18 Q. "... Therefore the product should be able to be used
 19 within 1 m from a boundary both above or below 18m
 20 provided details relating to cavity barriers etc are
 21 followed."
 22 Do you see that there?
 23 A. Yeah.
 24 Q. Is that wording that you're suggesting should go into
 25 the certificate instead at 4.7?

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1 A. No.
 2 Q. No. That's your comment?
 3 A. Yeah.
 4 Q. And the words at the end there, "Therefore the product
 5 should be able to be used within 1 m from a boundary
 6 both above or below 18m provided details relating to
 7 cavity barriers etc are followed", do you see that
 8 there?
 9 A. Yeah.
 10 Q. Were you suggesting that wording to that effect should
 11 go into the certificate?
 12 A. It wasn't specifically that wording, but it was
 13 relating. So that's a comment on the existing wording
 14 that they'd put in there about the proximity to boundary
 15 walls, or boundary lines, sorry.
 16 Q. Do you accept that it was you who suggested wording to
 17 the effect that the BS 8414-1 test allowed K15 as
 18 a product to be used in buildings over 18 metres?
 19 A. No, we didn't -- we didn't suggest the exact wording,
 20 no. The BBA draft the certificate.
 21 Q. But isn't that the very effect of your words here,
 22 "Therefore the product should be able to be used ...
 23 both above or below 18m provided details relating to
 24 cavity barriers ... are followed"? And you're
 25 referencing the 8414 test result at the beginning of

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1 that comment.
 2 A. Yeah, yeah. Yeah, we're not suggesting the exact
 3 wording; we're just commenting on it, on the situation,
 4 and then asking them to come back with updated draft.
 5 Q. But that wording about K15 as a product being able to be
 6 used in buildings over 18 metres, that was something you
 7 wanted included in the certificate, wasn't it?
 8 A. I -- I don't -- I don't think anything to do with
 9 product or anything was anything particularly important
 10 really. It was just, you know ...
 11 SIR MARTIN MOORE-BICK: Well, the distinction is between
 12 product and system, isn't it? This is what counsel is
 13 really asking you to think about. And you put it --
 14 A. Yeah, this is like a fairly informal sort of just
 15 discussion of comments. This wasn't sort of -- you
 16 know, this isn't something that was intended -- so this
 17 exact information -- to go out into the marketplace.
 18 This is just a discussion on updating the draft.
 19 SIR MARTIN MOORE-BICK: All right. Thank you.
 20 MS GRANGE: But in fact we know wording to that effect was
 21 included in the first issue of the certificate; we've
 22 looked at that, haven't we?
 23 A. Right.
 24 Q. Yes?
 25 A. Right. Yeah, something similar, yeah.

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1 Q. Did anyone ask you to make that comment? Was that you
 2 coming up with that or do you remember having a specific
 3 discussion with anyone about it?
 4 A. I can't remember who provided the different comments
 5 offhand, no, no.
 6 Q. On what basis did you make this comment? Why did you
 7 think it was appropriate to suggest at the end of that
 8 comment, "Therefore the product should be able to be
 9 used within 1 m from a boundary both above or below 18m
 10 provided details relating to cavity barriers etc are
 11 followed"? On what basis were you making that comment?
 12 A. Well, that was based on the BS 8414 test.
 13 Q. But that was a system-specific test, wasn't it?
 14 A. Yeah.
 15 Q. That didn't tell you that you could use K15 on all
 16 buildings over 18 metres regardless of the system,
 17 did it?
 18 A. No, no. But we have sent them the test and reports
 19 which we're referring to, which has the construction in
 20 it. We've already sent that to them. So we're
 21 referring to a specific test which they're already aware
 22 of.
 23 Q. So were you relying on the BBA to pick up that that was
 24 one test and qualify it on the basis that it was one
 25 test, or did Kingspan want it to say that it could be

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1 used above 18 metres?
 2 A. Well, we'd only sent them one test. So, you know, we
 3 were assuming they would know there's one test, as we'd
 4 only sent them one.
 5 Q. Do you accept that at all times when you were dealing
 6 with the BBA and obtaining this certificate, it was the
 7 case that K15 had not been assessed by a fire engineer
 8 against the criteria in BR 135?
 9 A. Not by a fire engineer, no.
 10 Q. So who had it been assessed by?
 11 A. I don't -- I don't know exactly who did the initial
 12 assessment, but it's -- it wasn't -- it's not
 13 a particularly complicated sort of comparison to see the
 14 temperature rise of the thermocouple and compare that to
 15 the maximum allowable figure. It's only comparing two
 16 figures, one against the other, so it's not
 17 a complicated assessment.
 18 Q. But with respect, Mr Mills, it's not that simple, is it?
 19 Temperature is only one aspect of the criteria. There's
 20 also mechanical performance, for example?
 21 A. Yeah.
 22 Q. Details of system collapse, spalling, delamination --
 23 A. Yeah.
 24 Q. -- have to be included as part of an overall risk
 25 assessment when specifying the system; that's right,

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1 isn't it?
 2 A. They do put in bits. So they would have put in the test
 3 report about if there had been issues with those, yeah,
 4 yeah.
 5 Q. Did you ever yourself see a BR 135 classification report
 6 relating to K15?
 7 A. Not one done by the BRE, no.
 8 Q. Or anybody else? A BR 135 classification report for
 9 K15 --
 10 A. I didn't see anything written, no.
 11 Q. No. So can you explain why it is talking there about
 12 "The BS 8414 result supplied an assessment of these
 13 results following BRE 135", at the top, and then --
 14 A. Yeah.
 15 Q. -- "all regulations refer to the BRE 135 assessment"?
 16 A. Yeah.
 17 Q. Why are you referring to BRE 135 when the product hadn't
 18 got a BRE 135 classification?
 19 A. Well, it's because -- well, to give someone -- it's
 20 about assessing the results of the report we had
 21 provided against BR 135. So it's using the word
 22 "generally assess", not saying there's an actual report.
 23 Q. But the pass/fail criteria, as we've agreed, is only in
 24 the 135 classification report, isn't it?
 25 A. Yeah.

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1 Q. So unless you've got that report, it's not clear whether
2 there's been a pass or fail against the criteria, is
3 there?
4 A. Well, if the BBA -- the BBA checked our interpretation
5 of the results, they had the reports, and were happy
6 that when they assessed it, it met the criteria.
7 Q. Given that in 2008 you told us that you knew there was
8 no BR 135 classification report --
9 A. Yeah.
10 Q. -- and that you knew that BS 8414 is a system test,
11 where the exact system has to be replicated, can you
12 explain how you came to make this comment?
13 A. In regards to what, sorry?
14 Q. Well, let's take that final sentence:
15 "... Therefore the product should be able to be
16 used" --
17 A. Yeah.
18 Q. -- "within 1 m from a boundary" --
19 A. Yeah --
20 Q. -- "both above or below ..." --
21 A. We did say earlier we've already sent them the report
22 and were referring to that construction. They were
23 already aware of this information. This process has
24 been going on for years. They know what we're referring
25 to. This is not something that's been sent in

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1 isolation.
2 Q. Did you think at the time that you were pushing hard for
3 K15 to be presented as suitable for the over-18-metre
4 market?
5 A. We wanted it to be listed definitely that there was the
6 potential it could be used, yes. We knew that we
7 weren't going to get something that said it could be
8 used in every single situation, no, but we wanted
9 certainly to get something that didn't completely
10 prohibit its use.
11 Q. Okay.
12 Let's go to the second draft. This is
13 {BBA00000218/1}. What we see here is on 11 July 2008
14 George Lee of the BBA has sent you a second draft of the
15 certificate following your comment. So he says:
16 "Please find attached updated version of the draft
17 for further comment."
18 A. Yeah.
19 Q. "As you will see it is quite different from the initial
20 version, as primarily we need to focus on the product in
21 question. This to some extent simplifies the document
22 but I am aware of trying to allow it to be as
23 informative as possible."
24 A. Yeah.
25 Q. Do you see that there?

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1 A. Yeah.
2 Q. Then if we can go to that second draft. This is
3 {BBA00000219/1}. Then if we can look at the wording
4 under "Product Scope and Summary of Certificate", so if
5 we could just move the page up. We can see under that
6 heading it says:
7 "This Certificate relates to Kooltherm K15
8 Rainscreen Insulation Board, an insulation product
9 comprising rigid phenolic board with foil composite
10 facings, for use as external thermal insulation on new
11 and existing steel frame or masonry walls in conjunction
12 with masonry or weathertight ventilated cladding
13 systems, in domestic and non domestic buildings up to
14 18m."
15 Do you see that there?
16 A. Yeah.
17 Q. So it very much says "up to 18m" in that paragraph; do
18 you see that?
19 A. Yeah.
20 Q. Then at section 7 on page 7 {BBA00000219/7}, there, in
21 relation to "Behaviour in relation to fire", in the
22 middle of that page, there's a description of the system
23 tested.
24 A. Mm.
25 Q. Do you see that there?

75

1 A. Yeah.
2 Q. It says there, under the bullet point there in 7.1, it
3 says:
4 "A 60mm thick board of ..."
5 Then it gives the dimensions:
6 "... were mechanically fixed to a blockwork
7 substrate."
8 A. Yeah.
9 Q. Do you see that there?
10 A. Yeah.
11 Q. So I just want to hold those two amendments in mind, the
12 "blockwork substrate" and the "up to 18m".
13 If we can move now to {BBA00000210/1}, which is
14 an email of 15 July 2008, when you reply to George Lee.
15 There you attach further requested revisions. Do you
16 see that in the first lines:
17 "Please find attached our comments and requested
18 revisions to the latest draft of the Kooltherm K15
19 certificate."
20 Do you see that there?
21 A. Yeah.
22 Q. In the second paragraph you're talking about an acoustic
23 performance report, et cetera.
24 A. Yeah.
25 Q. If we can go to your further requested revisions:

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1 they're at {BBA00000211/1}. If we look in the middle of
 2 that page -- is it right that your comments were in red
 3 on this draft certificate?
 4 A. Erm ... yeah, that would look like it, yeah.
 5 Q. We can see there, under that same heading, that at the
 6 end it says:
 7 "(remove 'up to 18m' as BS 8414 test report
 8 demonstrates the product could be used above 18m)"
 9 A. Yeah.
 10 Q. Do you see that there?
 11 A. Yeah.
 12 Q. Now, why did you suggest that amendment?
 13 A. Well, because we'd sent them the BS 8414 report, which
 14 showed a situation which would meet the criteria for use
 15 above 18 metres. So because there was one situation
 16 which met it, it meant that the statement prohibiting
 17 its use above 18 metres in all situations was not
 18 correct.
 19 Q. But this wording here that you're proposing a change to
 20 is very broad wording, isn't it?
 21 A. Yeah. That's because it's just an introduction, it's
 22 just -- the main information then is further in the
 23 certificate.
 24 Q. Yes, but if that wording and the removal of "up to 18m"
 25 is made, it suggests that K15 can be used in any

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1 construction above 18 metres, doesn't it?
 2 A. I wouldn't say so, no.
 3 Q. You wouldn't?
 4 A. No, because, you know, you could potentially take out
 5 the reference to the height or, you know, rather than
 6 just saying it can be used in all situations above
 7 18 metres, they could have just taken out the reference
 8 and then refer to the section further in for more
 9 information. Because they can't put it all in the
 10 intro.
 11 Q. It's very specific about "new and existing steel frame
 12 or masonry walls", isn't it, this language? It's got
 13 that much detail in it, hasn't it? You see that in the
 14 third line.
 15 Where was the test evidence that showed that K15 had
 16 been tested on a steel-frame system to 8414?
 17 A. Well, it doesn't say there was one. At no point does it
 18 say there was one.
 19 Q. But surely that's implicit? If it's saying it can be
 20 used on an existing steel-frame system, there must have
 21 been some 8414 test data to show that to 8414-2?
 22 A. Well, no, because not all steel-frame buildings are over
 23 18 metres.
 24 Q. But you're suggesting the removal of the "up to 18m",
 25 aren't you?

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1 A. Yes, because we're saying that it's not completely
 2 prohibited. But that's a -- that's an introduction
 3 statement that just covers the general areas it could
 4 possibly be used, and then the detailed information is
 5 included further in.
 6 Q. If we go to the second amendment, if we go to page 7 at
 7 section 7.1, {BBA00000211/7}. Sorry, we're on the same
 8 document, yes, page 7, section 7.1.
 9 If you remember, it had previously read that the
 10 substrate was a "blockwork substrate"?
 11 A. Yeah.
 12 Q. And now you've replaced that with "non-combustible
 13 substrate"; do you see that there?
 14 A. Yeah, yeah.
 15 Q. Can you help us: why did you suggest that amendment?
 16 A. I can't remember who asked for it, to be honest. It was
 17 one of the comments we sent back, but I can't remember
 18 specifically whose it was, no.
 19 Q. Did you satisfy yourself before you suggested it that it
 20 was an appropriate amendment to be making?
 21 A. It -- well, it was a non-combustible substrate and it
 22 was something I was asked to send back, so, yeah.
 23 Q. Would you agree that "non-combustible substrate" is
 24 wider and a more generic term which has the potential to
 25 be applied to a wider range of external wall structures?

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1 A. I suppose possibly, yeah, yeah. Yeah.
 2 I'm trying to remember on the dates, because I know
 3 certainly that the -- because the BS 8414-2 report, the
 4 test standard was not issued at the same time as the
 5 part 1 standard.
 6 Q. Yes.
 7 A. So there was a number of years in between where the
 8 part 2 test didn't exist. I can't -- so ...
 9 Q. But it did exist by this point, Mr Mills?
 10 A. Did it? I'm not sure.
 11 Q. Well, we know that because there were tests in 2007 and
 12 2008 to BS 8414-2 that K15 failed spectacularly.
 13 A. Okay.
 14 Q. You were aware of that, weren't you?
 15 A. I didn't know -- I didn't see the test reports, no.
 16 I knew they'd done tests, but I didn't know the full
 17 construction and so on, the dates, because none of that
 18 was sent to me when I did my statement, no. So ...
 19 Q. So if that's right, it can't be explained, can it, by
 20 the fact that 8414-2 wasn't in place at --
 21 A. Possibly. I'm only summarising, because none of this
 22 information was sent to me when I did my statement. So
 23 I'm just, you know, trying to --
 24 Q. I --
 25 A. -- the time now. So ...

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1 Q. I understand.
 2 Can we just look at an email relevant to this. It's
 3 {KIN00024476/1}. This is an email from Philip Heath.
 4 He was your line manager at the time; is that right?
 5 A. Yeah.
 6 Q. Yes. To you and to others. It's headed "Kooltherm
 7 K15 ... Comments on Draft 1"; do you see that there?
 8 A. Yeah.
 9 Q. He says, "ALL", then he says:
 10 "Suggest we try and amend the wording below as
 11 detailed remove blockwork and insert non combustible,
 12 might allow us to use a little spin in future: ..."
 13 A. Okay.
 14 Q. Do you see that there?
 15 A. Yeah.
 16 Q. What did you understand him to mean by that when you
 17 received this email?
 18 A. Well, that he wanted me to go back and ask them to put
 19 the "non-combustible substrate" instead of "blockwork".
 20 Q. Yes. Would you agree that what he's suggested
 21 significantly broadens the scope of the wording in
 22 an inaccurate and misleading way?
 23 A. I'm -- I -- to be honest, at the time I didn't really
 24 think about it too much. Because he was my direct line
 25 manager and he told me I had to do it, so had to do it.

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1 Q. Was it any part of your thinking at the time that this
 2 amendment was being suggested because it allowed
 3 Kingspan to represent that an 8414-2 test was
 4 unnecessary?
 5 A. I wouldn't have said I gave it that much thought because
 6 it's listed in a line directly after -- the fact it's
 7 a part 1 result is listed sort of in the line before it.
 8 I thought it would -- you know, that sort of does cover
 9 it's a part 1 result fairly clearly.
 10 Q. Do you remember Kingspan decided to refer to
 11 a non-combustible sheathing board being fixed to the
 12 steel frame to get around the fact there was no 8414-2
 13 test?
 14 A. I do know that they used to recommend using like
 15 a calcium silicate board on the outside of a frame,
 16 which is a non-combustible board, yeah.
 17 Q. Yes. Do you also remember that that wording was chosen
 18 to get around the fact that there was no successful
 19 8414 test to part 2?
 20 A. Possibly, yeah. I don't know the exact -- I wasn't
 21 involved on the decision-making to decide to do that,
 22 but I know they did it, yeah.
 23 Q. If we can go now to another email chain: this is
 24 {KIN00003718/1}. This is a series of emails between
 25 you, Mr Meredith and Mr Heath in August 2008.

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1 I want to look first at the third email down in the
 2 chain, towards the bottom of page 1, on 18 August at
 3 17.44. Do you see that there?
 4 A. Yeah.
 5 Q. Philip Heath is emailing you, cc'ing Mr Meredith, and he
 6 says:
 7 "Gareth,
 8 "Have we sent the reports as detailed in Ivors first
 9 bullet points to the BBA? i.e., test with and without
 10 cladding."
 11 Do you see that there?
 12 A. Yeah.
 13 Q. Then we see your response the next email up, at 8.43 the
 14 next day.
 15 A. Yeah.
 16 Q. You say this:
 17 "The official test report of the K15 onto masonry
 18 with a non-combustible cladding has been sent to the BBA
 19 and is listed within the last draft certificate" --
 20 A. Yeah.
 21 Q. -- "during the review of the last draft a request was
 22 submitted to the BBA to change the reference to
 23 a masonry substrate to a non-combustible substrate."
 24 A. Yeah.
 25 Q. "The test work without the cladding, which I believe was

83

1 an indicative non-official test, does not have a full
 2 test report so this information has not been sent to the
 3 BBA."
 4 Do you see that there?
 5 A. Yeah.
 6 Q. So was that what's sometimes been referred to as the
 7 "naked test"?
 8 A. I would think that that's the one without the cladding,
 9 is it?
 10 Q. Yes, where it just had K15 on it.
 11 Were you aware at the time that there was
 12 a deliberate marketing strategy being pursued by
 13 Kingspan to widen the scope of this certificate and
 14 other certificates?
 15 A. There were -- I know that, yeah, it was mentioned.
 16 I think they'd been speaking to the BRE to look at
 17 getting some assessments done to cover different
 18 applications and that, yeah.
 19 Q. Were you aware at the time you were working on the
 20 BBA certificate that there was a deliberate marketing
 21 strategy in place to widen the scope of any certificates
 22 obtained by Kingspan?
 23 A. They would want to cover as many applications as
 24 possible, yeah, so ... yeah.
 25 Q. Even if they didn't have test data supporting those

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1 applications; that's right, isn't it?

2 A. I don't know -- on a lot of the applications, the

3 widening, they didn't need specific tests for. But

4 yeah, I suppose they did want things to be as general as

5 possible, yeah, yeah.

6 Q. When you say, "[for] a lot of the applications [and] the

7 widening, they didn't need specific tests for", what do

8 you mean by that?

9 A. Well, to be used onto a steel frame, for example, you

10 don't always need a test report. So if it's below

11 18 metres, there's no specific test report you need. If

12 it's, say, a masonry jointed outer leaf, which was one

13 of the extra applications added in, there was no

14 specific test you need just to use that, if it's below

15 18 metres.

16 So there's lots of different construction variations

17 which don't require a specific test, unless they're in

18 these high-rise applications. So generally, on use of

19 the product, you don't always need a test.

20 Q. Would you agree with me that when we're coming to over

21 18 metres, that's where BS 8414 is relevant; yes?

22 A. Yes.

23 Q. You would, wouldn't you, if you were trying to say that

24 it could be on a steel-frame structure over 18 metres,

25 you would have to have a system-specific test to that

85

1 effect, wouldn't you?

2 A. Yeah, you would either -- yeah, you would need some sort

3 of testing or an assessment by a qualified person, yeah.

4 Yeah, of course. So you'd probably need some sort of

5 testing for them to extrapolate from, if it wasn't

6 a specific test, yeah.

7 Q. And Kingspan didn't have this at this time, did it?

8 A. They only had the one test, yeah.

9 Q. Yes, on a masonry substrate?

10 A. Yeah.

11 Q. If we move on with the story to September 2008 and we go

12 to {BBA00002874/1} and we look at the bottom of page 2

13 {BBA00002874/2}, we can see that Mandy Osman,

14 an administrator at the BBA, sends you a third draft on

15 23 September 2008 at 13.54. Do you see that there?

16 A. Yeah.

17 Q. So this seems to be a -- we're calling that the "third

18 draft", because we're counting through the emails and

19 this seems to be the third one.

20 A. Yeah.

21 Q. So we know you received that on 23 September 2008.

22 A. Yeah.

23 Q. We'll go on in that chain in a moment. Just before we

24 do, having got that in our minds, if we can go to

25 {KIN00024487/1}.

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1 You can see that on 29 September, at the bottom of

2 that page, you email Philip Heath, Ivor Meredith,

3 Andrew Pack, Joel Clarke. Do you see that there?

4 A. Yeah.

5 Q. You say:

6 "Attached is the latest draft of the ...

7 BBA certificate. Although this draft ... does quote

8 a certificate number it has not been formally issued to

9 date so [they] have [asked] that this number is not

10 quoted to an external source [].

11 "As this version may be suitable to issue it would

12 be helpful if any comments could be returned by lunch

13 time tomorrow ..."

14 Do you see that there?

15 A. Yeah.

16 Q. "... or ... at the earliest opportunity."

17 Then we can see Philip Heath then emails back.

18 Actually he emails "Andrew Pack; Ivor Meredith;

19 Andrew Pack; Joel Clarke; Mark Swift" -- you're not on

20 that email -- saying:

21 "Gents, is there anything that needs amending on

22 this to our advantage, especially the Fire Section."

23 A. Yeah.

24 Q. Do you see that there?

25 A. Yeah.

87

1 Q. Were you aware at the time that that happened that they

2 were asked, "is there anything that needs amending ...

3 to our advantage, especially [on] the Fire Section"?

4 A. I don't think so, no. I don't think I've seen that

5 email, no, no.

6 Q. Okay.

7 Then going back to the chain we were in,

8 {BBA00002874/1}, having been sent that third draft on

9 23 September 2008 and you've sent it round internally

10 for comment, on 3 October 2008 you reply at 3.30, there

11 in that email to George Lee of the BBA --

12 A. Yeah.

13 Q. -- with some more amendments. Do you see that there?

14 And you say in the first line:

15 "With regards to comment 4 in my previous e-mail we

16 would like to make small amendments to the additional

17 text and replace with the statement below:- ..."

18 A. Yeah.

19 Q. Then you're saying section 4, paragraph 7.1 on page 5 --

20 A. Yeah.

21 Q. -- and you're asking for these words to go in:

22 ""Within the stated test time the temperature at the

23 level 2 thermocouples did not exceed 600 degrees C,

24 therefore displaying limited fire spread away from the

25 fire source and that the product meets the criteria

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1 stated within BRE 135.”

2 A. Yeah, I don't think it's actually inserting that full

3 statement. Most of that statement was already in there.

4 That's a -- there's a minor revision to the wording

5 somewhere, but I'd have to look at the draft to say

6 which particular words changed. But most of that

7 sentence -- sentences were already in the draft.

8 Q. I see. But can you help us as to who had decided that

9 that particular wording should be included?

10 A. No, I don't -- don't remember, no, no.

11 Q. It appears that that wording was accepted by the BBA and

12 the certificate was formally issued -- we've looked at

13 that -- and exactly that wording does appear.

14 A. Yeah.

15 Q. If we can look at your witness statement on page 13

16 {KIN00022329/13}.

17 A. Yeah.

18 Q. You tell us in your witness statement at

19 paragraph 44(A), you say:

20 "In respect of Issue 1 of [the] Certificate ... the

21 BBA did request a copy of the BS 8414 test report."

22 Do you see that?

23 A. Yeah.

24 Q. Then you say:

25 "Although it was not compulsory to provide this ,

89

1 a copy was supplied to the BBA because Kingspan wanted

2 the BBA to omit some standard wording ..."

3 We've looked at this before.

4 A. Yeah.

5 Q. Would you agree that in fact you provided that 8414

6 report unsolicited and to seek to justify your proposed

7 amendments as to the use of K15 over 18 metres?

8 A. Well, yes, we wanted them to take out the section saying

9 it couldn't -- there were no applications it could be

10 used in, yeah, yeah.

11 Q. At paragraph 44(L) on page 14 {KIN00022329/14}, you

12 state that it was the BBA --

13 A. Yeah.

14 Q. -- who:

15 "... provided the wording which reads 'the product

16 meets the criteria within BRE 135'."

17 A. Yeah.

18 Q. Do you see that at (L)?

19 A. Yeah.

20 Q. But that's simply not correct, is it? Kingspan provided

21 that wording, didn't they?

22 A. Er ...

23 Q. We've just seen it in the email we looked at.

24 A. Yes, but most of that statement was already in the

25 draft. We were just -- we were proposing a minor change

90

1 to the wording. We weren't proposing that whole

2 statement -- most of that statement was already written

3 in the draft.

4 Q. Well, we can look at that again in a moment. But I'm

5 suggesting to you that that was Kingspan's wording: "the

6 product meets the criteria ... within BRE 135".

7 A. Yeah, I don't know, I'd have to check the previous

8 drafts. But I'm -- you know, I'm pretty sure that

9 wording was already in the draft before we sent that

10 comment.

11 Q. Let's have a look. Go back to draft 2.

12 A. But in essence anyway, it's something that the BBA write

13 the documents anyway, so they are -- they approve

14 potentially any comments after we send them and decide

15 if to include them.

16 Q. Let's go back to draft 2, {BBA00000218/1} -- oh, sorry,

17 that was the email in which it's sent. {BBA00000219/1},

18 and on page 7 {BBA00000219/7} we get section 7.

19 If you look at the bottom of that paragraph, there's

20 nothing about BR 135 there, is there, in 7.1?

21 A. No, no. So ...

22 SIR MARTIN MOORE-BICK: I take it the BBA wouldn't -- or you

23 didn't expect, at least, the BBA to make a statement

24 about BR 135 on its own initiative? I assume that you

25 proposed that statement?

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1 A. Well, it's possible we may have proposed some reference

2 to it, yeah. But I suppose we were expect -- you know,

3 as they draft the actual certificates, we were expecting

4 them to, you know, actually write something that they

5 were happy with in relation to it, yeah.

6 MS GRANGE: Mr Mills, on the documents it's clear that that

7 wording, "the product meets the criteria stated within

8 BRE 135", was from Kingspan in that email you sent back.

9 A. Yeah, yeah, it looks like they did just copy it, by the

10 looks of it, yeah.

11 Q. Yes. They cut and paste it and put that in?

12 A. Yeah.

13 Q. But there was no BR 135 classification report; we've

14 established that, haven't we?

15 A. Yes, yeah, but we're not saying there is. We're just

16 saying you can assess it against BR 135 and it met the

17 criteria. We're not saying there's an actual BRE

18 assessment.

19 Q. Let's go back to the email. It's {BBA00002874/1} at

20 15.30. It states there that:

21 "... the product meets the criteria stated within

22 BR 135."

23 A. Yeah.

24 Q. You didn't have a classification report assessing that

25 test against all of the pass/fail criteria in BR 135,

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1 did you?

2 A. We hadn't asked for BRE to do an assessment, no.

3 Q. But you didn't even have an internal report yourselves

4 that assessed, for example, mechanical performance,

5 did you?

6 A. I don't -- I don't know what was done on it, to be

7 honest, no. I was told it had been assessed and people

8 had looked at it and it had met the criteria, so, yeah.

9 Q. So that's why you suggested the wording?

10 A. I -- yeah, that's what was sent back. As I say, I don't

11 know who came up with the exact wording there, no,

12 because, yeah, none of this information was provided to

13 me; this has all just been brought up today. So I --

14 no, I couldn't use it to produce my statement, as no one

15 sent it to me.

16 Q. Can you remember, who was it who suggested to you that

17 wording, "the product meets the criteria ... within

18 BR 135"?

19 A. No. No, I don't know. I'm not sure, no. Because,

20 yeah, this -- was it 12 years ago? Yeah. Just from

21 memory, I can't remember who was proposing it, no.

22 Q. Are you prepared to accept that that phrase should not

23 have been included in the certificate, "the product

24 meets the criteria ... within BRE 135", for two separate

25 reasons: (1) you didn't have a classification report to

93

1 BR 135; and (2) you can't classify a product, as opposed

2 to a system, to BR 135? Do you agree that?

3 A. I don't agree on both of those things, because the fact

4 that they hadn't got a report from the BRE,

5 an assessment, doesn't mean it couldn't meet the

6 criteria in BRE 135. So those two things are separate

7 items.

8 And, you know, if it's the product or, you know,

9 system, it's a little sort of debatable on the clarity.

10 But this is something that's -- a statement that's not

11 written in isolation; it's written at the end of

12 a paragraph about the specific test, listing a specific

13 construction.

14 Q. What I'm going to put to you, Mr Mills, is that that was

15 a deliberate, calculated attempt to make the certificate

16 broader than it should have been. (Pause) Do you agree

17 with that?

18 A. I can't remember exactly who came up with the wording

19 and so I don't know their reasoning on it, no. So

20 I can't really comment on it, no.

21 Q. Now, after the publication of the first version of the

22 certificate, the BBA wrote to Kingspan about two months

23 later, on 24 December 2008, proposing to amend the very

24 wording that we've been discussing. Do you remember

25 that?

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1 A. Yes, I know they came back after -- a little while after

2 the certificate was issued, yeah.

3 Q. If we can go to {KIN00002093/1} and go to the email on

4 page 2 {KIN00002093/2} of 24 December 2008 at 9.50. Do

5 you see there we get George Lee from the BBA to you --

6 A. Yeah.

7 Q. -- copying in Chris Hunt?

8 A. Yeah.

9 Q. He says this:

10 "Hi Gareth,

11 "We have recently received a number of comments on

12 the K15 certificate in relation to the clarity of

13 wording used as part of this certificates fire section."

14 A. Yeah.

15 Q. "In response to this we have a suggested amendment to

16 the text which we wish to make. This amendment we will

17 make at no cost to yourselves and as an improvement to

18 the certificate, which I hope you will agree will

19 improve how this certificate will read in the future."

20 A. Yeah.

21 Q. Then he goes through the changes that he's proposing.

22 A. Yeah.

23 Q. If you look at the second bullet point there, under "Key

24 factors assessed -- Behaviour in relation to fire", what

25 he's proposing is saying:

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1 "... the boards are classified as Class '0'. The

2 boards will not contribute to the development stages of

3 a fire. The product has been tested to BS 8414-1 for

4 a specific construction on masonry walls."

5 A. Yeah.

6 Q. Do you see that there?

7 A. Yeah.

8 Q. Now, when you received that email from George Lee, did

9 you consider there to be anything inaccurate in that

10 proposed amendment?

11 A. I didn't -- they both -- yeah, it sort of describes --

12 yeah, the product was class -- was class 0 and it was

13 tested to BS 8414 and, yeah, on a masonry wall. No,

14 that would seem accurate, yeah.

15 Q. I see. So focusing on what he says about 8414:

16 "The product has been tested to ... 8414-1 for

17 a specific construction on masonry walls."

18 That was entirely accurate, wasn't it?

19 A. Yes, the test was done. It's a part 1 result, which is

20 onto a masonry wall, yeah.

21 Q. I say "entirely accurate": I should qualify that,

22 because we do know that by now you're selling

23 a different version of K15, Kingspan are --

24 A. Right.

25 Q. -- to the one that was tested at that time. So putting

96

1 that issue aside for a moment --
 2 A. Yes.
 3 Q. -- in terms of trying to describe the 2005 test, it says
 4 it's been tested "for a specific construction on masonry
 5 walls", and that was accurate, wasn't it?
 6 A. Yes, there was a specific construction tested, yeah,
 7 yeah.
 8 Q. Would you agree that that is accurate in contrast to the
 9 original wording?
 10 A. It's probably -- it's more descriptive, yeah, yeah.
 11 Neither one state anything that's incorrect. But that
 12 one is probably more informative, yeah.
 13 Q. What I would suggest to you is that that's accurate and
 14 the original was positively misleading.
 15 A. They both -- masonry is non-combustible, so both are
 16 actually true statements. That one's a more descriptive
 17 one, yes.
 18 Q. But the point about classification to BR 135, we've
 19 discussed that already.
 20 A. That's a different section. That's not the two
 21 sections -- they aren't the same sections that we're
 22 looking at.
 23 Q. Yes.
 24 A. That's from the introduction bit there.
 25 Q. Can you remember, what was the reaction of others within

97

1 Kingspan to that proposed amendment? Do you remember
 2 that?
 3 A. I don't remember exactly offhand, no. I think they
 4 would have preferred it probably as it was. But no,
 5 I don't remember exactly what they said offhand, no.
 6 Q. Okay. It's not you that replies to Mr Lee; what we'll
 7 see in a moment is that it's Philip Heath that replies.
 8 A. Yeah.
 9 Q. Can you remember why that was?
 10 A. Well, he decided that it was something he wanted to deal
 11 with, so as the manager, I had to leave him to do it.
 12 So, yeah.
 13 Q. I see. He told you that, did he? Did he say,
 14 "Actually, Gareth, I want to deal with this now"?
 15 A. I can't remember exactly what he said or the
 16 conversation or anything, no. But, you know, in him
 17 going back and sort of taking the lead, then I would
 18 just sort of have to, you know, take a lead from him
 19 really as ... yeah.
 20 Q. If we can go now to {KIN00009103/1}. I want to look at
 21 the second email down on page 1 at 14.47. So this is
 22 Mr Heath's response to George Lee on 5 March 2009.
 23 So George Lee had written on 24 December 2008. Can
 24 you remember why there had been such a delay, until
 25 March 2009, before Kingspan get back to the BBA?

98

1 A. No. No, I don't remember offhand what had been going on
 2 in between, no.
 3 Q. Mr Heath says:
 4 "Good afternoon George,
 5 "Gareth Mills has brought to my attention your
 6 recent emails in relation to our BBA certificate for
 7 K15.
 8 " Firstly, may we register our concern at the
 9 proposal to re-issue this certificate so soon after
 10 publication, when we have waited some considerable time
 11 for its issue."
 12 Do you see that there?
 13 A. Yeah.
 14 Q. Then he says:
 15 "Secondly, your request is receiving our attention,
 16 however, we are determining the implications to Kingspan
 17 of this speedy re-issue, as documentation has been
 18 published that refers to the current certificate and the
 19 wording therein. Therefore, there could be cost
 20 implications to Kingspan that we would have no option
 21 but to pass on the BBA, if we are in agreement to your
 22 request. Once we have completed our audit to determine
 23 the implications for Kingspan Insulation, we will be
 24 back to you."
 25 Do you see that there?

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1 A. Yeah.
 2 Q. So he's expressed concern about the re-issue of the
 3 certificate and he said that the request is receiving
 4 attention and they'll get back to the BBA.
 5 A. Yeah.
 6 Q. Two minutes later, after he sent that email,
 7 Philip Heath, we can see from the top of this page,
 8 forwards that email to you, Andrew Pack and Mr Meredith,
 9 with the words:
 10 "Let the file gather dust guys.
 11 "Regards
 12 "Phil"
 13 Do you see that there?
 14 A. Yeah.
 15 Q. So what did you take that as an instruction to do?
 16 A. That I wasn't going to do anything until he instructed
 17 me otherwise.
 18 Q. That was quite an unusual instruction, would you say?
 19 A. Yeah, yeah. So ...
 20 Q. Did you think it was unusual, especially given that you
 21 could see from Mr Heath's response that the BBA had been
 22 assured that the proposals were receiving Kingspan's
 23 attention?
 24 A. Mm.
 25 Q. Sorry?

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1 A. Yeah, well, I don't know. I don't know if Phil was
 2 doing stuff and just -- you know, I'm not sure what he
 3 was doing, so ... But yeah, I just took it to leave it
 4 until I heard back from him.
 5 Q. So you took that as a clear instruction from Mr Heath to
 6 stall in getting back to the BBA about their amendments;
 7 is that right?
 8 A. Yeah, yeah, I took it to sort of wait until I had
 9 further instructions, yeah.
 10 Q. Can you help us about what was going on internally at
 11 this time? Why was Kingspan not prepared for the BBA to
 12 make it clear to the public that there were restrictions
 13 on the use of K15 over 18 metres, whatever the cost?
 14 A. I was -- I can't remember the specific conversations and
 15 things like that. But, you know, looking at the email
 16 which Phil sent, I suppose it's something that they may
 17 have been referring to some of the certificate numbers
 18 and things like that, like the first edition rather than
 19 the second edition in brochures and things like that, so
 20 they'd have to reprint lots of literature and things
 21 like that. It's one of the things that he refers to.
 22 Because this is only -- I think this is only -- is
 23 it a few months after the certificate? So it would
 24 normally be about three years before they re-issued and
 25 things. So because we'd only had the certificate number

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1 late in the year before, I think a lot of the documents
 2 had only just been printed.
 3 Q. But did it ever occur to you that this was a matter of
 4 life safety, fire safety?
 5 A. I'm not an expert, as I've said, on fire engineering.
 6 So, you know, that's not something which I just --
 7 you know, I don't propose to be an expert and know
 8 exactly how much effect certain details have.
 9 Q. But you must have been aware -- you were a technical
 10 adviser at Kingspan; you said you know they're producing
 11 combustible insulation.
 12 A. Yeah.
 13 Q. You must have been aware that there were potential
 14 health and safety consequences as to whether or not this
 15 product was used in tall buildings, including tall
 16 residential buildings?
 17 A. Yeah, I knew there was a requirement to follow the
 18 regulations, yeah, yeah.
 19 Q. What underpins those regulations is life safety,
 20 isn't it?
 21 A. I assume that's probably something involved in when
 22 they're writing them, yes, yeah.
 23 Q. Is it right that Philip Heath wanted the file to "gather
 24 dust" because it was in Kingspan's commercial interest
 25 to keep the then current broad version of the

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1 BBA certificate?
 2 A. It's possible. Possible, yeah. You'd probably best --
 3 you know, Phil would be able to answer better. But yes,
 4 it's possible.
 5 Q. I understand that, and we'll ask him. But I want to
 6 know what your understanding was at the time. You're on
 7 these email chains; you had the lead role with the BBA.
 8 A. Yeah, I don't know. This is sort of, you know ... you
 9 know, it's 11 years ago. I don't know if I had
 10 a discussion with Phil or if I didn't. I'm not sure.
 11 I can't remember, yeah.
 12 Q. So it didn't occur to you, is this what you're saying,
 13 that it might have been in Kingspan's commercial
 14 interest to keep --
 15 A. No --
 16 Q. -- the first, broader version of the certificate in
 17 place?
 18 A. I'm saying I can't remember what the discussions were
 19 and -- or what my exact thought process was at the time.
 20 I'm saying I can't remember.
 21 Q. Did you find it concerning at the time that your
 22 superior was dismissing the concerns of a respected
 23 certification body in terms of fire safety?
 24 A. Well, on that, I didn't -- I didn't know if he -- if he
 25 was just sort of doing nothing or if he was just saying

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1 for us to do nothing while he was working on it. So,
 2 you know, I didn't know exactly what was being done at
 3 the time, so -- as far as I can see. So, yeah, I'm
 4 not ...
 5 Q. I see.
 6 Did you at any stage while working for Kingspan,
 7 including as a senior technical adviser, did you ever
 8 raise concerns about the approach that was being taken
 9 to fire safety certification within Kingspan with
 10 anybody?
 11 A. There were some occasions on things I'd raised about
 12 what testing they had and, you know, certainly looking
 13 to expand that if they wanted to sort of promote to
 14 a wide range of applications, yeah.
 15 Q. Did that relate to the K15 product that you were --
 16 A. Yes, yeah. That was one of the ones which I mentioned,
 17 yeah, yeah.
 18 Q. Can you remember when and to who did you express those
 19 concerns?
 20 A. There was something I said to product -- what did they
 21 used to do? -- project proposals, a thing about doing
 22 additional testing at some time I'd sent. You know,
 23 that was one of the applications. You know, a lot of
 24 things, I can't remember the specifics because of the
 25 timescale and that, but, you know ...

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1 Q. I see.
 2 If we could look at paragraph 94 of your witness
 3 statement on page 24 {KIN00022329/24}. There you say
 4 that:
 5 "[You are] not aware of any policy or strategy of
 6 delay" --
 7 A. Yeah.
 8 Q. -- "between 2008 -- 2016 in relation to the compliance,
 9 testing and/or the certification of K15 in order to
 10 continue the supply and/or to promote K15 ..."
 11 Do you see that there?
 12 A. Yeah.
 13 Q. Would you agree with me, having looked at that "let the
 14 file gather dust" email just now, that that's not
 15 correct now you've seen that documentation?
 16 A. I don't know on that, yeah. It's sort of -- it's in
 17 some ways, with what's gone on since, maybe not that
 18 appropriate, but it's written in a slightly jokey tone,
 19 so I don't know how serious he was about that at the
 20 time or not. So I don't know if it was a -- yeah,
 21 I don't know if that was an overall policy for the
 22 company or not, I'm not sure.
 23 Q. But you took it at the time as an instruction to stall,
 24 didn't you?
 25 A. For me, yes.

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1 Q. Yes?
 2 A. Yeah. But I don't know if that was the whole company
 3 was stalling or if it was just for me not to, you know,
 4 get involved until he'd dealt with it.
 5 SIR MARTIN MOORE-BICK: Well, it was you and all the other
 6 people who were parties to the email, presumably?
 7 A. Yes, yeah, yeah. Was it three or four people who were
 8 on the email chain? Yeah.
 9 MS GRANGE: I see. So if you'd been asked the question that
 10 specifically, and not just about Kingspan, you would
 11 agree that that was a strategy of delay at that time
 12 with the BBA, wasn't it?
 13 A. Yes, he did -- he did say for, yes, us specifically not
 14 to -- not to sort of get involved with that for a while,
 15 yeah, yeah.
 16 Q. Let's go now to the amended BBA certificate, if we can
 17 go to that, which is at {BBA00000037/1}. This dates
 18 from 2010. If we go to the bottom left-hand corner:
 19 "Date of First issue: 27 October 2008
 20 "Certificate amended on 6 April 2010 ..."
 21 Do you see that language underneath?
 22 A. Yeah.
 23 Q. So that appears to be the date of this, and it says it's
 24 "amended on 6 April 2010" in that wording:
 25 "... with revisions made to Scottish

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1 Building Regulations references, the Behaviour in
 2 relation to fire and Maintenance sections ..."
 3 Do you see that there? So it's flagging that
 4 behaviour in relation to fire has been amended?
 5 A. Yeah.
 6 Q. Then still at page 1 {BBA00000037/1}, under "Key Factors
 7 Assessed" there, "Behaviour in relation to fire", it
 8 says there:
 9 "... the boards will not contribute to the
 10 development stages of a fire."
 11 Then we see the wording:
 12 "The product has been tested to BS 8414-1 ... for
 13 one specific construction on masonry walls ..."
 14 Do you see that there?
 15 A. Yeah.
 16 Q. Was that wording included at the BBA's insistence?
 17 A. Well, it looks like that's the wording that they were
 18 referring to in that --
 19 Q. Yes.
 20 A. -- bit we've just been looking at previously, yeah.
 21 Q. Can you help us as to when this certificate was actually
 22 published and circulated for use? Do you have any --
 23 can you help us with that?
 24 A. That was 6 April then, would have been when this new one
 25 was issued. So that's when it was made public.

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1 Q. Right. two BBA employees have told us -- that's
 2 Jon Denyer and John Albon -- have told the Inquiry in
 3 their witness statements that this certificate was not
 4 published until July 2013.
 5 A. Oh, right. Okay, that's possible. But I was -- yeah,
 6 I would have thought from --
 7 Q. Yes, I just wanted to ask you whether you think that
 8 might be right. Do you have a recollection that there
 9 was some delay in actually publishing this certificate?
 10 A. I -- I don't remember the exact date. So I couldn't say
 11 definitely which one of those two is correct, no.
 12 Q. I see.
 13 If we can go now to page 5 of the certificate
 14 {BBA00000037/5} and specifically section 7, "Behaviour
 15 in relation to fire". If we could look at section 7.1,
 16 it says there:
 17 "The product is classified as Class 0 or 'low risk'
 18 as defined in the documents supporting the national
 19 Building Regulations. The product, therefore, may be
 20 used in accordance with the provisions of: ..."
 21 Then for "England and Wales", below that, it's got:
 22 "... Approved Document B, paragraph 8.4, Volume 1
 23 and paragraphs 12.5, 12.6 and 12.7, Volume 2 ..."
 24 Do you see that there?
 25 A. Yeah.

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1 Q. You were asked about this particular wording by
2 the Inquiry in your witness statement.
3 A. Yeah.
4 Q. For the transcript, it was at page 15 {KIN00022329/15},
5 paragraph 45(I). You said:
6 "From memory, I believe the justification for
7 stating that the product satisfied the provisions of
8 paragraph 12.7 of Approved Document B was on the basis
9 of the test result achieved to BS 8414."
10 A. Yeah.
11 Q. But it's right, isn't it, that you've confirmed earlier
12 that you understood limited combustibility, which is
13 what 12.7 deals with; that's right, isn't it?
14 A. I think it's that -- I think it lists the two methods of
15 compliance, does it? Or is it -- is that just the first
16 section and then it's in the following paragraph? I'm
17 not sure offhand.
18 Q. So if we go to {CLG00000224/97}. I'm going to show you
19 paragraph 12.7 of Approved Document B.
20 Sorry, maybe it's one on where possibly one back
21 from that. It's either just before or just after
22 diagram 40. That's the right document. If we go one
23 page earlier, 96 {CLG00000224/96}. Yes, there we have
24 12.7, "Insulation Materials/Products":
25 "In a building with a storey 18m or more above

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1 ground level any insulation product, filler material ...
2 etc. used in the external wall construction should be of
3 limited combustibility."
4 Do you see that there?
5 A. Ah, yes. Yes, sorry. No, yeah. So, no, it doesn't
6 have the -- it's not in the same paragraph, the bit
7 about the alternative method of compliance, is it?
8 Q. No, that's 12.5. We can look at that on the page
9 before. If we go to 95 {CLG00000224/95}, bottom of the
10 page, 12.5 has a general warning and then it has the two
11 routes to compliance.
12 A. Yeah. Okay, yeah.
13 Q. Now, you confirmed earlier that you understood that
14 limited combustibility and testing to BS 8414 are
15 separate and alternative routes to compliance for
16 insulation materials.
17 A. Yeah.
18 Q. That's right, isn't it?
19 A. Yeah.
20 Q. BS 8414 system testing is wholly irrelevant to the
21 question whether a product is one of limited
22 combustibility, isn't it?
23 A. Yes, if you just -- yeah, yeah.
24 Q. Yes. That testing would be to BS 476-11 or you'd have
25 to get an A1 or an A2 under the European classification

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1 system, wouldn't you, to be of limited combustibility?
2 A. Yes, yeah.
3 Q. So it's right, isn't it, that K15 could never comply
4 with or be used in accordance with the requirements of
5 paragraph 12.7 of ADB, could it?
6 A. It could be used in accordance with that section,
7 because you just apply -- it says it's class 0 and used
8 in accordance with it, and then it lists in that
9 paragraph what -- if you want to be used above
10 18 metres, you need to be limited combustibility. So if
11 you aren't, you can't be used, or you follow other
12 sections of the regulations.
13 Q. Can we look at 12.7 again.
14 A. It doesn't say specifically it meets the limited
15 combustibility requirement in that section.
16 Q. Hang on. Let's look at 12.7 again {CLG00000224/96}.
17 12.7 is only dealing with a building with a storey
18 18 metres or more, isn't it?
19 A. Yeah.
20 Q. It's dealing with insulation products and it's saying
21 they've got to be of limited combustibility. There's no
22 reference to class 0 there, is there?
23 A. No.
24 Q. No.
25 So let's go back to the certificate which we were

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1 looking at, {BBA00000037/5}, where it says there -- so
2 to read it again:
3 "The product, therefore, may be used in accordance
4 with the provisions of: ..."
5 A. Yeah.
6 Q. And then paragraph 12.7 of ADB.
7 A. Yeah, there is also another diagram that's referred to
8 at the end of that section as well.
9 Q. Okay. Leave that aside for one moment. Leave
10 diagram 40 aside; we'll come to that in a moment.
11 A. Yeah, because that relates to class 0 though. That's
12 where the class 0 bit comes in.
13 Q. Yes, I understand that. But just leave that diagram 40
14 in brackets to one side.
15 A. Yeah.
16 Q. It's right, isn't it, that the product could not be used
17 in accordance with 12.7 of ADB, could it?
18 A. Well, 12.7 lists that diagram, doesn't it?
19 Q. We can go back to it.
20 A. Is that at the end?
21 Q. I don't believe it does.
22 A. I thought it listed a section that was -- it listed
23 another diagram at the end of the section.
24 Q. Go back: {CLG00000227/96}.
25 A. Ah, no, that's the one to do with the masonry wall

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1 construction, isn't it, the masonry over 75 mil? Okay,
 2 yeah. Yeah.
 3 Q. Yes, it doesn't refer to diagram 40. Because
 4 diagram 40, if we go on to the next page,
 5 {CLG00000227/97}, is dealing with what your external
 6 wall surface has to be there.
 7 A. It relates to --
 8 Q. We've got "Class 0 or ... B", et cetera.
 9 A. Yeah, it relates to items facing into a ventilated
 10 cavity as well.
 11 Q. So would you agree with me, looking at this, that K15
 12 could never comply or be used in accordance with the
 13 requirements of paragraph 12.7 of ADB?
 14 A. It could be used in accordance with it, yes.
 15 Q. How?
 16 A. Well, because if it's -- you would just follow the
 17 requirements. It says that you either -- if you're
 18 limited combustibility, you can be used generally above
 19 18 metres; if you're not, then you can't. So you can
 20 still follow -- any product can be -- could be used in
 21 accordance with that statement.
 22 Q. But not used accurately in accordance with?
 23 A. Yes. Yeah, you either use it above 18 metres or you
 24 don't, depending on if it's limited combustibility.
 25 Q. I see. I think we might have run this course.

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1 Going back to the certificate again,
 2 {BBA00000037/5}, I want to put it to you that that is
 3 wholly misleading and inaccurate, to have 12.7 there on
 4 that certificate.
 5 A. Okay.
 6 Q. Did you realise at the time that you received this that
 7 that was problematic?
 8 A. I -- well, no, because, as I sort of said previously,
 9 I thought -- you know, my opinion was that you could
 10 assess the products against that paragraph depending on
 11 its performance. So I didn't see it as a particular
 12 issue, no.
 13 Q. I see. That's genuinely what you thought at the time,
 14 is it: that you could assess --
 15 A. As far as I can remember, yeah, yeah, I say it's --
 16 Q. Sorry, let me finish -- assess the product against 12.7?
 17 What kind of assessment are you talking about?
 18 A. Well, it says: is it limited combustibility or not?
 19 That's what the paragraph says.
 20 Q. Yes. And K15 is not, is it?
 21 A. Isn't, yeah. So under that paragraph, you can't use it
 22 above 18 metres.
 23 Q. But this wording, "therefore may be used in accordance
 24 with", it's not saying you might use it in accordance
 25 with or you might not use it in accordance with?

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1 A. Yeah, but it doesn't say that you couldn't use it above
 2 18 metres in accordance with that paragraph. It just
 3 says it can be used in accordance with the paragraph.
 4 The paragraph covers both situations.
 5 SIR MARTIN MOORE-BICK: Yes, all right. Well, I think we've
 6 probably got the evidence on this, thank you.
 7 MS GRANGE: I think we have. I think we have.
 8 Can you help us as to how that wording got into the
 9 certificate? We can't work this out at the moment, on
 10 the basis of the documents we've seen, how reference to
 11 12.7 got in there. Can you help us at all as to how
 12 that happened?
 13 A. I don't know definitely. I would imagine it's
 14 possibly -- it's some of the changes proposed by the BBA
 15 when they did that update. But I don't know who came up
 16 with the changes, no.
 17 Q. If we go to {BBA00002644/1}, and I want to go to the
 18 very last email in the chain on page 7 {BBA00002644/7},
 19 sent to you by Chris Hunt of the BBA on 8 April 2010 at
 20 10.44.
 21 So this is Chris Hunt of the BBA, 8 April 2010 -- do
 22 you see that? -- to you. He says there:
 23 "You may recall we sent you an amended version of
 24 [the certificate] back in March 2009. This arose from
 25 a clarification in the fire section. You were reluctant

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1 to agree the amendment at that time."
 2 Then he says this:
 3 "Subsequently, we have been contacted by our
 4 Scottish Regulations commentator in relation to a couple
 5 of referencing errors to the clauses in the Technical
 6 Standards. We have therefore prepared an updated
 7 version of the amended certificate. The amendments are
 8 referred to in the note below the signatures on the
 9 front page. We have also taken the opportunity to
 10 delete the [something] reference; this no longer applies
 11 due to their withdrawal from building guarantees."
 12 Do you see that there?
 13 A. Yeah.
 14 Q. Now, in April 2010 Mr Hunt then asks for your comments
 15 on various proposed amendments. If we can go up to the
 16 next email in the same chain on page 6 {BBA00002644/6},
 17 you respond two months later, on 21 June 2010.
 18 So he has written to you in April, on 8 April 2010;
 19 you respond on 21 June 2010. Yes?
 20 A. Yeah.
 21 Q. Can you explain that delay? Can you help us as to what
 22 was going on during that time? Do you remember?
 23 A. No.
 24 Q. No. Would you have discussed your response with your
 25 superiors, including Philip Heath or possibly

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1 Tony Millichap by this time, before going back to the
2 BBA?
3 A. Yeah, so is it -- are we on about -- is this the same
4 update or is this a different update? Is this a new
5 re-issue?
6 Q. This is a new update.
7 A. Yeah, it would have been circulated, the draft, when it
8 came in. The new proposed wording was circulated, yes,
9 yeah.
10 Q. Yes. We can see, if we read your comments back to
11 Chris Hunt, you say:
12 "Please find attached our comments for the proposed
13 Kooltherm K15 BBA certificate, I have also included some
14 additional data that we wish to include as the document
15 is being updated. The comments and proposed changes are
16 as follows:- ..."
17 Do you see that?
18 A. Yeah.
19 Q. Then under 1, "Key Factors Assessed, Behaviour in
20 relation to fire", we can see that you've highlighted
21 the text that says:
22 "The product has been tested to BS 8414-1: 2002 for
23 one specific construction on masonry walls ..."
24 We see that highlighted?
25 A. Yeah.

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1 Q. And you want that text to be changed to read:
2 "The board will not contribute to the development
3 stages of a fire ..."
4 Do you see that there?
5 A. I can't see -- it's not scrolled down to our proposed
6 changes. I can only see the original on screen at the
7 moment.
8 Q. Well, I think what you're doing here is you're setting
9 out --
10 SIR MARTIN MOORE-BICK: Well, just a minute. You should
11 have the whole of the top section of the email. Have
12 you not got that?
13 A. I've got the top section, yeah.
14 SIR MARTIN MOORE-BICK: Right. Then can you see under
15 paragraph 1, "Key Factors Assessed" -- have you got
16 that?
17 A. Okay, yeah. Oh, sorry -- oh, we're up here, sorry.
18 I thought we were at the --
19 MS GRANGE: I'm sorry, that's my fault. I'm sorry.
20 So under item 1, "Key Factors Assessed, Behaviour in
21 relation to fire /page 1" -- do you see that there?
22 A. Okay, yeah.
23 Q. What it looks like you've done in this email is you've
24 put the text of the draft in below it --
25 A. Yeah.

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1 Q. -- you've highlighted the bit that you want changed, and
2 then you've said below that:
3 "This text to be changed to read 'The board will not
4 contribute to the development stages of a fire (see
5 section 7)."
6 Do you see that there?
7 A. Yeah, yeah. So that's asking him -- I think that's
8 quoting some text from a previous draft, yeah.
9 SIR MARTIN MOORE-BICK: Basically, you're just asking to
10 have that reverted to the "specific construction on
11 masonry walls" taken out.
12 A. Yes, it looks like, yeah, yeah, looking to -- in that
13 intro bit at the front, looking just to revert it back
14 to the previous section, by the looks of it, yeah.
15 MS GRANGE: Yes. That was wording that the BBA had placed
16 in because they wanted it to be more accurate; we've
17 looked at that already, haven't we?
18 A. Right.
19 Q. So you're asking for it to be taken out again. Do you
20 see that?
21 A. Yes, yeah, it looks like -- yeah, it's swapping it --
22 looks like the wording that's underneath the proposed
23 stuff is what was in, or something very similar to what
24 was in some of the other documents, yeah, yeah.
25 Q. If we look at point 3 of your email, if we could go down

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1 and perhaps bring that up on the page. So you've
2 highlighted various parts there where it says "masonry
3 substrates", "cement particle boards", "cement particle
4 boards", "cement particle board", and then at the end
5 you've also highlighted "at the level 2 thermocouples
6 did not exceed 600°C". Do you see that there?
7 A. Yeah.
8 Q. And you've said:
9 "Add addition text to the end of this section to
10 state '... at the level 2 thermocouples did not exceed
11 600°C, therefore meeting the criteria outlined in
12 BRE 135.'"
13 Do you see that there?
14 A. Yeah.
15 Q. So that wording had also previously been removed by the
16 BBA due to concerns. Why were you asking for that to go
17 back in?
18 A. I -- well, we wanted -- they -- we thought it sort of
19 clarified things as to what this 600 degrees, I would
20 assume, probably was in relation to, but yeah.
21 I don't know the reasoning behind -- all of the
22 reasoning behind, because they didn't share with us what
23 queries they'd received. So we don't know why they made
24 certain changes or we don't know the reasoning behind
25 them. So ...

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1 Q. Are you saying you didn't understand why the BBA
2 previously had wanted to take out that wording?
3 A. Yes, yeah. We don't know that, no. No, we don't know
4 the specific queries they received, no.
5 Q. Did you ever reflect on the fact that this wording
6 affected life safety and fire safety, to be adding it
7 back in when it wasn't accurate?
8 A. I'm not following why it wasn't accurate.
9 Q. Because it hadn't met the criteria outlined in BRE 135.
10 There was no BRE classification report, was there?
11 A. Yes, but it's not saying there's a classification
12 report; it's saying it met the criteria. So that's --
13 Q. It also didn't meet the criteria, because by this time
14 the K15 that Kingspan were selling was a different
15 product that behaved very differently in fire,
16 wasn't it?
17 A. Apparently, you've said, yes, yeah.
18 Q. You're saying, are you, that you didn't know that at the
19 time: you didn't know that the new --
20 A. I didn't -- I didn't know what formulation the test
21 report was done on, no, no.
22 Q. Did Kingspan have any updated testing to justify the
23 reintroduction of that wording? Had anything changed?
24 A. As far as I remember, no. That's still based on the --
25 on the one report, yeah. So there's -- yeah, I would

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1 assume if there had been other tests, yeah, we would
2 have quoted both, yeah, I'm assuming. But, you know ...
3 Q. Did you want this addition because you wanted the
4 BBA certificate to reflect what you were telling
5 customers in emails about BR 135 assessment and the
6 compliance of K15 for use over 18 metres?
7 A. We weren't -- didn't claim in emails that we had
8 an assessment from the BRE. We said you could assess
9 the results against BRE 135.
10 Q. I see.
11 Now, if we go now forward in the story to
12 December 2013 and the certificate issued then, which is
13 the last BBA certificate issued while you were at
14 Kingspan. It's at {BBA00000036/1}. If we could look at
15 page 1, and "Behaviour in relation to fire", under "Key
16 Factors Assessed", we can see that it says there:
17 "... the product will not contribute to the
18 development stages of a fire or present a smoke or toxic
19 hazard ..."
20 Do you see that there?
21 A. Yeah.
22 Q. So the wording about it being a specific construction
23 has been removed, hasn't it?
24 A. Yes, they've taken out the reference to BS 8414 at
25 that -- or sort of --

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1 Q. In that first bit --
2 A. Yeah.
3 Q. -- yes.
4 Then if we go on to page 5 {BBA00000036/5}, we can
5 see that under the "Behaviour in relation to fire"
6 section -- it's been moved to section 8 in this
7 certificate, it's now section 8. Do you see that there?
8 A. Yeah.
9 Q. Then if we look -- so we've got 8.1:
10 "... classified as Class 0 or 'low risk' ..."
11 And if we go over the page {BBA00000036/6}, 8.2, it
12 says:
13 "When tested to BS 8414-1 ... the following specific
14 cladding construction met the criteria as stated in
15 BRE Report BR 135: 2013."
16 A. Okay.
17 Q. Do you see that there?
18 A. Yeah.
19 Q. So it's talking about the specific cladding construction
20 met that criteria?
21 A. Yeah.
22 Q. Then there's a description of the system tested in
23 May 2005 in a footnote below that, which reads this:
24 "The test relates only to this specific construction
25 and a separate test would be required to establish the

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1 performance of any other combination of materials."
2 Do you see that there?
3 A. Yeah.
4 Q. Then section 8.3, below that, states:
5 "The product incorporated in the construction
6 defined in section 8.2 can be used in buildings with
7 a floor more than 18m above ground level. Fire breaks
8 should be used at every floor level after the first
9 floor."
10 A. Yeah.
11 Q. Now, this is the first time that a BBA certificate for
12 K15 made clear that the test data from the May 2005 test
13 is only applicable to the specific tested system, and
14 that further testing would be required for any other
15 combination of materials; that's right, isn't it?
16 A. It is -- that -- yeah, that specific sort of sentence,
17 I think that's the first one it's been in, yeah.
18 Q. It's right, isn't it, that the inclusion of that clear
19 limitation on the use of K15 over 18 metres was
20 something that Kingspan had been attempting to avoid?
21 That's right, isn't it?
22 A. Yeah, I don't know if they put that specific sentence,
23 proposed it before. I can't remember now. But yeah.
24 Q. Can we look at some email chains on this. If you go to
25 {KIN00009353/1}, which is an email between you,

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1 Mr Meredith and Joel Clarke in November 2012.
 2 I want to look at the very bottom email in the chain
 3 on page 5 {KIN00009353/5}. That's an email from
 4 Mandy Osman on 5 November 2012, attaching a revised
 5 certificate for K15.
 6 If we move up the chain, on page 4 {KIN00009353/4}
 7 we can see there's a chaser email then sent on
 8 29 November at 13.38.
 9 A. Yeah.
 10 Q. Mandy Osman says to you:
 11 "Dear Mr Mills ...
 12 "Further to my email dated 5 November 2012, I note
 13 that we have not yet received your approval of the Draft
 14 Certificate."
 15 A. Yeah.
 16 Q. "We would like to maintain progress, therefore if we
 17 have not heard from you ... we will assume you are happy
 18 with the content ..."
 19 Do you see that there?
 20 A. Yeah.
 21 Q. Then if we could go ...
 22 So what happens next is Ivor Meredith responds with
 23 some further discussion on the same day. Then if we go
 24 up to page 2 {KIN00009353/2}, there's an email on
 25 29 November 2012 at 14.29, and in that email

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1 Ivor Meredith is saying -- you're not copied in here:
 2 "Ok I have copied my colleague Joel who will
 3 probably be leading the way with this work in the future
 4 however we shall come back to you as soon as possible."
 5 Do you see that there?
 6 A. Yeah.
 7 Q. Then if we go up to the next email in the chain on
 8 page 2 {KIN00009353}, we can see that Mandy Osman of the
 9 BBA is still chasing for a response --
 10 A. Yeah.
 11 Q. -- on 3 January 2013 at 13.56.
 12 A. Yeah.
 13 Q. "Please may we have your approval ..."
 14 A. Yeah.
 15 Q. If we go to the second email from the top now on page 1
 16 {KIN00009353/1}, which is sent by Joel Clarke at
 17 10.49 -- can you see that there? -- on 4 January.
 18 A. The second one down, yeah?
 19 Q. Yes.
 20 A. Yeah.
 21 Q. You're cc'd; it's sent to Ivor and you're cc'd. He's
 22 discussing the BBA certificate re-issue and he says
 23 this:
 24 "Well the 60mm thing can be viewed two ways -- at
 25 first read it seems a bit restrictive to state that the

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1 reaction to fire of the cladding system needs to be
 2 separately assessed for all thicknesses other than 60mm.
 3 On the other hand it could be read as saying (well,
 4 implying) that if you use 60mm the reaction to fire of
 5 the cladding system is determined, presumably in
 6 accordance with the test shown, implying that any system
 7 using 60mm is basically a 'pass' to BR135. So, it could
 8 be read as the BBA saying that 60mm solutions are
 9 automatically suitable for use above 18m!"
 10 Then he said:
 11 "It's whether we feel this is a good thing or a bad
 12 thing, and also whether we can actually do a lot about
 13 it even if we don't like it."
 14 Do you see that there?
 15 A. Yeah.
 16 Q. Then Ivor Meredith responds at the top of that chain,
 17 again you're copied in, and he says this:
 18 "As Gareth has the experience on what we can and
 19 cannot get away with we need to take the lead from him
 20 and perhaps sit down and work out our
 21 approach ASAP."
 22 Then he asks:
 23 "Gareth -- have you drafted anything to the BBA
 24 reference this draft that can be circulated?"
 25 A. Yeah.

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1 Q. Do you see that there?
 2 A. Yeah.
 3 Q. Now, is it right that you had experience of getting away
 4 with pushing the BBA to include matters that were
 5 favourable to Kingspan?
 6 A. I'd been dealing with them with a number of years. So
 7 I had experience of dealing with them, yeah, yeah.
 8 Q. Did you understand him to be talking about the previous
 9 BBA certificate's assertion that the product met the
 10 criteria in BR 135, which was known to be inaccurate?
 11 A. I didn't necessarily know he was speaking about that
 12 specifically, no, no.
 13 Q. Would you agree that that fairly characterised your
 14 approach: to try and get away with as much as possible
 15 in order to support the use of the product, regardless
 16 of accuracy or safety?
 17 A. It wasn't necessarily my approach, but ... yeah, I don't
 18 know.
 19 Q. We don't see you going back on this email and saying,
 20 "What do you mean? I'm not trying to get away with
 21 anything, I'm playing it straight", do we?
 22 A. Yeah.
 23 Q. So --
 24 A. We did sit sort of a few metres away from each other
 25 though in an office, so we can --

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1 Q. I see.
 2 A. We could sort of talk -- speak about them as well as --
 3 so there would be additional bits in -- you know, along
 4 with this email chain. So not everything would be in
 5 an email correspondence.
 6 Q. Did you ever correct that and say, "That's not what I've
 7 been doing"?
 8 A. I -- I can't remember, no. No, it's -- no, I can't
 9 remember any exact conversations from that far back, no.
 10 Q. Would you accept now that there was a culture at
 11 Kingspan of trying to minimise the limitations on K15,
 12 rather than being transparent and accurate with its
 13 customers and with organisations like the BBA?
 14 A. I would say, yes, they did want to maximise, you know,
 15 what scope they could get on approvals and things like
 16 that. I don't think at any stage they were sort of
 17 dishonest about what test data they had; or not that
 18 I was aware of, anyway. It seems that you've said some
 19 other things this morning about that. But yeah.
 20 Q. So you're accepting they did want to maximise their
 21 scope of approvals for any of these certificates?
 22 A. Yes, they wanted them to cover as many situations as was
 23 possible, based on what data they had, yeah.
 24 Q. Even in circumstances where the wording that's being
 25 suggested is misleading?

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1 A. Erm ... well, yeah, I think it's a little bit sort of --
 2 there's a few bits which we've debated on about what
 3 they referred to, yeah.
 4 Q. If we go now to an email chain, a long email chain that
 5 runs from November 2012 to January 2013. This is at
 6 {KIN00005572/1}. This correspondence is also about the
 7 issue of a revised BBA certificate.
 8 If we go to page 11 {KIN00005572/11}, this chain
 9 starts with the email we've just looked at from
 10 Mandy Osman on 5 November at 15.06, attaching a draft
 11 certificate, and then we see the same chaser emails
 12 going up on page 9 {KIN00005572/9} and page 10
 13 {KIN00005572/10}.
 14 A. Yeah.
 15 Q. The email I want to ask you about in particular is on
 16 page 4 of this chain {KIN00005572/4}. It's sent by
 17 Joel Clarke to you and Ivor Meredith. You're cc'd here,
 18 together with Tony Millichap. That's the one, on
 19 9 January 2013 at 16.06.
 20 That's the day after a review meeting with the BBA
 21 on 8 January 2013. Can you remember attending that
 22 meeting with the BBA?
 23 A. I don't think I did, no.
 24 Q. In it, Joel Clarke writes this:
 25 "Sorry, perhaps I wasn't clear. I'm fully aware we

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1 want it as open and delimiting as possible (that's
 2 blindly obvious, is it not) -- however, on the basis
 3 of some of the comments flying around yesterday my first
 4 thoughts are that we are not going to have it put back
 5 to how it was by butting heads. I don't even think
 6 they'll give us the get-out of 'contact the
 7 manufacturer'. The phrase used more than once yesterday
 8 was 'they're onto us'. Even if being used in
 9 a tongue-in-cheek way (we're not doing anything immoral
 10 or illegal after all) it does perhaps reflect the
 11 position we are in."
 12 Then he says:
 13 "If, worst-case, we have to let them say in small
 14 letters that anything other than 60mm should be
 15 'assessed' then we need an 'assessment' of suitable
 16 weight and there is no ... problem."
 17 Then he asks:
 18 "Where are we with LABC Type Approval?"
 19 Do you see that there?
 20 A. Yeah.
 21 Q. In all your work that you were doing with the BBA, was
 22 it blindly obvious to you that Kingspan wanted the
 23 certificate "as open and delimiting as possible"?
 24 A. Yeah, yeah.
 25 Q. Yes.

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1 A. That would come -- that would sort of come back from the
 2 comments I received when sending drafts around, yeah.
 3 Q. Yes. Can you help us: when he says, "they're onto us",
 4 can you help us as to what Joel Clarke is referring to
 5 there?
 6 A. No. I don't think I was in the meeting, so no.
 7 Q. I see.
 8 He's saying there that they decided to put an end to
 9 the "get-out", as he calls it, of the "contact the
 10 manufacturer for advice" provision that had appeared in
 11 previous drafts; that's right, isn't it? The BBA were
 12 not content to go back to that "contact the
 13 manufacturer" wording, were they?
 14 A. I think they've taken that out in that latest one, yeah.
 15 Q. Yes. Why had that been viewed as a "get-out"? Can you
 16 help us with that?
 17 A. I don't know why Joel viewed that as a get-out really
 18 because all we -- when they came back to us, all we
 19 could do was advise them of the test which was already
 20 quoted in the BBA certificate. So it didn't really mean
 21 a great deal in the end of things, so ...
 22 Q. Well, I would suggest it's much more significant than
 23 that, and that you understood that that clause was very
 24 advantageous to Kingspan because it put Kingspan
 25 directly in contact with anyone wanting to use it above

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1 18 metres so that Kingspan could use its sales pitch on
 2 them. That's right, isn't it?
 3 A. Well, on projects of that sort of size we were already
 4 in direct contact with the people involved in the
 5 project. So I don't -- that wasn't sort of something
 6 which was -- that clause caused in any way.
 7 Q. Okay.
 8 In your response to this email, if we go within this
 9 email chain at the very end of page 2 {KIN00005572/2} at
 10 10.11 on 10 January 2013, you propose the following
 11 amendment. You say there:
 12 "Personally, I don't think we can rely on getting
 13 any greater scope of approval from the LABC given the
 14 complaints they received following the issue of their
 15 original certificate ..."
 16 A. Yeah.
 17 Q. We'll come to that later.
 18 If we go over to page 3 {KIN00005572/3}, and you're
 19 setting out your thoughts about the latest draft. If we
 20 look at your point 11 at the bottom of page 3. Do you
 21 see that there? So you say:
 22 "Section 8.1 (page 7) ..."
 23 So we know that the reaction to fire section has now
 24 changed to be section 8; it was section 7. You say:
 25 "... regards BS 8414, include generic description of

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1 construction. Also for the fire resistance include
 2 a similar generic list of the constructions tested, also
 3 note should say that 1 hour fire resistance was
 4 achieved ... in [the] applicable cases not that this is
 5 in both directions through the construction."
 6 Do you see that there?
 7 A. Yeah.
 8 Q. So in those first lines, you're saying:
 9 "... regards ... 8414, include generic description
 10 of construction."
 11 Do you see that there?
 12 A. Yeah.
 13 Q. So you were wanting the wording to be as generic as
 14 possible about that system test, weren't you?
 15 A. I'd have to have a look at the draft, to be honest, to
 16 be definite on it. I don't know, did they include
 17 a list of the construction in the latest draft or ...?
 18 Q. Well, let's move forward and look at what happens next.
 19 This is another chain of correspondence nearer the time
 20 the amended certificate was issued.
 21 This is at {KIN00005870/1} and I want to look down
 22 on the second page {KIN00005870/2}. We can see an email
 23 from Mandy Osman that the BBA sent on 6 December 2013 to
 24 you attaching a revised copy of the final draft of the
 25 BBA certificate for K15 --

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1 A. Yeah.
 2 Q. -- at that point.
 3 Then moving up to the next email, which straddles
 4 pages 1 and 2 {KIN00005870/1-2}, we can see that you
 5 forward that final draft to Joel Clarke and
 6 Ivor Meredith on 9 December 2013.
 7 A. Yeah.
 8 Q. If we look now at the next email up in the chain on
 9 page 1 {KIN00005870/1}, on 10 December at 16.17, sent
 10 the next day by Joel Clarke to you and Ivor Meredith, we
 11 can see this. He says:
 12 "Just been going through this. The first paragraph
 13 is now exactly as it used to be, which is very good
 14 news. Both ... attached for easy reference."
 15 Then he says:
 16 "There is a mention of some potential restrictions
 17 at 8.2 and 8.3, as per the following: ..."
 18 Then he says:
 19 "(8.2, note 1, under the BS 8414 information) 'The
 20 test result relates only to this specific construction
 21 and a separate test would be required to establish the
 22 performance of any other combination of materials'"
 23 And 8.3:
 24 "'The product incorporated in the construction
 25 defined at section 8.2 can be used in buildings with

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1 a floor more than 18m above ground level. Fire breaks
 2 should be used at every floor level after the first
 3 floor ..."
 4 Then he says:
 5 "Given that the note at 8.2 is in the smallest
 6 possible font and buried deep in the certificate itself
 7 we have made significant progress when compared with the
 8 last draft."
 9 Then he says:
 10 "The wording at 8.3 could be read as a restriction
 11 but logically -speaking it does not preclude the use of
 12 other thicknesses (saying one thickness can be used does
 13 not mean others can't be)."
 14 Then he says:
 15 "Personally I believe this certificate is now
 16 acceptable, at least insofar as it is much less
 17 restrictive than it was and I do not believe we will get
 18 any joy in trying to have this last restriction removed.
 19 Happy to take on board [your] comments ... before going
 20 back to BBA."
 21 Do you see that there?
 22 A. Yeah.
 23 Q. Then the note at section 8.2 that he's referring to
 24 there, "in the smallest possible font and buried deep in
 25 the certificate", is the one we looked at, that little

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1 note saying:
 2 "The test result relates only to this specific
 3 construction and a separate test would be required to
 4 establish the performance of any other combination of
 5 materials."
 6 A. Yeah.
 7 Q. It's right, isn't it, that at this time, within this
 8 group, it was considered progress to be hiding that
 9 limitation as much as possible, wasn't it?
 10 A. It appears that that's Joel's opinion, yeah, yeah.
 11 Q. For what legitimate reason would Kingspan want to have
 12 accurate limitations on the use of the product removed?
 13 Can you help us on that?
 14 A. On this, to be honest, at this sort of stage I wasn't
 15 having a lot of involvement with the discussions on it,
 16 I wasn't going to the -- this is just before I finished
 17 and -- but I wasn't going to the meetings or having --
 18 that's why I just forwarded the certificate on, pretty
 19 much, when I -- that one draft, when I got it. So
 20 I wasn't having a lot of involvement with it.
 21 Q. Why were you and your colleagues so keen for the BBA to
 22 omit something that was plainly a fair and accurate
 23 representation of the parameters of the existing K15
 24 testing for above 18 metres?
 25 A. Sorry, which bit did they want to take out? Which bit

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1 are we referring to?
 2 Q. Well, it's clear that they wanted -- maybe "omit" is not
 3 the right word -- to minimise something that is
 4 an important limitation on the test information that
 5 Kingspan had. Why would they want to do that? Why were
 6 you doing that?
 7 A. I couldn't speak specifically for them. But yeah, it
 8 was -- I suppose they're looking -- it looks like
 9 they're looking to get it as general as possible or just
 10 the information, I suppose, yeah.
 11 MS GRANGE: Mr Chairman, I think that's a good moment to
 12 break.
 13 SIR MARTIN MOORE-BICK: Yes, I think it is. Thank you very
 14 much.
 15 Mr Mills, we're going to have a break now so we can
 16 all get some lunch.
 17 THE WITNESS: Yeah.
 18 SIR MARTIN MOORE-BICK: We will come back at 2 o'clock,
 19 please.
 20 THE WITNESS: Yeah.
 21 SIR MARTIN MOORE-BICK: While you're away, please don't talk
 22 to anyone about your evidence or anything relating
 23 to it.
 24 THE WITNESS: Yeah.
 25 SIR MARTIN MOORE-BICK: All right?

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1 THE WITNESS: Okay.
 2 SIR MARTIN MOORE-BICK: Thank you very much. If you would
 3 like to go with the usher, please.
 4 (Pause)
 5 Thank you. 2 o'clock then, please.
 6 (1.02 pm)
 7 (The short adjournment)
 8 (2.01 pm)
 9 SIR MARTIN MOORE-BICK: Right, Mr Mills, are you ready to
 10 carry on?
 11 THE WITNESS: Yeah, yeah.
 12 SIR MARTIN MOORE-BICK: Thank you very much.
 13 Yes, Ms Grange.
 14 MS GRANGE: Yes, thank you.
 15 I've just got a few more questions now about the use
 16 of BBA certificates, staying with that theme. So we
 17 know that a BBA certificate was then issued dated
 18 17 December 2013. Can you help us as to when it was
 19 actually issued? Was it issued in December 2013, do you
 20 remember?
 21 A. I don't know offhand.
 22 Q. You don't know, you can't help.
 23 Let's go to {KIN00003830/1}. This is a series of
 24 emails between you and Philip Borowiec of Arup in
 25 January 2014. In the top email, we can see on

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1 15 January 2014 it's from you, you're responding to him,
 2 and if we look at the fourth line down, you say this:
 3 "The attached file is the new version of the
 4 Kooltherm K15 BBA certificate which has been issued
 5 today."
 6 Do you see that there? Do you see that, in the
 7 fourth line down?
 8 A. Fourth line ... yeah.
 9 Q. So you're saying there:
 10 "The attached file is the new version of the
 11 Kooltherm K15 BBA certificate which has been issued
 12 today."
 13 Do you see that?
 14 A. Yeah.
 15 Q. Then you pick out section 8.2 of the certificate and you
 16 copy and you paste it into your email --
 17 A. Yeah.
 18 Q. -- which says:
 19 "When tested to BS 8414-1 ... the following specific
 20 cladding construction met the criteria as stated in BRE
 21 report BR 135 ..."
 22 Do you see that there?
 23 A. Yeah.
 24 Q. Now, before that, if we scroll down to page 2
 25 {KIN00003830/2}, Mr Borowiec, in his email sent at 9.10

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1 on 10 January, we can see that he says this. He says:
 2 "Good morning Gareth,
 3 "Thanks for the helpful information."
 4 We see the subject title : "K15 Approvals -
 5 Ruskin Square Development Croydon". He asks a number of
 6 questions -- we'll come back to those -- in 1 and 2, but
 7 I want to ask you about 3 there in his email:
 8 "Why are there 2 certificates (both attached, sent
 9 by yourselves) on the same product with the older one
 10 (2008) saying it passed the BS 135 criteria but the
 11 newer one (2010) is silent on the matter?"
 12 A. Yeah.
 13 Q. "Has anything changed or is this an error?"
 14 Do you see that there?
 15 A. Yeah.
 16 Q. It would appear that you sent him the BBA certificates ,
 17 both the first one, dated 27 October 2008, and the
 18 amended version of 6 April 2010.
 19 Can you help us: why did you do that? Why did you
 20 send both certificates to him?
 21 A. I don't know. I'm not sure. No, I don't know.
 22 Q. You can't help us?
 23 A. No. Is there -- is there an email with both of those
 24 attached, is there?
 25 Q. I think there is, if we go further down. But I mean,

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1 that's certainly what -- let's go down to the email
 2 below this. You say:
 3 "With regards to the query outlined in your most
 4 recent e-mails ... I would refer to the final sentence
 5 of the paragraph relating to ... 8414 testing [at]
 6 section 7.1 of the ... certificate."
 7 And it would appear that you've sent him both
 8 versions of the certificate, both the earlier versions.
 9 But by January 2014 that 2008 version wasn't valid,
 10 was it? Just go back up to his email:
 11 "Why are there 2 certificates (both attached, sent
 12 by yourselves) on the same product with the older one
 13 (2008) saying it passed ... BR 135 ..."
 14 Can you help us on that?
 15 A. No, no. It appears, yeah, possibly there's been one
 16 sent by me and one sent by my colleague perhaps, because
 17 there's one of my -- who used to be another technical
 18 adviser who's copied on the email. So possibly they
 19 sent one and I sent one, possibly.
 20 Q. Okay, I see.
 21 Now, if we look down that page, you're quoting there
 22 from the first version from 27 October 2008. If we go
 23 at the bottom of page 2 {KIN00003830/2} to that email we
 24 just looked at --
 25 A. Yeah.

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1 Q. -- to your email timed on 9 January at 5.17, what you're
 2 doing there is you're quoting from the first version of
 3 the certificate from 2008 with that wording:
 4 "... therefore displaying limited fire spread away
 5 from the fire source and that the product meets the
 6 criteria stated within BR 135."
 7 Now, that's the wording that we saw removed in the
 8 next version of the certificate that you then wanted to
 9 try and add back in, in the third version, which didn't
 10 get added back in.
 11 So can you help us as to why, in this email, you're
 12 quoting from a certificate which is very out of date by
 13 this time?
 14 A. I'm not entirely sure, no. Didn't they put something
 15 similar to that effect back in the more recent one,
 16 didn't they? So it was added back in again later on,
 17 wasn't it, the reference to BR 135?
 18 Q. Well, you've said in the top email of the chain -- that
 19 was 9 January. Go back to the top email of this chain.
 20 You've said on 10 January that the latest certificate
 21 "has been issued today" -- sorry, the top email back on
 22 page 1 {KIN00003830/1}.
 23 You've said, in the fourth line down there, on
 24 15 January, so six days later, you've said: here's the
 25 version of the certificate "which has been issued

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1 today?"
 2 A. Yeah.
 3 Q. So you can't have had that --
 4 A. We would have known the -- we would have known the
 5 format before that though, because we -- yeah, because
 6 that -- we would have agreed it with them prior to that
 7 date. So we would have known the form of what was going
 8 to be in it before that day.
 9 Q. I see. Is it possible that you were sending that very
 10 first version of the BBA certificate because it was much
 11 more favourable to Kingspan?
 12 A. I don't know the exact reasonings, but it might have
 13 been perhaps because it more closely reflected what was
 14 going to be in the document issued in a couple of days.
 15 Q. I see. But you would have been well aware by
 16 January 2014 that you ought not to be sending out or
 17 relying on the first version of the certificate. Can
 18 you help us as to why you would have done that?
 19 A. I -- yeah, I don't know which person sent which
 20 certificate, so I don't know.
 21 Q. Yes. Were you ever told by your superiors to carry on
 22 issuing out-of-date certificates because they were more
 23 favourable to Kingspan?
 24 A. No.
 25 Q. Now, going back to Mr Borowiec's email on the top of

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1 page 2 {KIN00003830/2}, if you look at his points 1 and
2 2 there -- I said I'd come back to these questions -- he
3 asks this. He says:

4 "Has the exact proposed system (in every way) been
5 tested to the BS and achieved the required performance
6 in BR 135?"

7 A. Yeah.

8 Q. "As I'm sure you appreciate, the façade specification
9 needs to be installed exactly as the tested system which
10 has been shown to meet the required performance of
11 BR 135."

12 Do you see that there?

13 A. Yeah.

14 Q. He's absolutely right about that, isn't he?

15 A. Right, yeah.

16 Q. Yes?

17 Then he says in point 2:

18 "If not, what precisely is different and how have
19 you assessed the impact that would have on the
20 performance of the product in the fire test?"

21 So he's asking some important questions there; would
22 you agree?

23 A. Yeah. Yeah.

24 Q. If we go back to your response at the top of page 1
25 {KIN00003830/1} and if we look at what you say, after

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1 you've said in the fourth line, "The attached file is
2 the new version of the Kooltherm K15 BBA certificate
3 which has been issued today" --

4 A. Yeah.

5 Q. -- you say:

6 "The extract below is taken from page 6 of the
7 certificate and illustrates that the wording confirming
8 that the typical rainscreen cladding build-up that we
9 tested met the criteria in BRE 135 is included in this
10 newer version:- ..."

11 A. Yeah.

12 Q. Then you say:

13 "As you will appreciate, for rainscreen cladding
14 systems where many components obtained from different
15 manufacturers and combined to form the overall
16 construction, ensuring that all possible combinations of
17 materials/products for the many components were
18 individually tested is unfortunately not feasible for us
19 to undertake both financially, or in terms of the time
20 involved."

21 A. Yeah.

22 Q. Then you go on. You say:

23 "To try and aid our clients in this area we selected
24 a construction which we felt reflected a common type of
25 construction so that we could illustrate the inherent

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1 performance of our product within the BBA certificate .
2 Based on this data we believe that the testing
3 illustrates that when combined with suitably performing
4 ancillary components (e.g. substrate, and cladding
5 materials) combined with appropriately spaced cavity
6 barrier that a construction containing the Kooltherm K15
7 could meet the required level of performance."

8 Do you see that there?

9 A. Yeah.

10 Q. Now, when you're talking there, in that paragraph
11 beginning, "To try and aid our clients" --

12 A. Yeah.

13 Q. -- and you're talking about, "so that we could
14 illustrate the inherent performance of our product" in
15 the line below that -- do you see that there?

16 A. Yeah.

17 Q. What do you mean there by "the inherent performance of
18 our product"?

19 A. It's to give an example of how it would perform in that
20 type of test.

21 Q. But isn't that meaningless in the context of a system
22 test?

23 A. It's not ideal. But, you know, when it's the only
24 information available, you know, it's what we've got to
25 give them some information, and we've provided it -- we

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1 provided it along with the certificate and referred them
2 to the section which listed the exact construction we'd
3 tested.

4 Q. I see.

5 It's simply not true, is it, that Kingspan had
6 selected a common type of construction for that 2005
7 test, is it? That wasn't representative of a real-life
8 cladding system, was it? It didn't have a rainscreen on
9 it, it didn't have a render on it; it just had
10 a building board on the outside.

11 A. Yeah, it wasn't necessarily the -- like the cladding
12 panel. But the type of construction in how it was built
13 up, in terms of the substrate, brackets, rails,
14 positioning of cavity barriers and things like that, was
15 fairly typical of how that type of system is built up.

16 Q. When you say there Kingspan had selected a common type
17 of instruction --

18 A. Yeah.

19 Q. -- we don't see buildings, do we, with just building
20 board on the outside, cement particle board or fibre
21 cement board, whichever it was?

22 A. Yeah, but it's the type -- yeah, I'm saying the type of
23 construction, how it's made up and that, yeah.

24 Q. But how it's made up is important. It didn't have
25 a rainscreen exterior on it and it didn't have any

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1 render on it. So it wasn't actually an exterior --
 2 A. They don't use render on this type of construction.
 3 Q. I see.
 4 Then you say this, carrying on with your email. You
 5 say:
 6 "We do suggest consulting with the building control
 7 officer for the project to verify their precise
 8 requirements, although from previous experience along
 9 with the LABC registered details documents forwarded by
 10 my colleague on one of their previous e-mails, many of
 11 the officers we have dealt with have typically taken
 12 a practical approach to meeting the principals in
 13 Approved Document B."
 14 A. Yeah.
 15 Q. What do you mean by that? What do you mean when you say
 16 there, "many of the officers we have dealt with have
 17 typically taken a practical approach to meeting the
 18 principals in Approved Document B"?
 19 A. Well, it seems from what we've seen that some of them
 20 may accept some minor variations. We -- it wasn't
 21 something that we had any control over; it was just left
 22 to them. So we present the data we had and they would
 23 decide if it was acceptable or not.
 24 Q. These weren't minor variations, were they?
 25 A. Well, it's down to their discretion. It wasn't

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1 something that we controlled. So it was for them to
 2 decide.
 3 Q. By this time, you knew that the K15 that was being sold
 4 was a different technology K15, didn't you?
 5 A. I knew it was the new formulation, yes. But we
 6 discussed this morning that we didn't know that it was
 7 the old -- I didn't know it was the old formulation in
 8 the tests.
 9 Q. Right.
 10 Did you discuss this response with anybody before
 11 sending it to Arup?
 12 A. I'm not sure. I can't remember, no.
 13 Q. Now, let's move on. You've referred there, in that
 14 paragraph we were just looking at, to the LABC
 15 registered details certificate --
 16 A. Yeah.
 17 Q. -- for the K15 product. If we look at your witness
 18 statement at page 19 {KIN00022329/19}, paragraph 70 --
 19 A. Yeah.
 20 Q. -- you say this. You say:
 21 "I was aware that the LABC had asserted in
 22 a Registered Details Certificate that K15 might be
 23 considered to be a material of limited combustibility
 24 when considering some specific sections of the Building
 25 Regulations" --

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1 A. Yeah.
 2 Q. -- "which I believe related to using the product on
 3 buildings with floors above 18 metres from ground level
 4 as per the ... 8414 test report."
 5 A. Yeah.
 6 Q. "They did not state that the product was limited
 7 combustibility."
 8 A. Yeah.
 9 Q. Then you say:
 10 "I first became aware of this assertion when the
 11 certificate was first issued in 2009".
 12 A. Yeah.
 13 Q. "I understood this assertion to be correct".
 14 A. Yeah.
 15 Q. "I did not take any action as a result of this
 16 assertion".
 17 And then:
 18 "I did not take any action as I understood the
 19 assertion to be correct".
 20 So I think we can take it from that, can we, that
 21 you did read the LABC certificate and summary attached
 22 to it in 2009?
 23 A. Yeah.
 24 Q. Can we go to it. It's at {KIN00005705/1}. That's the
 25 front page of the certificate.

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1 If we can go then to page 4 {KIN00005705/4}, under
 2 the heading "Requirement B -- Fire Safety
 3 Considerations", what we can see is it lists:
 4 "K15 has been tested in accordance with: ..."
 5 And then a number of test standards are listed,
 6 including BS 8414-1 as the first of those, and then
 7 a number of other tests, fire resistance tests and then
 8 national class 0 tests 476-6 and 7?
 9 A. Yeah.
 10 Q. Then we see this. It says:
 11 "From the results, results, it can be considered as
 12 a material of limited combustibility and meets the
 13 criteria for Class 0 classification for surface spread
 14 of flame."
 15 Do you see that there?
 16 A. Yeah.
 17 Q. Now, just looking at that now, do you agree that the
 18 most natural reading of it is that K15 can be considered
 19 to be a material of limited combustibility?
 20 A. Yeah, I'm saying that it can be considered -- yeah, it's
 21 sort of -- it's not saying it is, but yeah, it is saying
 22 that you could consider it like one, yeah.
 23 SIR MARTIN MOORE-BICK: You say "it's not saying [that] it
 24 is", but isn't that the thrust of what is there?
 25 A. Yeah, I don't know -- I suppose it's sort of -- yeah,

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1 it's probably not the best wording. But yeah, yeah, no.
 2 MS GRANGE: Yes, thank you.
 3 Then if we look on page 5 {KIN00005705/5}, we see
 4 a section headed "Requirement B4; External Fire Spread"
 5 at the top of there, and if we read that, it says:
 6 "Since K15 can be considered a material of limited
 7 combustibility, it is suitable for use in all situations
 8 shown on Diagram 40 of [ADB] ... including those parts
 9 of a building more than 18m above the ground."
 10 A. Yeah.
 11 Q. "In the latter circumstances, the cladding system and
 12 the substrate to which the insulation is applied must
 13 also meet the requirement for limited combustibility."
 14 Do you see that there?
 15 A. Yeah.
 16 Q. I would suggest to you that that's even clearer: that
 17 the most natural reading of that, the thrust of it, is
 18 that it is a material of limited combustibility and can
 19 be considered to be that.
 20 A. I suppose, yeah, you could read it like that, yeah.
 21 Q. Now, in your witness statement, if we go back to that,
 22 page 20 {KIN00022329/20}, paragraph 72, you say this.
 23 It's right at the top of that page. You say:
 24 "I was slightly concerned about the wording of the
 25 first LABC Registered Details Certificate for K15

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1 relating to fire, which was issued in 2009, as I seem to
 2 recall that some of my colleagues in the sales
 3 department were mis-interpreting this in that they
 4 believed it to be a product of limited combustibility
 5 when, strictly speaking, it wasn't. It was only in
 6 circumstances where the construction mirrored that which
 7 had been tested to ... 8414 that it could be treated as
 8 though it was a product of limited combustibility ..."
 9 Now, I've asked you about that latter bit already,
 10 but I want to ask you about the first part of that
 11 paragraph.
 12 What do you mean that "strictly speaking", it was
 13 not a product of limited combustibility? What do you
 14 mean by that?
 15 A. Well, that it wasn't of limited combustibility.
 16 Q. Quite. Not just "strictly speaking"; it wasn't, was it?
 17 A. No.
 18 Q. No?
 19 A. No, no.
 20 Q. Then looking at what you say about your colleagues there
 21 in the sales department, can you help us: how did you
 22 become aware that your colleagues were misinterpreting
 23 the LABC certificate and treating it as though it said
 24 it was a product of limited combustibility?
 25 A. I suppose there probably would have been some sort of

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1 discussions, conversations, and I believe there was one
 2 email chain that seems to ring a bell, which I think was
 3 included in the disclosure, where one of the sales
 4 managers might have informed a customer and they had to
 5 go back to them and correct them.
 6 Q. Right. I see. Approximately how many colleagues did
 7 you become aware of that had that what you call
 8 a misunderstanding?
 9 A. I don't -- I don't know definitely, no. I can't
 10 remember, no.
 11 Q. Having looked at it now, can you understand why those
 12 colleagues might have taken the certificate as meaning
 13 that K15 was a material of limited combustibility?
 14 A. I suppose, yes, it's possible, not -- you know,
 15 I suppose I'd probably look at it slightly differently
 16 because I was au fait with the testing and the
 17 regulations and things, and knew about the sort of
 18 surrounding information, whereas I suppose perhaps
 19 someone who didn't may read it differently, yeah.
 20 Q. Does that mean that you never sent that certificate to
 21 customers, you didn't rely upon it yourself; is that
 22 what you're saying?
 23 A. I'm not saying I -- I'm not saying I've never sent that
 24 to any customers, no, no.
 25 Q. If you're saying now that you knew that to be incorrect,

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1 how could you be sending it out to customers?
 2 A. I didn't say -- I didn't just say that.
 3 Q. I thought you just said that you couldn't tell us here
 4 now that you never sent it to customers.
 5 A. Yeah.
 6 Q. So are you saying you just can't remember?
 7 A. Well, you didn't ask me about if I'd sent it.
 8 Q. Okay.
 9 A. I'm not following what you're asking here, because --
 10 Q. Have you ever sent that LABC certificate out to
 11 customers --
 12 A. Possibly, yeah.
 13 Q. -- so that they could understand the properties of K15?
 14 A. Yes. Yes, possibly, yeah.
 15 Q. Yes. I'm asking you: if you understood that to be
 16 incorrect, or certainly very misleading, why were you
 17 sending it out to customers?
 18 A. I didn't say that. I said that some people -- I said
 19 some people may have read it differently. I didn't say
 20 that I knew it was incorrect.
 21 Q. When you became aware that these other colleagues had,
 22 as you say, misunderstood the position, what did you do
 23 to correct their understanding of the position?
 24 A. I would have sort of told them what the regulations
 25 were.

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1 Q. Did you take any other action at this time? Did you
 2 bring it to the attention of your superiors and say,
 3 "We've got a problem here: people in the technical team
 4 are saying it is a product of limited combustibility,
 5 it's wrong"? Did you do that?
 6 A. I don't know definitely, yeah, what conversations I had
 7 with people, no. I can't remember exactly, no.
 8 Q. Did it occur to you that if technical advisers within
 9 Kingspan who worked in the insulation business day in,
 10 day out were taking the certificate to mean that it was
 11 a material of limited combustibility --
 12 A. It said the salespeople, not the technical advisers.
 13 Q. I see. Well, did it occur to you that if sales
 14 individuals within Kingspan were taking the certificate
 15 to mean that it was a material of limited
 16 combustibility, that others outside Kingspan might draw
 17 the same conclusion?
 18 A. I suppose it's possible, yes, yeah.
 19 Q. Did you not take any action because it was in Kingspan's
 20 interests, in terms of sales, to have that assertion
 21 made by an independent certification body?
 22 A. Well, I don't know, I don't remember what -- you know,
 23 what actions are done. I said I couldn't remember.
 24 Q. I'm going to suggest to you that you would have known at
 25 the time that it was false and misleading, but that you

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1 and others at Kingspan let it stand because it was
 2 highly advantageous to Kingspan's commercial interest to
 3 do so. Is that right?
 4 A. I wouldn't say that that's the case. I can't comment on
 5 everybody else. But no, that's not what I was doing,
 6 no.
 7 Q. I see.
 8 Can we go to {KIN00005385/1}. This is an email sent
 9 on 5 June 2009 from Mr Meredith to Mark Swift, and
 10 you're copied in to this email; do you see that there?
 11 Andrew Pack is also copied. Mr Meredith says:
 12 "ADB (B4 diagram 40)
 13 "Personally I would just say that we now have the
 14 LABC document and as long as the guidance within it is
 15 followed [there] are no limitations of use for K15 in
 16 high rise external ventilated facades.
 17 "This document will be available to all LABC
 18 therefore we will not get any problems in the future
 19 when seeking approval for use from Local Authority
 20 Building Control Officers
 21 "From now on when challenged I'm simply going to
 22 send the LABC document and let that do the talking."
 23 A. Yeah.
 24 Q. Then it says:
 25 "I have copied AP [Andrew Pack] and GM

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1 [Gareth Mills, that's you] to allow them to comment."
 2 Do you see that there?
 3 A. Yeah.
 4 Q. Did you comment on that when that was sent to you?
 5 A. I don't know, no. That's over -- it's 11 years ago.
 6 I don't remember, no.
 7 Q. Do you remember sending the LABC certificate out to "let
 8 that do the talking"?
 9 A. I probably have sent the certificate to some people.
 10 I don't remember the specifics, no, no. Or ...
 11 Q. Isn't the truth that this gave Kingspan a reprieve, it
 12 gave them a period of a few years where they had an easy
 13 answer to any queries about K15, because that
 14 certificate strongly suggested it was a material of
 15 limited combustibility? That's right, isn't it?
 16 A. It looks -- it looks from that like that was some
 17 people's opinion, yes, yeah.
 18 Q. Are you saying that wasn't an opinion that you held?
 19 A. No, I didn't consider it was limited combustibility, no.
 20 Q. So why do we not see any email -- you've been asked for
 21 your comment here. Why don't we see an email going back
 22 from you saying, "We can't let it do the talking because
 23 it's not a material of limited combustibility"?
 24 A. Well, I may have spoken to people. Because, you know,
 25 I wasn't aware at the time that I was having to provide

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1 a written record of everything we discussed. So we
 2 could have just spoken in the office.
 3 Q. When he talks about -- he says:
 4 "... when challenged I'm simply going to send the
 5 LABC document ..."
 6 A. Yeah.
 7 Q. Were you aware at this time -- this is 2009 -- that
 8 there had been a number of people challenging the use of
 9 K15 above 18 metres?
 10 A. There had definitely been queries about it, yeah.
 11 Q. Yes.
 12 Can we go now to {KIN00020714/1} and if we look at
 13 the third email down on that page from Philip Heath on
 14 7 May 2009. It's copied to a number of generic
 15 technical services email addresses.
 16 A. Yeah.
 17 Q. Is it right that you're likely to have been on one of
 18 those? It's gone to technical services --
 19 A. Yes.
 20 Q. -- business development ...
 21 A. I would have been on the technical services one.
 22 Q. Yes. Do you remember getting this email, receiving it
 23 at the time?
 24 A. It's not one that rings a bell, no, no.
 25 Q. It doesn't ring a bell?

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1 A. No.
2 Q. So he's saying there "GREAT NEWS!" about the Local
3 Authority Building Control approval, and we can see at
4 the bottom of the page that he's highlighting in the
5 certificate certain wording, including the words in
6 bold: "material of limited combustibility". Do you see
7 that?
8 A. Oh, yeah. Yeah. Yeah.
9 Q. And you're saying you can't remember getting that email?
10 A. No, no. It's 11 years ago, you know.
11 Q. Do you remember it being celebrated within Kingspan that
12 this LABC certificate had been issued?
13 A. I know they were happy with getting an additional
14 approval, yeah, yeah. No, yeah.
15 Q. Were you happy with it, as someone in the technical
16 department?
17 A. I wasn't a big fan of the LABC approvals because they
18 didn't really say a lot in them. But, you know, it
19 wasn't something I dealt with, had much involvement
20 with, so I didn't give it a great deal of thought.
21 SIR MARTIN MOORE-BICK: It didn't trouble you that it was
22 misleading?
23 A. Well, I suppose perhaps I -- you know, because I knew
24 the full details, maybe I looked at the information
25 a bit differently to someone who wasn't, and was coming

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1 at it as just reading that document. I suppose I sort
2 of maybe read it differently because I knew the
3 surrounding information and things like that. But yeah,
4 maybe that was a ... you know, a little bit of a jump
5 perhaps. But yeah.
6 SIR MARTIN MOORE-BICK: Well, I mean, I'd quite like to
7 understand this. Did you think it was misleading or
8 not?
9 A. It didn't mislead me, no.
10 SIR MARTIN MOORE-BICK: No, no, that's not the question
11 I asked.
12 A. Yeah.
13 SIR MARTIN MOORE-BICK: Did you think it was misleading --
14 A. Well, yes, I said --
15 SIR MARTIN MOORE-BICK: -- in the sense that it was liable
16 to mislead someone who didn't have the same degree of
17 technical knowledge that you had?
18 A. It's a possibility, looking back, yeah.
19 SIR MARTIN MOORE-BICK: Did you think it was responsible for
20 you or Kingspan generally to send this out to people who
21 didn't have the same degree of technical knowledge?
22 A. It certainly would -- I suppose in that way, yeah, it
23 would have needed some additional explanation if you
24 were going to use it, yeah.
25 SIR MARTIN MOORE-BICK: All right.

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1 MS GRANGE: You've admitted sending it out.
2 A. Yeah.
3 Q. Are you saying that every time you sent it out, you did
4 include some additional explanation caveating that
5 statement?
6 A. I -- because of the timescales, I don't remember every
7 single email I've sent. So, no, I couldn't say.
8 Q. I just want to deal with a few emails now which are
9 relevant to the lapse of that system approval.
10 A. Yeah.
11 Q. If we can go to {KIN00005552/1} and I want to look at
12 the bottom email on page 2 {KIN00005552/2} first. It's
13 from Martin Taylor of the LABC to Justin Davies within
14 Kingspan. Do you see that there?
15 A. Yeah.
16 Q. Sent on 14 September 2011 at 11.53.
17 A. Yeah.
18 Q. We can see that Martin Taylor is obviously, in this
19 email, responding to queries raised by Justin Davies
20 about the LABC registered details certificates.
21 A. Yeah.
22 Q. Now, those LABC registered details certificates replaced
23 the earlier system or type approval certificates,
24 didn't they?
25 A. Yes.

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1 Q. Yes.
2 If we go up the next email in the same chain, at the
3 top of page 2 {KIN00005552/2}, we can see on the same
4 day Martin Taylor's email is forwarded to you at 12.09
5 on 14 September 2011?
6 A. Yeah.
7 Q. Then if we move up again to the bottom of page 1
8 {KIN00005552/1}, we can see that on 29 September 2011
9 that Tony Millichap writes to Ivor Meredith saying this.
10 He says:
11 "This is another project to be tracked, Gareths
12 list. It required a team meeting to progress."
13 Do you see that there?
14 A. Yeah.
15 Q. Can you help us: what was "Gareths list"? I mean, that
16 appears to be referring to you.
17 A. Yeah.
18 Q. You're the only Gareth that crops up on these emails.
19 A. I'm not sure, no, no.
20 Q. We then see, after that email where Tony Millichap is
21 saying it needs to go on Gareth's list, or a project to
22 be tracked on Gareth's list, we can see at the top of
23 that page, a year later -- so this is now
24 September 2012, on from September 2011 --
25 A. Yeah.

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1 Q. -- that Ivor emails you saying:
 2 "Hi Mate,
 3 "Whats the status of this project was it done?"
 4 A. Yeah.
 5 Q. Do you see that there?
 6 A. Yeah.
 7 Q. By then, the September 2012 LABC system approval had
 8 lapsed.
 9 A. Yeah.
 10 Q. Yes? That's right, isn't it?
 11 A. Yeah.
 12 Q. Then if we can go now to {KIN00005562/3}. I want to
 13 look at Mr Meredith's email of 19 October 2012, sent at
 14 13.22, to you, Joel Clarke and Andrew Pack, and he's
 15 copied in Tony Millichap and others. The subject is
 16 "LABC for K15", and he writes in the first paragraph:
 17 "With regards to trying to get something out of the
 18 LABC to replace our old (out of date?) LABC K15 type
 19 Approval can I ask who is planning to take this on?"
 20 Then he says this :
 21 "As Wintech are now aware our LABC document is not
 22 valid anymore we are coming up against all sorts of
 23 issues which will inevitably mean we are going to [lose]
 24 a lot of work."
 25 Do you see that there?

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1 A. Yeah.
 2 Q. Now, pausing there, were you aware at the time that
 3 Wintech were on to the fact that the lapse of the
 4 certificate meant there was an absence of evidence for
 5 why K15 was on tall buildings? Do you remember being
 6 aware of that, and the Wintech concerns at this time?
 7 A. I was aware that Wintech had raised a number of queries
 8 with the department, yeah.
 9 Q. If Wintech hadn't noticed it, was Kingspan planning to
 10 continue to rely on an LABC certificate that was no
 11 longer valid? Can you help us on that?
 12 A. I wouldn't have thought so, no, because if it's lapsed,
 13 then it wouldn't be something you could use.
 14 Q. I see.
 15 Then if we go on to paragraph 3 of his email, he
 16 says:
 17 "There are several very big projects that I believe
 18 are going to come unstuck because we no longer have this
 19 information therefore it's important we understand how
 20 much and how long it will take to get a replacement.
 21 I appreciate we may need some further test work and the
 22 replacement may not be as useful as the previous version
 23 however can we ask the question as to how much and what
 24 we need to supply? If we have not already."
 25 Do you see that there?

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1 A. Yeah.
 2 Q. What did you understand him to mean when he said that
 3 the replacement might "not be as useful as the previous
 4 version"?
 5 A. I suppose perhaps, judging from the -- Ivor's previous
 6 email, he sounded like he was going to send it out quite
 7 a bit. So maybe if the wording was different, he may
 8 have had a different opinion on how he would use this
 9 one, yeah.
 10 Q. I see. So did you understand at the time why he was
 11 saying that it might "not be as useful as the previous
 12 version"? Did you understand why he was saying that to
 13 you?
 14 A. Well, I -- I would have -- I had an idea of which bits
 15 he was referring, yes.
 16 Q. Yes, the bit about limited combustibility; yes?
 17 A. Yeah.
 18 Q. Yes.
 19 Then at paragraph 4 he says:
 20 "As the Technical Note and the literature reference
 21 the LABC Approval we need to make a decision as to
 22 whether we should still send out this document or not.
 23 Have we had anything official to advise that it's no
 24 longer relevant?"
 25 Do you see that there?

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1 A. Yeah.
 2 Q. If we look at the next email up in the chain, at page 2
 3 going into page 3 {KIN00005562/2-3}, at 13.48 on the
 4 same day, 19 October 2012, you reply and you say this,
 5 at the very bottom of that page. You say:
 6 "I'm in contact with LABC regards updating this,
 7 I've been in contact with LABC headquarter regards
 8 moving the project forward, and am just waiting for them
 9 to check with the various local authorities to see when
 10 each would be able to fit the update in."
 11 A. Yeah.
 12 Q. Do you see that there?
 13 Does that mean that you then took responsibility for
 14 this project after that point?
 15 A. Not definitely, no, no. But it sounds like I had made
 16 some contact with them to regards getting a quote or
 17 a project proposal from them. But yeah, I ...
 18 Q. I see. Well, we're going to go to some emails that you
 19 send about this, but I wanted to check whether you saw
 20 yourself as taking responsibility for this moving
 21 forwards.
 22 A. Yeah, I don't remember it well, but -- no, but it looks
 23 like I certainly started getting some quotes for the --
 24 for the approval, by the looks of it, yeah.
 25 Q. Then you ask Andrew Pack, in that same email -- you can

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1 see the last line -- you say:
 2 "Andy -- With regards to the original approval,
 3 which local authority was this produced with, was it
 4 Herefordshire?"
 5 Do you see that?
 6 A. Yeah.
 7 Q. Why would you want to know that?
 8 A. Just because they would already have some of the
 9 supporting information. So it may be quicker to
 10 probably do an update with them rather than start from
 11 scratch.
 12 Q. Right.
 13 At this point, were you aware that there had been
 14 complaints about the original wording of the LABC
 15 certificate?
 16 A. To who, sorry?
 17 Q. Complaints to Kingspan about the original wording of the
 18 certificate or complaints to the LABC.
 19 A. I don't remember seeing the complaints, or certainly the
 20 LABC, I don't remember them sharing with me, no, no.
 21 Q. Okay.
 22 If we could move now to {KIN00005571/1} and we start
 23 on page 3 {KIN00005571/3}. This is an email from you on
 24 10 January 2013 at 10.12, and in the first paragraph you
 25 say this:

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1 "Personally, I don't think we can rely on getting
 2 any greater scope of approval from the LABC given the
 3 complaints they received following the issue of their
 4 original certificate, and only having the same data
 5 available (who's acceptance at all is in question due
 6 to its age)."
 7 Do you see that?
 8 A. Yeah.
 9 Q. So you're referring there very clearly, on
 10 10 January 2013, to complaints that the LABC received
 11 following the issue of their original certificate. Do
 12 you see that there?
 13 A. Yeah.
 14 Q. Does that help you?
 15 A. It looks then perhaps they might have mentioned it
 16 during some phone call when I was enquiring about the
 17 quote then, by the looks of it, yeah, yeah.
 18 Q. Does that help you recall now what complaints the LABC
 19 had had about that original certificate? What's the
 20 thrust of those complaints?
 21 A. I -- I don't know. I -- to be honest, I don't have any
 22 recollection of them actually sending me the complaints
 23 or giving me full details of it, no.
 24 Q. You can't even tell us now what the thrust of the
 25 complaints was?

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1 A. I don't know for definite. I would assume that because,
 2 looking at that, they'd made some enquiry about the
 3 BS 8414 report or something, it looks like may have
 4 related specifically to that section. But they didn't,
 5 not that I'm aware, send or give me the details of the
 6 complaints, no.
 7 Q. I see. But you certainly do seem to be aware at this
 8 point that there were complaints and that realistically
 9 you're not going to be able to get a greater scope of
 10 approval only having the same data available; that's
 11 right, isn't it?
 12 A. Yeah.
 13 Q. Can you remember whether anyone else within Kingspan was
 14 aware of complaints being made to the LABC?
 15 A. I don't know on that. There's -- obviously there's the
 16 people I've mentioned I've sent that email to, but who
 17 would then -- but yeah, I don't know offhand, no.
 18 Q. If we go now to {LABC0001807/1}, we can see that on
 19 24 January 2013 you send the LABC's completed assessment
 20 to David Ewing and Cathal Brennan of the LABC. Do you
 21 see that there? It's about "Kooltherm K15", in the
 22 subject of the email, "LABC Approval/Registered
 23 Details", and the attachment is an "Application Pack
 24 Registered Details Application form", March 11.
 25 A. Okay, yeah.

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1 Q. Then you say in the first lines:
 2 "Please find attached a copy of the completed
 3 application form" --
 4 A. Yeah.
 5 Q. -- "regards producing the registered details for our
 6 Kooltherm K15 product."
 7 A. Yeah.
 8 Q. You say:
 9 "I've included a copy of the latest literature for
 10 this product to give an overview of the application into
 11 which this product is typically used."
 12 A. Yeah.
 13 Q. Then you say:
 14 "With regards to undertaking the assessment, the
 15 original assessment was undertaken with Herefordshire
 16 LABC, and due to their location close to our office it []
 17 would be preferred to undertake this updating process
 18 with them as well, as this makes any required meeting
 19 discussion etc., easy to accommodate."
 20 A. Okay.
 21 Q. Then you go on about invoicing for work.
 22 A. Yeah.
 23 Q. You appear at this point to send them one document,
 24 which is the ninth issue of Kingspan's product
 25 literature for K15; is that right?

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1 A. Yes. Yeah, that's listed as an attachment, yeah.
 2 Q. That's what's attached, yes.
 3 Then if we can turn to {KIN00005647/1}, we can see
 4 that draft copies of the new registered details
 5 certificate and associated documents were then sent to
 6 you for comment. Let's have a look. So
 7 {KIN00005647/1}.
 8 So Cathal Brennan at the LABC is sending you
 9 documents for comment on Friday, 28 June, and he says:
 10 "Hi Gareth,
 11 "The final peer review section of the Registered
 12 Details process has now been completed for the K15
 13 system. Please find attached draft copies of your
 14 registration certificates. If you require any changes
 15 please let me know and I will then arrange for final
 16 copies to be issued."
 17 A. Yeah.
 18 Q. Do you see that there?
 19 A. Yeah.
 20 Q. Can you remember discussing those drafts with anyone
 21 else at Kingspan?
 22 A. They would have been, yes, yeah. So they were probably
 23 sent round to the proofreading, I would imagine.
 24 Q. And discussed with Mr Millichap at that stage?
 25 A. He'd be on that group, yeah.

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1 Q. The terms of that certificate were extremely important
 2 to Kingspan, weren't they?
 3 A. Yeah, yeah, they would have been interested in what it
 4 said, certainly, yeah, yeah.
 5 Q. If we could go on now and look at {LABC0000961/1}, where
 6 you're providing your detailed comments on the draft to
 7 the LABC on 1 August 2013.
 8 A. Mm.
 9 Q. So this is on page 7 {LABC0000961/7}, if we go -- this
 10 is a long email. So there we can see an email you send
 11 at 11.22 on 1 August to Cathal Brennan, and at the start
 12 of that email you write:
 13 "We had a look over the documents and wondered if we
 14 can add some more detail into some of the sections
 15 regards where the product can be used."
 16 Do you see that there?
 17 A. Yeah.
 18 Q. Who would the "we" be relating to there? Is that
 19 Kingspan's technical department or is it technical and
 20 sales department? Who were you writing --
 21 A. I would imagine it was probably the proofreading one,
 22 which had some people from a few of the departments on
 23 it.
 24 Q. I see, yes. So this would have come as
 25 a cross-department set of comments?

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1 A. Yeah.
 2 Q. Then what you do is you go on:
 3 "We would welcome your advise on the most
 4 appropriate sections for including this information,
 5 e.g. if it would go in the 'limitations of use', 'advise
 6 notes' [et cetera] sections ..."
 7 A. Yeah.
 8 Q. "... but a few of the points we would like to cover are
 9 noted below."
 10 Then you say:
 11 "With a number of the items I've include[d] some
 12 notes after the comments in brackets, which we don't
 13 need to include in the final certificate, but I've
 14 included for yourselves as some references to documents
 15 where additional information can be found on the
 16 relevant items if required."
 17 Do you see that there?
 18 A. Yeah.
 19 Q. Then I want to look at point 3, what you've said there
 20 in item 3 on that page. Do you see, in the middle of
 21 the page? You say:
 22 "The product can be used on buildings with stories
 23 greater than 18m ..."
 24 A. Yeah.
 25 Q. Can we note how you've spelt "stories" there, in that

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1 line.
 2 "The product can be used on buildings with stories
 3 greater than 18m ..."
 4 A. Yeah.
 5 Q. "... from ground level provided it is used in
 6 combination with suitably non-combustible substrates and
 7 ancillary components ..."
 8 Then you say:
 9 "... (note -- BS 8414 testing referenced in
 10 section 7.1 of the BBA certificate is noted as meeting
 11 requirements of BRE 135, i.e. alternative compliance
 12 route referenced in Approved document B or Scottish
 13 Technical Handbook)."
 14 A. Yeah.
 15 Q. Do you see that there?
 16 A. Yeah.
 17 Q. So you are suggesting, aren't you, at this point, that
 18 you want the words:
 19 "The product can be used on buildings with stories
 20 greater than 18m from ground level provided it is used
 21 in combination with suitably non-combustible substrates
 22 and ancillary components ..."
 23 Do you see that there?
 24 A. Yes, something sort of along those lines, yeah. I don't
 25 think we've said that that is the exact wording we

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1 wanted putting in; we've just said these are some bits
 2 we want more detail on. But yeah. And we've referred
 3 them to the specific test information, yeah.
 4 Q. I see. Well, we'll see what ends up in the certificate .
 5 But that wording, the only limitation about the use over
 6 18 metres is using it "in combination with suitably
 7 non-combustible substrate and ancillary components"; do
 8 you see that?
 9 A. Yeah.
 10 Q. It's not saying, "can only be used in one specific
 11 configuration which was tested to BS 8414-1", is it?
 12 A. No, the note does go on to refer them to the specific
 13 tested construction, the note after, in brackets.
 14 Q. Yes, but it doesn't tell you in the note, does it,
 15 whether it's 8414-1 or 2?
 16 A. Yeah, but that's in the document that we refer to.
 17 Q. Well, you're referencing section 7.1 of the
 18 BBA certificate there; yes?
 19 A. Yeah, which lists it as BS 8414-1 and lists the full
 20 construction.
 21 Q. But how can you be suggesting at this time that they
 22 should include wording, either this wording or wording
 23 to that effect, given the limited testing you'd done and
 24 given that K15 as a product had changed since then?
 25 A. Haven't we sort of -- we'd -- we've gone over it twice

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1 that we didn't know -- I didn't know that the product
 2 that was tested was different to what we were selling.
 3 We've done -- said that twice already.
 4 Q. I thought you said earlier today that you did know that
 5 there was a change to the K15 technology?
 6 A. Yes, yes. And I'd said at that time as well that they'd
 7 been doing trials beforehand, so I didn't know that the
 8 tested product -- which one it was.
 9 Q. I see.
 10 If we go to point 6, you also say:
 11 "We have two images which we would like to include
 12 within the drawings section if possible, which I will
 13 follow up with shortly. I would have the images
 14 available to send either as bitmap or jpeg format, which
 15 of these is preferable for you."
 16 Do you see that? We're going to go to those images
 17 in a moment.
 18 A. Yeah.
 19 Q. If we go then to the top email in the chain on page 1
 20 {LABC0000961/1}, we can see that after a number of
 21 further emails, you confirmed to the LABC on
 22 28 August 2013 that Kingspan are content with the draft
 23 certificate and the documents.
 24 A. Yeah.
 25 Q. Do you see that there?

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1 A. Okay, yeah.
 2 Q. Had you checked the final draft with anyone by that
 3 point? Would you have been checking the drafts all the
 4 way through with others in Kingspan?
 5 A. Yeah, yeah, those wouldn't -- it wouldn't have been just
 6 me looking at them, no.
 7 Q. Let's go now to the certificate which was issued
 8 following your detailed suggestions. It's at
 9 {KIN00009546/1}.
 10 We can see there on that page, looking at the bottom
 11 of the page, that it's dated 28 August 2013 and it's
 12 signed on behalf of the LABC: it's signed by
 13 Barry Turner of the LABC. Do you see that?
 14 A. Yeah.
 15 Q. The expiry date is given -- there's a "Valid until" date
 16 just above that -- of 28 August 2014; do you see that
 17 there?
 18 A. Yeah.
 19 Q. If we can go now to {KIN00009547/1}. This is the
 20 drawing and documents list for the certificate .
 21 We can see there, in the "Supporting Documentation
 22 Reference Numbers" -- do you see that, three lines down?
 23 A. Yeah.
 24 Q. So this is the supporting documentation which is listed
 25 for the certificate .

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1 We've got three documents: the "Herefordshire
 2 Council Type Approval Summary"; yes?
 3 A. Yeah.
 4 Q. That's from the original LABC certificate .
 5 The "Ninth Issue 2011 Kingspan publication", that's
 6 your marketing literature; yes?
 7 A. Yeah.
 8 Q. Then we've got the "[28th (sic)] Oct 2008
 9 [BBA] Certificate".
 10 A. Yeah.
 11 Q. So that's the original BBA certificate, isn't it, the
 12 first one?
 13 A. Could have been, yeah, yeah. The certificate numbers
 14 stayed the same all the way through, until they went to
 15 a group one after I had left the company. And that
 16 date, I suppose -- I don't know for definite, because
 17 they list that on the cover of all the certificates and
 18 then put a re-issue date underneath it, on the more
 19 recent issues. So that date would have been on the
 20 newer ones as well.
 21 So it's possible. I can't remember which version
 22 they had, to be honest. But ...
 23 Q. I see. Well, I mean, on the face of it there, it's
 24 saying "27th Oct 2008" --
 25 A. Yeah.

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1 Q. -- it's not saying --
 2 A. Yeah. No, it doesn't list which issue specifically --
 3 Q. No. Because by that point, by July 2013, there was
 4 an amended issue of that certificate, wasn't there?
 5 A. Yes -- yeah, yeah. I think so, yeah. I can't
 6 remember --
 7 Q. Can we agree there's no test data, there's no test
 8 reports listed there, are there?
 9 A. No.
 10 Q. No.
 11 The amended issue of the BBA certificate by that
 12 stage said that K15 had been tested to 8414-1 for one
 13 specific construction on masonry walls; do you remember?
 14 We've looked at that earlier.
 15 A. Yeah.
 16 Q. But you can't help us now as to which version you sent?
 17 A. I don't know, no. I don't -- yeah, I don't know
 18 offhand, no, no. We're looking sort of -- we're looking
 19 at this about ten years ago. So I don't know what
 20 attachment was on the email, no.
 21 Q. But that was the version that ought to have been sent,
 22 wasn't it, the up-to-date version?
 23 A. Yeah, so we had a folder with all the current
 24 certificates in it. So I'd imagine whenever the email
 25 was sent, it would have been the one which was the more

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1 recent one at the time, yeah.
 2 Q. Yes.
 3 A. And also it's listed on the -- you know, it's on the BBA
 4 website as well, the current ones, as well, which are
 5 publicly available, which is the latest document.
 6 Q. Yes.
 7 If we could go now to appendix A of the certificate.
 8 This is {KIN00009547/2}. Sorry, actually it's the same
 9 reference. Page 2 of this document. We've got this
 10 appendix A, do you see that there, which is attached to
 11 the certificate?
 12 A. Yeah.
 13 Q. Here, if you look at point 3 -- well, if you look at all
 14 these points, what we can see is they have literally
 15 been cut and pasted into this LABC document. So if we
 16 look at point 3:
 17 "The product can be used on buildings with stories
 18 greater than 18m from ground level provided it is used
 19 in combination with ..."
 20 Do you see that there?
 21 A. Yeah.
 22 Q. They've cut and pasted, including your misspelling of
 23 the word "storeys". Do you see that?
 24 A. Right.
 25 Q. It's spelt I-E-S, not E-Y-S. Do you see that?

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1 A. Right.
 2 Q. So your wording has gone straight through into this
 3 annex to the certificate.
 4 The two images that you attached for inclusion are
 5 on page 3 {KIN00009547/3} of this document.
 6 A. Yeah.
 7 Q. Do you see that? "Steel Frame", "Terracotta Tile".
 8 A. Yeah.
 9 Q. Do you see that there?
 10 A. Yeah.
 11 Q. So we've got a steel frame, terracotta structure.
 12 Now, at this point K15 had never been tested to
 13 BS 8414 in a system where the outer cladding was
 14 terracotta tiles, had it?
 15 A. No.
 16 Q. Kingspan also had no test data to BS 8414-2 showing that
 17 it passed with a steel-frame structure with K15, did it?
 18 A. No.
 19 Q. No. Did you think it was appropriate for those pictures
 20 to be included?
 21 A. Well, they're out of the product brochure, because this
 22 and the brochure didn't specifically just cover
 23 buildings above 18 metres.
 24 Q. But do you agree that used in combination with that
 25 wording that we saw earlier in the certificate at

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1 point 3 --
 2 A. The bracket have to do -- specifically relate -- they
 3 reference the person to the particular construction and
 4 test data.
 5 Q. Sorry, if I can just finish my question. Do you agree
 6 that used in combination with that wording about "can be
 7 used above 18 metres", that it's suggesting that you can
 8 use K15 in steel-frame structures over 18 metres?
 9 A. No, not specifically, no.
 10 Q. You don't accept that?
 11 A. No.
 12 Q. But there's no qualification, is there, on these
 13 pictures? We don't see a qualification saying, "Steel
 14 frame, but by the way not above 18 metres, we haven't
 15 tested it to that and it's not safe to use it for that",
 16 is there?
 17 A. Not on those pictures, no.
 18 Q. No.
 19 A. There is -- there is some reference in the section about
 20 the 18-metre thing saying to the build-up that was
 21 tested.
 22 Q. Well, we've seen what the wording was that was added in,
 23 and it was the wording you suggested. If we go back to
 24 it, one page up {KIN00009547/2}, at point 3.
 25 A. Yeah.

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1 Q. It's even got your note included. That there doesn't
 2 say "BS 8414-1 testing", does it?
 3 A. No.
 4 Q. No.
 5 A. But it refers to the section in the BBA certificate that
 6 has the full test standard and the build-up.
 7 Q. Yes, and it talks again about meeting the requirements
 8 of BRE 135, and we've talked about that before, haven't
 9 we? There was no further BR 135 classification; there
 10 never was one, was there?
 11 A. No, but it doesn't say there was one. It says it met
 12 the requirements; it doesn't say there was
 13 a classification report from the BRE.
 14 Q. I appreciate that. But there's no classification report
 15 from anybody -- it doesn't matter about the BRE --
 16 saying that it met all of the pass criteria in BR 135,
 17 is there? Kingspan never had such a document, did it,
 18 about the 2005 --
 19 A. It did -- I suppose --
 20 Q. Not at this point? It didn't --
 21 A. I'm not aware of them doing anything external, no.
 22 Q. No.
 23 A. No. But they may have -- I was under the impression
 24 they had checked it internally, that it met the
 25 requirements.

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1 Q. That reference to "section 7.1 of the BBA certificate",
 2 do you see that there?
 3 A. Yeah.
 4 Q. If that's section 7.1 of the original BBA certificate,
 5 where it was at section 7 rather than section 8 ...
 6 sorry.
 7 If we go to section 7.1 of the updated version of
 8 the BBA certificate, {BBA0000037/5}. Let's go to the
 9 front page of {BBA0000037/1}. That's the updated
 10 version of the BBA certificate.
 11 A. Yeah.
 12 Q. And we go to section 7.1 of that {BBA0000037/5}. Do
 13 you see there there's no reference to testing to BS 8414
 14 in that section, is there?
 15 A. Yeah, looking at that, yeah, it looks like -- sorry,
 16 when did that one come out? So it looks like that
 17 should have been updated to 7.5.
 18 Q. Yes. In this updated version, the details of the system
 19 tested have been moved to section 7.5, below that; do
 20 you see that?
 21 A. Yeah.
 22 Q. Do you remember spotting that at the time?
 23 A. No, no.
 24 Q. Now, I want to take you now to paragraph 88 of your
 25 witness statement, moving slightly in terms of topics.

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1 It's on page 22 {KIN00022329/22} of your statement.
 2 It's about seven lines down in that.
 3 You say -- it's kind of in the middle there, just
 4 above the middle. It begins:
 5 "In response to the question of ..."
 6 Do you see that? You say:
 7 "In response to the question of whether there were
 8 ever any difficulties or disagreements between Kingspan
 9 and the BRE, I was told that an issue had arisen when
 10 the BRE carried out one of the BS 8414 tests in 2005.
 11 A colleague at Kingspan, who was responsible for
 12 arranging the test, had made it known internally that
 13 there had been some misunderstanding regarding the scope
 14 of approval within the BS 8414 testing report."
 15 Then you say:
 16 "Essentially, prior to the receiving the report, it
 17 was anticipated that this would cover all
 18 non-combustible cladding panels whereas, when it
 19 arrived, it only covered the use of one specific type of
 20 non-combustible cladding panel which was a cement
 21 particle board. I believe that it may have been
 22 Ivor Meredith who told me this as he helped plan and
 23 arrange the test."
 24 Do you see that there?
 25 A. Yeah.

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1 Q. Now, can you help us as to when you were told about that
 2 misunderstanding with the BRE and that they had decided
 3 that you couldn't use that test for all non-combustible
 4 cladding panels?
 5 A. Well, they didn't specifically -- the BRE didn't tell me
 6 anything. I had -- didn't have any contact with the BRE
 7 in relation to this. It was --
 8 Q. No, I appreciate that.
 9 A. It was an internal conversation.
 10 Q. I appreciate that. When were you told internally within
 11 Kingspan? You think that it was Mr Meredith.
 12 A. Yeah.
 13 Q. Can you recall roughly when you were told that?
 14 A. Well, it probably would have been somewhere around that
 15 test time that I was told that they were expecting to
 16 have something different written in the test reports,
 17 and they didn't get it.
 18 Q. That test report arrived on 9 December 2005.
 19 A. Yeah.
 20 Q. The test had been done in May 2005.
 21 A. Yeah.
 22 Q. Does it follow from what you've just said, that it was
 23 sometime around when that report was issued, that it was
 24 likely to be in late 2005 or early 2006 that Mr Meredith
 25 told you about this misunderstanding with the BRE?

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1 A. It could have been, yes. It's possible.
 2 Q. Do you remember just hearing this verbally from him or
 3 did you get anything in writing, do you recall?
 4 A. I would imagine it's probably just verbally, yeah.
 5 Q. Can you remember what his reaction had been to that?
 6 A. No, no.
 7 Q. No.
 8 If it was understood by you at some time in 2005,
 9 late 2005 or early 2006, that the one BS 8414 test
 10 report that Kingspan had could not cover all
 11 non-combustible cladding types and could only apply to
 12 the specific cladding type used in the test, can you
 13 explain why none of the literature for K15 that we've
 14 looked through actually says that?
 15 A. Well, specifically, yeah, I only said that the scope --
 16 the test report covered a smaller range of approval than
 17 he was expecting to get. So I didn't discuss all the
 18 reasons behind it and what ...
 19 And also on the literature, the literature covers
 20 all heights of building, so it covers situations where
 21 BS 8414 is not relevant. So that's why it covers
 22 various different constructions which haven't been
 23 tested, yeah.
 24 Q. Can you help us as to why all of the Kingspan's
 25 marketing literature uses the generic wording

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1 "non-combustible cladding" in relation to that test to
 2 8414? We can see that if we go to {KIN00003545/1}.
 3 A. I don't know specifically with regards to the literature
 4 offhand. I would imagine it's come -- may have been
 5 similar source to -- like the email that you showed from
 6 Phil about the substrate. So it may have been a similar
 7 sort of -- something similar to that. But I don't know
 8 specifically.
 9 Q. If we look at page 6 of this {KIN00003545/6}, we've
 10 got -- sorry, on page 1 {KIN00003545/1}, this is the
 11 March 2011 version of the Kingspan literature.
 12 A. Yeah.
 13 Q. We know that this stayed in circulation until 2016. And
 14 we can see there it says, on that bullet point three
 15 bullets down:
 16 "Successfully tested to BS 8414: 2002 ..."
 17 It doesn't tell us part 1 or part 2, does it?
 18 A. No.
 19 Q. "... and can meet the criteria within BR135 and is
 20 therefore acceptable for use above 18 metres"
 21 Do you see that?
 22 A. Yeah.
 23 Q. That's misleading, isn't it, looking at that?
 24 A. Yeah, it's not got the full picture there in that
 25 sort of summary, no.

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1 Q. Yes. You were part of the proofreading team, were you
 2 not --
 3 A. Yeah.
 4 Q. -- throughout those years?
 5 A. Yeah.
 6 Q. Did you ever pick up on that?
 7 A. I can't remember exactly what comments I'd sent on all
 8 the brochures, no. I don't recall that, no.
 9 Q. Do you remember ever saying, "We can't say that on the
 10 front of our literature because it's not acceptable in
 11 all circumstances for use above 18 metres"? Do you
 12 remember that?
 13 A. I don't -- I don't remember what comments I've sent on
 14 the literature, no.
 15 Q. If we go to page 6 {KIN00003545/6} of this, under the
 16 heading "Construction", do you see -- it's on the
 17 right-hand side. The whole column is dealing with "Fire
 18 Performance"; do you see that there?
 19 A. Yeah.
 20 Q. That's it. And under the heading "Construction", it's
 21 saying:
 22 "6 mm non-combustible cladding ..."
 23 A. Yeah.
 24 Q. Do you see that there?
 25 A. Yeah.

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1 Q. Can you help us as to why it's been described as
 2 "non-combustible cladding", not building board, cement
 3 particle board, fibre cement board?
 4 A. No. So it would have been like the marketing director
 5 and manager who would have been primarily deciding what
 6 was in the literature, so they'd be your best -- best
 7 ones to answer that.
 8 Q. I see. Again, as part of the proofreading team, that's
 9 not something you ever picked up on or queried with your
 10 superiors?
 11 A. I don't -- again -- again, yeah, I don't remember what
 12 comments I'd sent on all the literature. So, no,
 13 I can't say definitely either way, no.
 14 Q. Then "Result", on the right-hand side:
 15 "The tested product meets the criteria stated within
 16 BRE 135 ... and is therefore acceptable for use above
 17 18 metres in accordance with the Building
 18 Regulations/Standards."
 19 That's misleading as well, isn't it?
 20 A. It's probably -- it is probably not as descriptive as it
 21 should be, no, no. No, probably you could put more
 22 information in it, yeah.
 23 Q. Now, I want to move on to another topic, and this will
 24 be the final big topic I'm going to come to today, but
 25 I'm going to look at a number of examples, which is of

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1 technical advice that you gave on specific projects .
 2 A. Yeah.
 3 Q. At paragraph 13 of your witness statement -- for the
 4 transcript , that's on page 5 {KIN00022329/5} -- you tell
 5 us that the technical department would advise customers
 6 about Approved Document B and the alternative route to
 7 compliance --
 8 A. Yeah.
 9 Q. -- through BS 8414; that's right, isn't it?
 10 A. Yeah.
 11 Q. Would it be fair to say that advising on the use of K15
 12 on buildings over 18 metres was a substantial part of
 13 your own work at Kingspan in the technical department?
 14 A. Not a substantial part, no.
 15 Q. No? How would you describe it, in terms of a proportion
 16 of your work?
 17 A. It would be a relatively low amount of it, just because
 18 there were generally larger projects and a number of
 19 them were not as big as the smaller projects .
 20 Q. I see. Just as an approximate figure, roughly how many
 21 buildings do you think you advised on?
 22 A. I couldn't say, to be honest, no. I can't remember from
 23 that long ago now.
 24 Q. Well, I'm going to take you to some of that .
 25 Do you accept that you did personally advise clients

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1 on the use of K15 in buildings over 18 metres in height?
 2 A. I would have sent some responses to customers on
 3 projects like that, yes.
 4 Q. Yes.
 5 A. Yeah.
 6 Q. Can we go to {KIN00018368/1}. Now, this is a very dense
 7 email, I'm afraid, and the subject -- this is all we
 8 have of it. This is the version that's been disclosed
 9 to us.
 10 It just says "Subject", at the top,
 11 "Athletes Village ". Do you see that there?
 12 A. Yes.
 13 Q. "... Kingspan foil faced insulation specifications
 14 (Kooltherm K15 ... K8 ...)"
 15 Do you see that there?
 16 It would appear, and we'll see from the first few
 17 lines of this, that this was about the Athletes' Village
 18 project in Stratford . Was that the Olympic Village in
 19 Stratford , do you remember?
 20 A. It would sound as if it is, yes.
 21 Q. Yes. We can see your name at the end of this on page 2
 22 {KIN00018368/2}, if we go to that now.
 23 A. Yeah.
 24 Q. Do you see there you've got:
 25 "with regards.

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1 "For Kingspan ...
 2 "Gareth Mills"
 3 Do you see that?
 4 A. Yeah.
 5 Q. If we go back up then to the top of this email
 6 {KIN00018368/1}, you say:
 7 "Further to our telephone conversation yesterday
 8 regards the specification for a number of the products
 9 which have been investigated for use on the
 10 Athletes Village project in Stratford we can confirm the
 11 following."
 12 Do you see that there?
 13 A. Yeah.
 14 Q. Now, do you think you wrote this email? Is it likely
 15 you wrote this email?
 16 A. It would look as if it is, yeah.
 17 Q. Yes. Do you remember writing it?
 18 A. No, no.
 19 Q. You say at line 3 there, "we can confirm the following",
 20 after you've done some investigations. Then you say in
 21 the next paragraph, it's the second paragraph down:
 22 "The product put forward by ourselves initially was
 23 the Kooltherm K15, this product is a rigid thermoset
 24 phenolic insulation core with reinforced foil facings .
 25 As noted in some of our previous correspondence this

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1 product is commonly used in high rise buildings with
 2 external cladding systems, and as such we have tested
 3 this product to BS 8414, the results to this test were
 4 assessed against the criteria stated in BR 135 and met
 5 these requirements."
 6 Then you go on, you say:
 7 "As described in our previous correspondence this
 8 testing standard and assessment criteria for the results
 9 are based primarily around the use of lightweight
 10 external insulation and cladding systems (such as or
 11 insulation behind ventilated rainscreen panels or
 12 externally insulated render systems), and the
 13 Kooltherm K15 was tested with a ventilated cavity
 14 between the insulation and a lightweight external
 15 cladding board."
 16 A. Yeah.
 17 Q. "Due to the robust sealed concrete outer skin in your
 18 system, usually at least 150mm in thickness) and the
 19 fact that any cavities adjacent to the Insulation
 20 (between the insulation and internal lining) are
 21 non-ventilated would make an application using your
 22 system, much less extreme than the [system] tested with
 23 the K15 product to BS 8414."
 24 Then you go on:
 25 "A copy of the ... BBA certificate , which includes

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1 confirmation of the test construction and results in
 2 section 7.1 on page 5 ... has been included for
 3 information."
 4 Then:
 5 "The two other products which have been
 6 discussed ..."
 7 Do you see that there?
 8 A. Yeah.
 9 Q. So you're saying there in that email -- I'm sorry it's
 10 so dense, it's quite hard to read on the page -- that
 11 K15 is "commonly used in high rise buildings with
 12 external cladding systems", and as such you've tested it
 13 to 8414; do you see that there?
 14 A. Yeah, yeah.
 15 Q. So K15 was clearly being suggested for the over-18-metre
 16 market here, wasn't it? It was suggested that it was
 17 "commonly used" in such --
 18 A. It has been over the years, yeah.
 19 Q. And you're specifically referring to that there, aren't
 20 you?
 21 A. Yes.
 22 Q. Do you agree that that kind of wording, it's "commonly
 23 used in high rise buildings", would, at the least, have
 24 caused others to believe that K15 as a product had been
 25 tested to the right test standards and could be used in

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1 buildings over 18 metres in height?
 2 A. It doesn't specifically list any building height there
 3 in that statement. It just says "high rise"; it doesn't
 4 say specifically over 18 metres. But there were
 5 certainly -- I suppose some of the ones it's been used
 6 in historically have been over that height, yeah.
 7 Q. You go on in your email to say that K15 was tested with
 8 a "lightweight ... cladding board".
 9 A. Yeah.
 10 Q. What test are you referring to there?
 11 A. That would be the -- well, there was only the one test.
 12 Q. Yes. Why are you referring to it as a "lightweight ...
 13 cladding board", rather than a building board or
 14 a cement particle board or a fibre cement board?
 15 A. It's because the construction that's being discussed on
 16 this project is a different type of construction that
 17 uses a sealed concrete outer panel. So it -- so we're
 18 sort of referring to the difference in fire resistance
 19 of the outer part of the construction. Because this is
 20 a sealed heavyweight construction on the outside, we've
 21 got 150 mil of concrete protecting the insulation
 22 compared to a small building board, just to illustrate
 23 the difference in fire resistance of those two
 24 components.
 25 Q. But on what basis did you consider yourself to be

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1 qualified to compare and contrast the build-up in
 2 an 8414 test with what someone is proposing to put on
 3 their building?
 4 A. I'm not referring to the 8414 test. I'm just saying
 5 that 150 mil of concrete is more fire resistant than
 6 a 6 mil building board.
 7 Q. But you are referring to the 8414 test in this email.
 8 You say what you tested --
 9 A. Well, we say that the K15 -- we said that K15 was tested
 10 with that building board, and then we say that the
 11 150 mil concrete that you use would be more
 12 fire-resistant than this lightweight building board.
 13 Q. Yes, but the point I want to put to you is: you don't
 14 have any qualifications to be able to extrapolate from
 15 an 8414 test to a building construction in another tall
 16 building, do you, or did you at that time?
 17 A. Well, we've not said that we're extrapolating 8414
 18 results. We've just said that the outer cladding has
 19 greater fire resistance.
 20 Q. Well, you've used the words --
 21 A. And we would say that --
 22 Q. You said:
 23 "... [it] would make an application using your
 24 system, much less extreme than the situation tested with
 25 the K15 product ..."

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1 So you're making that comparison in this email.
 2 You're not saying, "This is what we have tested; over to
 3 you whether that means you can use it". You're not
 4 saying that, are you?
 5 A. But -- well, we're saying, yeah, there's less exposure
 6 when you've got sealed concrete 150 mil thick protecting
 7 the insulation from exposure to fire, saying that that
 8 is a different situation to a ventilated cavity with
 9 a lightweight cladding board. The fact that the tests
 10 say that when you have a sealed masonry leaf on both
 11 sides, so that you don't even have to do the test
 12 because it's a lot less extreme, would sort of indicate
 13 that to be the case.
 14 Q. Did you read the BRE's 8414 test report for the test
 15 carried out on 31 May 2005?
 16 A. I would have at the time, yeah, yeah.
 17 Q. Did you understand that at the time it was not
 18 considered to be a representative test of a real-life
 19 cladding system?
 20 A. I knew that the cladding panel was not the most common
 21 one, you know, not -- there were sort of certainly
 22 cladding panels which, you know, were more commonly
 23 used. So that was one of the issues I'd referred to in
 24 some of the statement, where there had been discussions
 25 about what cladding panel to use and some differences on

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1 what was written in the test report. So I believe
 2 that's where some of that issue arose which we referred
 3 to a little while ago, yeah.
 4 Q. Did you or anyone else at Kingspan check this type of
 5 advice with any external expert or fire engineer before
 6 sending it out?
 7 A. On this, I would say it probably wasn't checked with
 8 anyone external, no.
 9 MS GRANGE: No.
 10 Mr Chairman, I think that's a good moment for
 11 a break. I'm going to go to some more examples on
 12 different projects after the break.
 13 SIR MARTIN MOORE-BICK: Yes.
 14 Just before we break, can you help us a little more
 15 with the nature of the construction that you say was
 16 under consideration --
 17 A. Yes.
 18 SIR MARTIN MOORE-BICK: -- when you wrote this. You say
 19 there was a thick concrete outer skin?
 20 A. Yeah.
 21 SIR MARTIN MOORE-BICK: And then a cavity?
 22 A. No, then the insulation directly on the inside of that.
 23 So it was a sealed concrete outer skin 150 mil thick --
 24 SIR MARTIN MOORE-BICK: Yes.
 25 A. -- which formed basically the whole outer leaf of the

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1 building.
 2 SIR MARTIN MOORE-BICK: Yes.
 3 A. And then the insulation was fixed against that, and then
 4 there was an independent steel frame which the linings
 5 fixed to. So it's effectively like a solid masonry
 6 wall.
 7 MS GRANGE: But it's a steel-framed system?
 8 A. Well, the steel frame isn't like a structural component,
 9 the insulation isn't fixed to it in this -- it's
 10 a separate lining on this.
 11 Q. It's not a masonry substrate, was it?
 12 A. Well, the insulation is fixed to the masonry.
 13 Q. On the outside, you're saying?
 14 A. Yeah, yeah.
 15 Q. What about on the inside? I think that's what we're
 16 getting at.
 17 A. Yeah, so the inside then, it would be a steel frame and
 18 that, so that -- but the steel frame only spans between
 19 the concrete floors. So you only ever have like
 20 a couple of metres of steel frame just between each
 21 concrete floor to support the plasterboard.
 22 SIR MARTIN MOORE-BICK: Very well. Yes.
 23 All right. Thank you very much. Well, we'll stop
 24 now for a short break. We'll come back at 3.30. Please
 25 don't talk to anyone about your evidence while you're

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1 out of the room. All right?
 2 THE WITNESS: Yeah. Thank you.
 3 (Pause)
 4 SIR MARTIN MOORE-BICK: 3.30 then, please. Thank you.
 5 (3.16 pm)
 6 (A short break)
 7 (3.32 pm)
 8 SIR MARTIN MOORE-BICK: Right, ready to carry on?
 9 THE WITNESS: Yeah.
 10 SIR MARTIN MOORE-BICK: Good, thank you. Yes.
 11 MS GRANGE: Thank you.
 12 So we're going to go to some more examples now of
 13 technical advice that you were giving about the K15
 14 product.
 15 This one is in relation to a building in Scotland.
 16 If we can look at {KIN00005308/1}. It's from 2007.
 17 I want to start at the bottom of page 4 {KIN00005308/4}
 18 and on to page 5 {KIN00005308/5}, right at the end of
 19 this chain.
 20 This is from a lady called Beatrice Bryant of
 21 Hurd Rolland, July 2007, and she says to Alastair Lambie
 22 at Kingspan:
 23 "Thank you for sending this information through."
 24 It's about Kooltherm K15. And she says:
 25 "We are considering specifying this for a 10 storey

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1 project (residential) and our fire consultant has asked
 2 me to ask you to send us a copy of the assessment that
 3 was carried out in accordance with BR 135."
 4 Do you see that there?
 5 A. Yes.
 6 Q. Then up the chain at page 2 {KIN00005308/2}, we see
 7 a response from Ivor Meredith to Alastair Lambie, when
 8 Alastair has asked for some advice on this. It's copied
 9 not to you at this point, to Andrew Pack -- sorry, it's
 10 sent to Andrew Pack as well as Alastair Lambie.
 11 Mr Meredith, we don't need to read all this email,
 12 but he basically says:
 13 "We are a little reluctant to go public with the
 14 actual test information at the moment as this is only to
 15 BS 8414-1 and I suspect this job would be a BS 8414-2
 16 project. At the moment I'm doing vast amounts of work
 17 to produce a very robust situation where Kooltherm K15
 18 can be used on all substrates and with most generic
 19 types of cladding. We appreciate this is a particular
 20 issue in Scotland and over the next 12 months we will be
 21 performing at least 15 large scale tests to ... 8414
 22 with a total cap ex of well over 200k."
 23 Do you see that there?
 24 A. Yeah.
 25 Q. Then if we keep going down this email and look right at

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1 the bottom, you can see he says, right at the end there:
 2 "When your next in come [and] have a chat and I will
 3 show you what I can present if the jobs big
 4 enuff fortunately 9 times out of 10 they accept our
 5 word."
 6 Do you see that there?
 7 A. Yeah.
 8 Q. Then if you go to the top email in this chain on page 1
 9 {KIN00005308/1}, we can see -- well, if we pick it up
 10 one email below that, Alastair Lambie is saying back to
 11 Ivor on 9 October:
 12 "Ivor,
 13 "Below is a copy of [an] email sent to me by
 14 an architect ... information required [by] yourself to
 15 write a letter of suitability of K15 with regards to
 16 fire, as discussed a few months back.
 17 "Please can you urgently respond to this and copy
 18 myself in on anything as this is becoming more of
 19 an issue in Scotland."
 20 Then in the top of that email, we can see from Ivor
 21 to Alastair Lambie and to you this time, on
 22 10 October 2007, Ivor says:
 23 "Alastair,
 24 "I'm out of the office for the next few days.
 25 Gareth is your man for letters like this.

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1 "Gareth please do the honours"
 2 Do you see that?
 3 A. Yeah.
 4 Q. Is it right that you would, from time to time, write
 5 letters of suitability on projects for the K15 product?
 6 A. Possibly, yeah. There would have been some, yes.
 7 Q. Let's go to your letter that you write in this case.
 8 It's at {KIN00009011/1}.
 9 We can see at the top there, to Beatrice Bryant,
 10 Hurd Rolland. It appears to be a draft at this point.
 11 And we can see at the end, if we look at the end of the
 12 letter {KIN00009011/2}, you've signed it there.
 13 Can you recall whether this letter was actually
 14 sent?
 15 A. I don't remember straight off, no, no.
 16 Q. Well, let's look at the draft and go back to page 1
 17 {KIN00009011/1}. So you're saying back to
 18 Beatrice Bryant:
 19 "Further to your recent discussions and
 20 correspondence with our ... [Mr] Lambie regards the
 21 above mentioned project and most appropriate insulation
 22 product for the areas of rainscreen clad wall we can
 23 confirm the following."
 24 Then you say:
 25 "From your e-mail ... it has been indicated that the

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1 intended construction is ... a concrete inner leaf, with
 2 the Kooltherm K15 insulation fixed to the outer surface
 3 of this with an outer weathering surface of a rainscreen
 4 cladding system."
 5 Then it says it's "a CFC/HCFC free rigid phenolic
 6 insulation core", and you're talking then about its
 7 thermal conductivity.
 8 A. Yeah.
 9 Q. Then a little bit further down there, you start to talk
 10 about BS 476-7 and 6 testing; do you see that?
 11 A. Yeah.
 12 Q. Then right at the bottom there, you say:
 13 "In addition to this the product has also been
 14 tested at the Building Research Establishment to
 15 BS 8414-1: 2002 ..."
 16 A. Yeah.
 17 Q. "... and when assessed in accordance with BRE 135, it is
 18 acceptable for use above 18m in accordance with the
 19 Scottish Building Standards Technical Handbook."
 20 A. Yeah.
 21 Q. Do you see that there?
 22 A. Yeah.
 23 Q. Then if we keep going with the letter, you say in that
 24 last paragraph there:
 25 "With the Scottish Building Standards Technical

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1 Handbook section 2.7.2 ... the guidance states 'in
 2 a building with a storey at a height of more than 18m
 3 above the ground any insulation material ... should be
 4 non-combustible.'
 5 Then you say:
 6 "This information is complimented by the additional
 7 guidance ... [relating to] BR 135, second edition ..."
 8 Do you see that there?
 9 A. Yeah.
 10 Q. Then if we can go over the page {KIN00009011/2}, I want
 11 to read what you say ... If I pick it up in the second
 12 line down from the top, you say:
 13 "Therefore under this alternative guidance
 14 Kooltherm K15 would meet the criteria to be used in
 15 a ventilated cavity behind rainscreen cladding on
 16 a building with stories above 18m in height. To meet
 17 the requirements for use of the product horizontal
 18 ventilated cavity barriers must be introduced at every
 19 floor level above the 18 metre point ..."
 20 Then you say this:
 21 "A particular problem when fighting fires in
 22 multi-storey buildings can be the starting of multiple
 23 secondary fires. One process by which these secondary
 24 fires can become ignited is influenced by the external
 25 wall covering and therefore this risk can be limited by

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1 the selection of appropriate systems and materials. The
2 process of fire breakout through a lower storey window,
3 the spread of flame either up the external surface of
4 the building or through a concealed cavity followed by
5 re-entry at a higher storey igniting secondary fires and
6 potentially bridging the building compartmentation is
7 modelled partly by BS 8414-1:2002, i.e. the flame spread
8 through a concealed cavity or on the external surface of
9 the building."

10 Do you see that there?

11 A. Yeah.

12 Q. Now, just pausing there, I did ask you earlier in your
13 evidence this morning whether you understood the
14 significance in terms of life safety of the choice of
15 products in external walls, and I think you said, "Well,
16 I'm not a fire engineer".

17 A. Mm.

18 Q. Would you agree, based on that paragraph, you certainly
19 do appear to understand the importance of external wall
20 materials and the potential for external surface spread
21 of flame and ignition of secondary fires in the
22 building? Do you see that?

23 A. I was aware of some of the information. I wasn't --
24 I wouldn't claim to be an expert on it. That particular
25 text and that process is taken from the BRE -- it's

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1 moulded on the paragraph from the BRE 135 guidance
2 document, which runs through that fire spread process
3 and what they intend to model with the 8414 testing.

4 Q. But what that shows, that paragraph, doesn't it, is that
5 you were well aware of the life safety risks that were
6 engaged by the choice of materials in an external wall?

7 A. I knew sort of from reading the BR 135 what they were
8 sort of trying to model with the testing regime, yeah.

9 Q. Yes.

10 Then if we carry on and look at the third paragraph
11 on that letter {KIN00009011/2}, you say:

12 "From the results conceived by the Kooltherm K15 the
13 flame spread and resultant thermocouple temperature rise
14 at level 2 was limited to within permissible levels and
15 therefore the risk of secondary fires is assessed to be
16 minimal. Due to limitation of flame spread throughout
17 the cladding system it would be suitable for use in
18 potentially higher risk application such as high rise
19 buildings with stories above 18m."

20 Do you see that there?

21 A. Yeah.

22 Q. Then:

23 "For your information we have included a copy of
24 a report detailing the test and measurements taken
25 confirming ... compliance with the criteria ... in

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1 BR 135 ...

2 "We trust that you will find the foregoing of
3 assistance ..."

4 A. Yeah.

5 Q. Did you know that on this project the outer cladding
6 here was to be either terracotta, Alucobond or metal
7 cladding?

8 A. I don't -- I don't know, from looking from this. It
9 doesn't specify on here. So, no, I'm not sure. I don't
10 remember the project in question, no.

11 Q. If we go back to the email chain {KIN00005308/1} and
12 look at the bottom of page 1 of that. This is a chain
13 that if we go up to the top --

14 A. Ah, okay, yeah. So, yeah, no, it lists a few possible
15 types of cladding that --

16 Q. Quite. So there you are. It's being sent to you, this
17 chain. And if we go just to the bottom of page 1 --

18 A. Yeah.

19 Q. -- and we look at that email from the architect, they're
20 telling you what the outer layer -- do you see that?

21 A. Yeah.

22 Q. It's:

23 "150mm ... precast concrete with insulation to the
24 outer face (currently ... Rockwool ...) and then
25 an external cladding (this is either terracotta

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1 rainscreen, Alucobond rainscreen, or a profiled metal
2 cladding)"

3 Do you see that there?

4 A. Yeah.

5 Q. So assuming you read down a little when this was
6 forwarded to you to do the letter, you would have known
7 that the possibilities for the outer rainscreen were
8 terracotta, Alucobond or a metal cladding, wouldn't you?
9 Do you agree?

10 A. That looks like that's the existing spec when it was
11 based on a rock fibre insulation, yes.

12 Q. Yes. None of those cladding materials are the same type
13 of construction as used in the May 2005 test to
14 BS 8414-1, are they?

15 A. No, no.

16 Q. No.

17 A. But we did send the test report with this letter and
18 referred to the exact construction we'd tested.

19 Q. Yes, but go back to the letter that you've written
20 {KIN00009011/2}, going back to that, and the paragraph
21 third down that I've read to you.

22 A. Yeah, but it's --

23 Q. You're saying in the second half of that paragraph -- so
24 the architect's told you what they're proposing to use,
25 there's different possibilities, and you've included

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1 a sentence at the end of that third paragraph there that
 2 says:
 3 "Due to limitation of flame spread throughout the
 4 cladding system it would be suitable for use in
 5 potentially higher risk application such as high rise
 6 buildings with stories above 18m."
 7 Do you see that there?
 8 A. Mm.
 9 Q. So the whole tenor of this letter is, "We think our K15
 10 is suitable for your project". That's why you're
 11 writing the letter, isn't it?
 12 A. We're thinking there's a possibility it could be used,
 13 yeah.
 14 Q. Yes. Not just a possibility; Kingspan are positively
 15 pushing their K15 product forward as appropriate on this
 16 job, aren't they?
 17 A. Yeah, we're saying that's the product we have for this
 18 type of application, and we've sent them the test data
 19 we've got and we've detailed the exact construction
 20 we've tested it in.
 21 SIR MARTIN MOORE-BICK: Well, you do, but you don't mention
 22 that in the letter, do you?
 23 A. It does refer to the letter. I'm saying that we've sent
 24 a copy of the test report showing --
 25 SIR MARTIN MOORE-BICK: You don't refer to the fact that the

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1 test result --
 2 A. Oh, we don't list the -- we haven't listed the
 3 construction in the letter, no, but they were sent
 4 together. It wasn't something that was sent in
 5 isolation; they were sent together.
 6 SIR MARTIN MOORE-BICK: But it depends on the recipient
 7 reading the test results and understanding them, doesn't
 8 it, and understanding also the limits of the 8414 test?
 9 A. I suppose possibly, yeah. Yeah, yeah, I suppose.
 10 But ...
 11 MS GRANGE: By this time you knew -- because we've talked
 12 about it earlier -- that the BRE's position was that you
 13 couldn't extrapolate from the 8414 test that had been
 14 carried out into other types of constructions; you knew
 15 that, didn't you?
 16 A. We knew that they weren't going to give wide scopes of
 17 approval, yes. Yeah, yeah.
 18 Q. I just want to go to paragraph 33 of your witness
 19 statement again, on page 10 {KIN00022329/10}, and I want
 20 to look at what you say there, from the end of line 3
 21 onwards. You say there:
 22 "Depending on the type of construction that the
 23 customer was proposing to use, we would either explain
 24 to customers that we had carried out a test in
 25 accordance with BS 8414 that indicated compliance with

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1 BR 135 for that same type of construction" --
 2 A. Yeah.
 3 Q. -- "or, if the type of construction was different, we
 4 would explain to customers that we only had a test
 5 result for an alternative type of construction."
 6 Do you see that there?
 7 A. Yeah.
 8 Q. Now, based on the letter we've just looked at, that's
 9 not right, is it?
 10 A. But the letter wasn't sent in isolation; it was sent
 11 with the test report which detailed the construction
 12 we'd tested. We sent the test report with the letter.
 13 So we're sort of taking it out of context: you're taking
 14 it away from the other information that was sent
 15 with it.
 16 Q. Well, you're assuming that the test report was sent with
 17 the letter. But let's --
 18 A. It says in the letter at the bottom.
 19 Q. Let's just focus on the terms of the letter itself.
 20 You're not in that letter, are you, explaining to
 21 customers that, "We only had a test result for
 22 an alternative type of construction"? You're not saying
 23 in that letter, "You're proposing to use terracotta or
 24 Alucobond or another metal system. We have only tested
 25 with a cement particle board or a fibre cement board

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1 back in 2005 to part 1"; you're not saying that, are
 2 you?
 3 A. Well, the existing spec that they've written there is
 4 the existing spec using an alternative insulation. So
 5 that is -- that's not the spec with our product. We've
 6 sent information on our product, along with the test
 7 report detailing the test we've done. The test report
 8 had the construction in it saying what it was tested
 9 with. And we've said, "This is the information we've
 10 got".
 11 Q. I see. Well, I'm suggesting to you that what's in that
 12 part of your witness statement is simply not correct
 13 based on the example we've just looked at, and we're
 14 going to come to some others.
 15 The first part of what you say there
 16 {KIN00022329/10}, you say:
 17 "... we would either explain to customers that we
 18 had carried out a test ... that indicated compliance ...
 19 for that same type of construction ..."
 20 Did you ever come across that situation where
 21 someone said, "We're going to use your K15 and in front
 22 of that we're going to put a cement particle board or
 23 a fibre cement board, on the outside of our building"?
 24 A. I can't remember, to be honest, no.
 25 Q. No. But that would have been ludicrous, wouldn't it?

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1 Because that type of board, it doesn't have an external
 2 finish on it, does it? It doesn't have a rainscreen
 3 finish, it doesn't have a render finish. So if you'd
 4 put that type of board on a building, it would have just
 5 got soggy and have all sorts of problems, wouldn't it?
 6 A. They do some -- yeah, probably that exact -- they do
 7 some very similar ones to it, but it may not be the
 8 exact sort of type of one. They do some sort of thin
 9 building board rainscreens. So they do something that's
 10 quite similar to it, which -- yeah.
 11 Q. This morning you were seeking to distinguish between
 12 what Kingspan had said in some of its certificates and
 13 what was said on a project-by-project basis. Would you
 14 agree with me though that when we look at what you're
 15 saying on a project-by-project basis, you are
 16 invariably -- in fact always -- recommending K15 again
 17 and again and again on tall buildings?
 18 A. Well, we've said -- yeah, that was the product that they
 19 used for rainscreens, yes, yeah. That's -- I don't
 20 think there's been any debate on that, I don't think,
 21 no.
 22 Q. Approximately how many of these letters did you write,
 23 would you say, in your time at Kingspan?
 24 A. I've no idea. No idea.
 25 Q. Tens?

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1 A. Possibly, yes. I was there for 12 years. So could have
 2 been, yeah.
 3 Q. Hundreds?
 4 A. Probably not, but ... no.
 5 Q. I see.
 6 Did anyone check the letters of suitability that you
 7 drafted for K15?
 8 A. Yes.
 9 Q. Who would have checked them?
 10 A. Probably would have been maybe Ivor, Phil or someone
 11 like that, one of those two.
 12 Q. Ivor or Philip Heath?
 13 A. Yeah.
 14 Q. Or Tony Millichap?
 15 A. Possibly, yeah, when he was --
 16 Q. Yes, okay.
 17 If we can go to a new document, {KIN00003696/1}, and
 18 the second paragraph of page 2 {KIN00003696/2}. So this
 19 is at the bottom of the page {KIN00003696/1}. It's
 20 an email on that page beginning on 11 March 2008.
 21 A. Mm.
 22 Q. Do you see that there? It's about a project called
 23 Bristol Broadmead.
 24 A. Yeah.
 25 Q. Ivor says to you:

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1 "Please Do Not Email the report if you can help"
 2 A. Yeah.
 3 Q. Sorry, I should have noted as well in the subject, it's
 4 for "Kooltherm K15 use on projects above 18m in height -
 5 Bristol Broadmead".
 6 A. Yeah.
 7 Q. And he says:
 8 "Please Do Not Email the report if you can help
 9 "Instead ring up directory enquiries or speak to
 10 roofing sales and get hold of their main office fax
 11 number" --
 12 A. Yeah.
 13 Q. -- "then ring ..."
 14 And if we can go over the page {KIN00003696/2}:
 15 "... the chap up and tell him you had to fax it ..."
 16 And he's talking about how you can get it to them,
 17 in the first part of that paragraph.
 18 Then he says to you:
 19 "If this report gets into the wrong hands we could
 20 [lose] a lot of work and also make these sort of jobs
 21 a lot more difficult for us to justify [phenolic foam's]
 22 use. - That means a lot more and longer letters !)
 23 Richardson Roofing cannot always be trusted .. do they do
 24 many facades??"
 25 A. Yeah.

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1 Q. Do you see that there?
 2 A. Yeah.
 3 Q. So what did you understand Mr Meredith to mean when he
 4 said that the 8414 report could make it more difficult
 5 to justify the use of phenolic foam and could result in
 6 Kingspan losing work? What did you understand that to
 7 mean?
 8 A. I'm not 100% sure really, no, no.
 9 Q. You weren't sure?
 10 A. No.
 11 Q. That's your evidence, is it: you didn't know why he was
 12 saying that?
 13 A. Well, I don't know exactly what he was referring to,
 14 yeah, yeah, as ... But yeah, he's ...
 15 Q. But you knew, didn't you, that that was the sole test
 16 report that Kingspan was relying upon, and if people
 17 realised what the build-up was in that test report, it
 18 could lose Kingspan a lot of work because people would
 19 realise that their systems were entirely different;
 20 that's the truth, isn't it?
 21 A. I wouldn't have said that would make a lot of difference
 22 because the BBA certificate that was publicly available
 23 listed the exact construction in it. So it was in the
 24 public domain already, it was widely known what the
 25 construction was.

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1 Q. So why was there a need to write any of these letters or
 2 give any of this advice to clients at all, if you could
 3 just point to the BBA certificate?
 4 A. Well, I suppose it's just as a comfort, to help clients
 5 out. You know, we're just sending information. It's
 6 a supporting letter just to, you know, advise what
 7 information you're providing and just tie all the
 8 different bits together and list what they refer to and
 9 things like that.
 10 Q. Can we then look at the final paragraph of this email
 11 there on the page. He says:
 12 "While on the subject of fire Phil has said we
 13 should watch what we say to the BDMs."
 14 Is that the -- what would "BDMs" refer to?
 15 A. Business development manager, I would think that refers
 16 to.
 17 Q. Yes. And he says:
 18 "I don't know what it was that was said but
 19 I suggest we be over cautious with what we say to them
 20 from now on i.e. just say that things are delayed and
 21 not what we are having trouble getting a result on. In
 22 the meantime I will try and find out what exactly we can
 23 and can't tell the [business development managers]."
 24 Do you see that there?
 25 A. Yeah.

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1 Q. What did you understand that to mean? He's telling you
 2 to say "things are delayed and not what we are having
 3 trouble getting a result on".
 4 A. I don't remember exactly. It could have been that maybe
 5 they'd given a timescale on some additional testing or
 6 something, I don't -- yeah, which possibly then we
 7 may -- may not have been able to follow through with or
 8 something like that. I don't know exactly, but maybe
 9 something along those lines.
 10 Q. This email we know is in the context of the use of K15
 11 on buildings over 18 metres.
 12 A. Yeah.
 13 Q. I suggest to you it's very clear -- and you would have
 14 understood it this way at this time -- that what he's
 15 saying is you're having trouble getting a result,
 16 ie getting an 8414 test result that you can rely on for
 17 these other projects. That's right, isn't it?
 18 A. They may -- yeah, they may have had some problems with
 19 different construction types, yes.
 20 Q. It suggests here that the business development teams
 21 within Kingspan shouldn't be told about that; do you
 22 agree? Is that how you understood it?
 23 A. I didn't know specifically saying about what results,
 24 I don't know -- I don't know if it was that or if it was
 25 to do with timescales or when tests were being done

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1 or -- yeah, it sort of says about, you know, not sort of
 2 going into all the details with them about the
 3 programmes coming up, yeah.
 4 Q. It's clearly not about timescales, is it? It's about
 5 "We're having trouble getting a result"?
 6 A. Well, yeah, but that would assume possibly that they'd
 7 got some test planned and it hadn't gone to plan. So
 8 perhaps someone had told them, "We're doing a test", and
 9 they'd promised a result to a customer and then they
 10 couldn't provide it because the test -- so you would
 11 have to wait for them to do another test or something,
 12 which might have delayed a project perhaps.
 13 I'm speculating because I don't know the specifics
 14 of this project offhand, yeah.
 15 Q. Right. Was it the normal practice of Kingspan's
 16 technical teams to hide information from other teams
 17 within the business?
 18 A. They wouldn't always tell the sales department all of
 19 the upcoming tests because they may be -- they might
 20 have promised things to customers before the tests are
 21 being done and results were achieved, which then --
 22 you know, you look a bit silly if you promise something
 23 and then can't provide it. So you're better off not to
 24 promise it and then just give it, you know, if you have
 25 it then you can provide it at a later date, but rather

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1 than saying "You're going to get something" and then
 2 delay them.
 3 Q. Paragraph 3, there one paragraph up from what we were
 4 just reading, it says:
 5 "Also I have noted below in your text the use of the
 6 term 'third party accreditation' when referring to the
 7 BS 8414 data. I would be very cautious when using this
 8 term as I don't think it will wash with the BRE."
 9 What did you understand him to mean by that?
 10 A. He'd misunderstood something because there's something
 11 in another email about this, the third party
 12 accreditation with the BRE is in relation to an Offsite
 13 system report that they'd been sent, it's not to do with
 14 the 8414 testing.
 15 Q. Well, that's certainly not how this email chain reads,
 16 because if you look at the email below you're saying,
 17 "This client has requested details of the BR 135 info",
 18 and you're talking about the 8414 report.
 19 A. Yeah, but I think they'd been sent -- there is
 20 a Kingspan Offsite system BRE approval, which covered
 21 metal frame rainscreen systems.
 22 Q. Yes, we have looked at that document, that makes no
 23 reference to BR 135 or --
 24 A. No.
 25 Q. -- 8414.

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1 A. No, it's not related to BS 8414.
 2 Q. No, it's not, is it?
 3 A. No. Ivor had assumed -- because he saw the BRE and
 4 accreditation -- had sort of assumed that, but that
 5 wasn't the case. He got the wrong end of the stick
 6 about something.
 7 Q. I see. But isn't it right that the way you would have
 8 understood it at the time is that he is saying: be very
 9 careful about using that BR 135 term in relation to
 10 8414, because you didn't have a BR 135 classification
 11 report from the BRE?
 12 A. Yes, that's right, yeah, so he is saying you can't claim
 13 you've got one when we haven't got one, yeah.
 14 Q. No, exactly.
 15 If we look at your response to Ivor Meredith, your
 16 response is halfway down page 1 {KIN00003696/1} of this
 17 document in an email that you send on 11 March at 9.33.
 18 You say there:
 19 "With regards to the third [party] accreditation
 20 statement, this is referring to the BRE accreditation
 21 (offsite facade ..."
 22 Do you see that there?
 23 A. Yeah. So that's the document I was referring to, yeah.
 24 Q. Then you say:
 25 "So we shouldn't have to worry about the BRE causing

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1 problems because we are claiming BRE 135 accreditation
 2 without paying for it."
 3 Do you see that there?
 4 A. Yeah.
 5 Q. But what I'm suggesting to you is that there was no
 6 reference to BR 135 or 8414 in that Kingspan Offsite
 7 document at all?
 8 A. No, no, because -- so we're not claiming that that --
 9 the BRE document I referred to in the email was
 10 a different document, it was nothing to do with 8414.
 11 That's what I'm saying: we're not making any claims of
 12 that type, so there's no problem.
 13 Q. But we know that you do regularly refer to the BR 135
 14 assessment, don't you, in your emails? We've seen --
 15 A. We've said that "If you assess the results against
 16 BR 135", but we've never claimed that the BRE did
 17 an assessment for us.
 18 Q. Let's look at some more technical advice you gave after
 19 you became a senior technical adviser, once you were
 20 promoted.
 21 So, as we discussed earlier in your evidence, in
 22 around 2006/2007 you were promoted to a senior technical
 23 adviser role, and you tell us that you didn't then spend
 24 as much time on the phone speaking with contractors and
 25 architects but you instead focused on assisting other

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1 less experienced technical advisers. That's right,
 2 isn't it?
 3 A. Yes, yeah, that would have been some of the role, yeah.
 4 Q. Yes, and part of that assistance you gave to less
 5 experienced technical advisers was by going through
 6 specific customer enquiries and referring them to
 7 relevant sources of information and applicable
 8 regulations; yes?
 9 A. Yeah, that would've been - yeah.
 10 Q. We discussed it earlier, but just to clarify: you were
 11 responsible for around 16 employees at that time,
 12 weren't you?
 13 A. I wasn't directly, no. No, that was to do with the BBA
 14 calculation competency scheme, which is to do with
 15 U-value calculations.
 16 Q. I see. So how many less experienced technical advisers
 17 were you now responsible for assisting in this new role
 18 as senior technical adviser?
 19 A. I didn't have a direct managerial responsibility for any
 20 of them, but there would have been -- there was two
 21 teams of four in the office who would've, you know, and
 22 some of those I would've assisted as and when they
 23 needed it.
 24 Q. I see.
 25 Let's look at some more advice you gave. If we can

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1 go -- this is a project called City Lofts in Sheffield.
 2 If we can go to {KIN00009042}, this is an email from
 3 July 2008 between you, Ivor Meredith and a customer
 4 called Roofdec Limited about a project called City Lofts
 5 in Sheffield. Do you remember this? Do you remember
 6 advising on it?
 7 A. No, I don't, no, no.
 8 Q. If we can go to page 2 {KIN00009042/2}, to an email
 9 dated 17 July 2008 at 16.09 -- do you see there? -- so
 10 Richard Kirsch-Maskill has sent an email to
 11 Anthony Makin about "City Lofts [in] Sheffield --
 12 U-value/ condensation risk analysis calculations for
 13 Kingspan K15 rainscreen insulation".
 14 Do you see that there?
 15 A. Yeah.
 16 Q. He says:
 17 "We are proposing to use your K15 insulation on
 18 a project we have secured in Sheffield (approx. 3000m2),
 19 however we have received negative comments from Wintech
 20 (the client's representative).
 21 "Could you please digest and comment as
 22 appropriate."
 23 Then you're told this, that:
 24 "The spec. is as follows: 400mm thick concrete
 25 shearwall.

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1 "K15 insulation.
 2 "Terracotta fixed to helping hand brackets."
 3 Do you see that there?
 4 A. Yeah.
 5 Q. Then if we go up to the bottom of page 1
 6 {KIN00009042/1}, this email is then forwarded to you on
 7 28 July 2008, at midday, from Anthony Makin.
 8 A. Yeah.
 9 Q. And he says to you:
 10 "Can you do this one urgently please, respond rich
 11 and copy to all."
 12 Do you see that there? What would "respond rich"
 13 mean? Can you help us?
 14 A. No, no, I don't know on that. It might have been he
 15 meant to send it to Richard Bromwich, perhaps. He was
 16 another one of the BDMS. I don't know.
 17 Q. I see, yes.
 18 Then if we go to your response, which is the next
 19 email up on page 1, sent to the client at 16.43 on
 20 28 July 2008, do you see, to Anthony Makin and
 21 richard@roofdec.com. Maybe actually it was to Rich,
 22 actually, at Roofdec; that's probably why it says
 23 "respond to rich". Do you see that there? He is one of
 24 the recipients of this email. Can you see that? It's
 25 Anthony Makin and richard@roofdec.com that you send this

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1 to.
 2 A. Yeah.
 3 Q. Then you say in the first couple of lines:
 4 "My colleague Mr Ivor Meredith was supposed to be
 5 meeting Steve Lee (Stuarts colleague) last Monday at
 6 their offices in Wednesfield but unfortunately Steve had
 7 to cancel at the last minute, but it is hoped this will
 8 be rescheduled for this Thursday."
 9 Do you see that there?
 10 A. Yeah.
 11 Q. So, I think, a meeting between Wintech and Mr Meredith.
 12 Then you say from line 3 onwards:
 13 "The intention of the above mentioned meeting is to
 14 present Kingspan Insulation Ltd's test data relating to
 15 Kooltherm K15 in high rise rainscreen facades. One of
 16 the tests we intend to present to Wintech is to
 17 BS 8414-1 and details Kooltherm K15 fixed onto
 18 a non-combustible substrate ..."
 19 So you don't say masonry, do you?
 20 "... with a non-combustible rainscreen cladding."
 21 So you don't say cement particle board, fibre cement
 22 board, do you, there?
 23 A. Yeah.
 24 Q. Then he says:
 25 "The construction was successfully tested to

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1 BS 8414-1 thus it met the criteria of BR 135. We
 2 believe in this particular situation the test evidence
 3 is directly applicable to the construction used on the
 4 City Lofts project."
 5 Do you see that there?
 6 A. Yeah.
 7 Q. There were no other tests that could be presented to
 8 Wintech about the use of K15 in high-rise rainscreen
 9 façades, were there, other than the 2005 one?
 10 A. No. It would have been that one, yeah.
 11 Q. Yes. In this email you're clearly indicating that the
 12 results are directly applicable to a system using
 13 a terracotta rainscreen?
 14 A. Well, it's the part 1, which would be the right type of
 15 test, onto the type of substrate they've indicated.
 16 There is that slight difference, yeah. But we're
 17 referring to the fact again that we're going to give
 18 them the test report with the full construction and show
 19 them the results.
 20 Q. With respect, Mr Mills, it's not a slight difference, is
 21 it? A terracotta rainscreen exterior is entirely
 22 different to a cement particle board or fibre cement
 23 board, isn't it?
 24 A. On that, it's not the same type of rainscreen, no, no.
 25 Q. No.

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1 A. But, again, the Approved Document B is not the only
 2 method of compliance with the Building Regulations,
 3 there are other methods, so -- as well. So there is
 4 possible other routes they may have followed on the
 5 project.
 6 Q. Yes, but --
 7 A. So we sent the information, the test data we had, which
 8 showed the full construction, and then they had to make
 9 a choice on how they proceeded.
 10 Q. But what we're seeking to understand is how you can go
 11 so far as to say that you believe in this particular
 12 situation the test evidence is directly applicable when
 13 you also say you knew that a BS 8414 test was a system
 14 test and unless you exactly replicate the system it's
 15 not applicable, is it?
 16 A. Well, it's the specific test for their -- that sort of
 17 type of construction with a masonry substrate, yeah.
 18 Q. I'm not going to repeat myself. The external cladding
 19 surface --
 20 A. Yeah.
 21 Q. -- is entirely different, wasn't it?
 22 Then scrolling up to the top email in this chain,
 23 Mr Meredith asks:
 24 "G, did I prove this???"
 25 Do you see that there?

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1 A. Yeah.
 2 Q. And he says:
 3 "Reading it back we should be careful what we say
 4 about."
 5 Now, it's not clear what he thought you should be
 6 careful about. What did you take him to be saying
 7 there? What should you have been careful what you said
 8 about it?
 9 A. I don't know on that, I'm not sure.
 10 Q. I suggest to you that you fully understood at the time
 11 that what he meant is: be careful about referring to
 12 that 8414 test and the specifics of it, because it's
 13 obviously not the same construction as what they were
 14 proposing on their building?
 15 A. Yeah, but we're talking about: we're going to give them
 16 the report with the construction in it. We're not
 17 deceiving anything from them, we're saying about we're
 18 going to give them a copy of the report which has the
 19 tested construction in it, we're not hiding what we
 20 tested.
 21 Q. But I would suggest you are deceiving them because you
 22 know full well that that test isn't representative of
 23 other cladding systems; you had been told that by the
 24 BRE; you have said you understand that; and yet you're
 25 going out on projects like this and you are saying that

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1 K15 is appropriate for use, despite that.
 2 A. (Pause). On that, well, you know, we had the test
 3 information, we had -- that's what we had to provide for
 4 it, we're not doing the specification for the project,
 5 we just had to show what information we had and let them
 6 decide if they proceeded or not.
 7 Q. Okay. Can we go now to {KIN00009157/4}, and I want to
 8 start at the bottom third of that page, where you're
 9 sending out a response to a lady or a man called
 10 Pat Stanley on 14 October 2009, and the heading is "Fire
 11 Combustibility". Do you see that there?
 12 A. Yeah.
 13 Q. You say:
 14 "With regards to the Kooltherm K15 product in spite
 15 of the excellent in application fire performance
 16 demonstrated by the product, it is not technically
 17 classified as non-combustible. The product is a
 18 thermoset material so will not melt, run or drip when
 19 exposed to fire or heat and achieves a Class O/Low risk
 20 classification when tested to BS 476-6 & 7 which is the
 21 best rating achievable under these two tests. In
 22 addition to this it has also performed well in test rigs
 23 undertaken to BS 8414 as noted in my previous email."
 24 Do you see that there?
 25 A. Yeah.

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1 Q. Then you're talking about a particular extract from the
 2 Scottish handbook.
 3 A. Yeah.
 4 Q. "I hope this information is of assistance ..."
 5 A. Yeah.
 6 Q. What was it that you say demonstrated the product's
 7 excellent in application fire performance?
 8 A. We'd got a number of fire resistance tests, I suppose it
 9 had done the BS 8414 test, so ...
 10 Q. Can you explain what you meant when you said that K15 is
 11 not technically classified as non-combustible?
 12 A. Well, it's not classified by the regulations as
 13 non-combustible.
 14 Q. No, but saying it's not technically classified as
 15 non-combustible sounds like it's quite close to being
 16 non-combustible, when it's nothing of the sort, is it?
 17 A. No, it's not non-combustible, no. No.
 18 Q. Why have you referred to test rigs in the plural?
 19 A. I don't know. I don't know. It may have been a typo.
 20 I don't know.
 21 Q. You say:
 22 "In addition to this it has also performed well in
 23 test rigs undertaken to BS 8414 as noted in my previous
 24 email."
 25 Do you see that there?

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1 A. Yeah.
 2 Q. Now, that wouldn't be accurate, would it, at this point,
 3 because you have only got one test from 2005?
 4 A. Yes, yeah, and it -- yeah. So I think we've already
 5 covered the test, by the sounds of it, in the email
 6 before or somewhere further in the chain. We've already
 7 provided the test. Pat Stanley, as well, is actually
 8 an internal -- this is not something that's gone
 9 externally; this is to an internal employee at Kingspan.
 10 Q. I see. But you're expecting somebody to then use that
 11 information, aren't you, by sending it --
 12 A. In combination with the other bits that have been sent,
 13 yeah.
 14 Q. I see.
 15 Let's look at another project now. This is the
 16 Middlesborough Middlehaven project, another building
 17 over 18 metres. If we can go to {KIN00009188}, this is
 18 from August 2010 -- I'm moving forward in time -- and if
 19 we could look at the top of that email, we can see it's
 20 from you to Anthony Makin, so that's another Kingspan
 21 employee.
 22 So by this point we know you're a senior technical
 23 adviser and you're supporting those junior to you; was
 24 Anthony Makin one of those technical officers that you
 25 were supporting at this time?

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1 A. No, no, he was a business development manager or a sales
2 manager, one of the two, he would have been.
3 Q. I see. Then, you have copied in the technical enquiries
4 email address.
5 A. Yeah.
6 Q. And then others, Mark Swift, Peter Morgan.
7 A. Yeah.
8 Q. You say in the subject:
9 "DO NOT FORWARD DIRECT TO CLIENT ...
10 Middlesbrough Middlehaven project ..."
11 Do you see that there?
12 A. Yeah.
13 Q. So you're giving advice to someone in the business
14 development department. You advise on various other
15 aspects of the product at points 1 to 3 of your email,
16 and it's point 4 I want to ask you about. So you're
17 advising about thermal performance in point 1; acoustics
18 in point 2; breathing nature of the points in point 3;
19 and then fire performance you deal with at point 4, and
20 you say this:
21 "On the fire performance side, we have the advantage
22 of potentially having the high performance material
23 being used throughout the wall area (rather than a low
24 performance material for a large area of the building,
25 and the high performance product only used on the higher

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1 level stories), therefore providing a more robust
2 system. The other item which the clients may need to
3 consider is that the Pavatherm BBA cert (certificate
4 08/4549 quotes the fire classification as class E under
5 the Euroclass classifications, therefore if this product
6 is facing into the cavity behind the cladding they will
7 require the centres for their cavity barrier to be no
8 greater than 10m, where as with K15 being 'Class 0' in
9 accordance with BS 476 Parts 6 & 7 the cavity barrier
10 centres can potentially be installed at the maximum
11 separation of 20m, they may potentially require double
12 the quantity of cavity barriers. With the type of
13 cladding they are using, we may not be bullet proof on
14 our stance for BS 8414/BR 135 so I would suggest not
15 making a big issue of this unless we are specifically
16 asked questions by the client."
17 Do you see that there?
18 A. Yeah.
19 Q. When had you first become aware that Kingspan was not
20 bulletproof on the stance being taken on 8414 and
21 BR 135?
22 A. Well, we didn't have data to cover lot of different
23 construction types, so we were quite limited on what we
24 could, sort of, what information we could provide,
25 so ...

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1 Q. Quite. So in truth you were well aware that Kingspan's
2 stance on the use of K15 over 18 metres was misleading
3 and inaccurate in many instances, weren't you?
4 A. I'm saying they were probably ambitious in what they
5 were, sort of, expecting to use the product in, yeah.
6 Q. Is "ambitious" the right word here? Wouldn't it be that
7 they were misrepresenting, they were lying about K15?
8 A. They may -- some people may have been, yeah.
9 Q. But you don't think you ever were?
10 A. I think I'd provided the information on the
11 constructions and things like that, and what test data
12 we had. I don't think I made any false claims about
13 what test data we had, no.
14 Q. Is it right that the strategy, as you've set out here,
15 was to not make a big issue of that aspect unless being
16 specifically asked questions by the client?
17 A. Well, yeah, I would have said not to, you know, not to
18 be overly sort of going, you know, big about, sort of,
19 you know, that we have lots of approval or testing to
20 BS 8414 because we have a relatively small amount of it,
21 so it would have been better just to see what specific
22 questions they had rather than saying that this is
23 something that can be used everywhere, you know, there's
24 no problems or whatever, when they would have had to
25 refer specifically to, you know, the specific test and

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1 construction.
2 Q. Was it the case that the majority of clients didn't
3 challenge Kingspan's generic statements about the use of
4 K15 over 18 metres?
5 A. On this, I suppose there were some queries that came
6 back. I don't know what conversations they had with
7 building control and things, because, you know, we only
8 see one side of things, but ... yeah.
9 Q. Did it occur to you at any stage after you became
10 a senior technical adviser that Kingspan's position on
11 the use of K15 on high-rises could present a risk to
12 public safety?
13 A. I suppose, you know, I knew that they would be better to
14 do more tests and things like this which I did propose
15 to the company. Yeah. You know, I didn't know the
16 exact -- I don't -- I didn't claim to know the exact
17 sort of effects of, you know, tests or what the outcomes
18 of, you know, different types of tests would be and
19 things like that in a real life application compared to,
20 you know, a lab test.
21 Q. I see.
22 Let's go to another example, let's go to
23 {KIN00003799}, and I want you to look at the first page.
24 This is you -- and we have moved forward in time again
25 now. So I've shown you examples from 2007, 2010, 2013,

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1 and this is you emailing Allies and Morrison. Do you
 2 see that there? Somebody called S Workman --
 3 A. Yeah.
 4 Q. -- in April 2013 about the use of K15, and the subject
 5 is "St Andrews Block Kingspan K15 insulation". Do you
 6 see that there?
 7 A. Yeah.
 8 Q. You make clear in the first paragraph:
 9 "Further to our earlier correspondence with your
 10 colleagues regards the above project, and the potential
 11 use of Kooltherm K15 within the wall constructions,
 12 please fine(sic) enclosed the information discussed
 13 during our telephone conversation."
 14 And you have attached a copy of the BBA certificate
 15 outlining various construction types which the product
 16 has been assessed and approved for use by the BBA.
 17 A. Yeah.
 18 Q. Then you say in point 1:
 19 "The document covers the use of the Kooltherm K15 in
 20 constructions comprising a steel frame inner leaf and
 21 an outer cladding comprising a drained/weep vented
 22 cavity and masonry outer leaf."
 23 Then I want to look at the final paragraph of your
 24 email on page 1, beginning "Additionally ..." You say:
 25 "Additionally, if the project is complying with the

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1 principals(sic) of the building regulations with regards
 2 to control of fire, by following the guidance outlined
 3 in Approved Document B, for buildings which have stories
 4 greater than 18m from ground level Document B2 outlines
 5 two possible routes to demonstrate suitability of
 6 constructions were the insulation is not enclosed
 7 between two leaves of masonry (ADB2 paragraphs
 8 12.5- 12.9). The alternative guidance route is based
 9 upon testing to BS 8414 to show suitability of the
 10 products in question. The e-mails below and our earlier
 11 e-mail chains cover these items in more detail, although
 12 in summary the Kooltherm K15 has been tested following
 13 this procedure and the required levels of performance
 14 were achieved, although there are some differences
 15 between the construction tested and what is proposed for
 16 this project. Considering the nature of the
 17 differences, and that we would expect a number of the
 18 differences to improve the fire performance of the
 19 construction (e.g. such as the removal of full cross
 20 flow ventilation from the cavity, and the use of a
 21 mortar jointed 102mm brick masonry outer leaf, in place
 22 of an 6mm open jointed rainscreen panel) it is our
 23 opinion that the proposed system in question described
 24 above and illustrated in u-value calculations provided
 25 for the project, would perform similarly or better than

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1 the tested build-up with regards to BS 8414."
 2 Do you see that there?
 3 A. Yeah.
 4 Q. So here you are pointing out that there are differences
 5 between the proposed build-up and the 2005 test?
 6 A. Yeah.
 7 Q. But, do you agree, you don't spell out precisely what
 8 those differences are?
 9 A. We have listed the construction we tested in that, and
 10 we've included the BBA certificate as well, which has
 11 got the full construction in it, attached to the email.
 12 Q. Yes, but that often refers to just a non-combustible
 13 substrate or a non-combustible outer leaf.
 14 You go on in this email and you're giving
 15 an assessment of those differences, and you're saying
 16 that you conclude that the proposed build-up for that
 17 project would perform similarly or better; yes?
 18 A. It's certainly our opinion that we thought they would
 19 improve it, yeah, because it's got, instead of like
 20 a 6-mil building board, you've got a 100-mil closed
 21 joint, mortar jointed system, so you've got something
 22 which provides a large level of fire resistance on the
 23 outside, you've got completely closed off cavities
 24 rather than open ventilated cavities.
 25 Q. And was this system a steel frame system or a masonry?

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1 A. This was -- looks like this was steel frame on the
 2 inside, yeah. Yeah.
 3 Q. So you didn't have any test data to BS 8414-2, so how
 4 could you be giving advice on how the system would
 5 perform?
 6 A. Well, no, we've not claimed that we've got a test for
 7 that build-up. We've said what we've tested and we've
 8 said that it's different from his build-up.
 9 Q. Yes. Interestingly, you have not referred there to the
 10 difference between 8414-2 or 1 in that paragraph, have
 11 you?
 12 A. No.
 13 Q. Would you agree that the advice I have been showing you
 14 this afternoon is entirely at odds with what you have
 15 told us in your evidence about the way in which queries
 16 were dealt with about the use of K15 over 18 metres?
 17 None of them say that K15 has only been tested on
 18 a different construction, giving the details of that
 19 construction, which does not relate to their proposed
 20 build-up? None of them say that, do they?
 21 A. Well, every single enquiry you've brought up, we've sent
 22 the construction with it. We've either sent the test
 23 report or the BBA certificate listing the construction.
 24 The test information has been sent with every single one
 25 of these emails.

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1 Q. Yes, but let's go back to page 10 {KIN00022329/10},
 2 paragraph 33 of your witness statement. We've looked at
 3 it before. You say that six lines down there:
 4 "... or, if the type of construction was different,
 5 we would explain to customers that we only had a test
 6 result for an alternative type of construction."
 7 A. Yeah.
 8 Q. That's not a fair characterisation of the advice you
 9 were giving, was it? You've gone much further than
 10 that.
 11 A. I would -- I don't know, I would interpret that sending
 12 the test showing what we've tested and the build-up of
 13 what we've tested illustrates that we've tested
 14 a different construction if it doesn't match their
 15 construction.
 16 Q. I see.
 17 If we can look at your --
 18 SIR MARTIN MOORE-BICK: I'm sorry, before we leave that, do
 19 you have anything to say about the next sentence?
 20 A. Which one in particular, sorry?
 21 SIR MARTIN MOORE-BICK: It reads:
 22 "In those circumstances we would advise customers
 23 that they would either need to rethink their type of
 24 construction or speak with Building Control to see
 25 whether their proposed type of construction was

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1 acceptable or not."
 2 I don't recall seeing advice of that sort in any of
 3 the letters we've looked at.
 4 A. I suppose ... I think there was only -- I suppose the
 5 bit about building control I think was only in one of
 6 them, there was reference to, sort of, you know, "just
 7 liaise with their control officer and see their
 8 opinions" in one of them. But, yeah, that wasn't
 9 specifically in all of them, that little bit, no.
 10 SIR MARTIN MOORE-BICK: Well, it wasn't in any of them, was
 11 it?
 12 A. Well, there was one which mentioned liaising with
 13 building control.
 14 SIR MARTIN MOORE-BICK: No, no, advising the customers to
 15 re-think their type of construction.
 16 A. I suppose it specifically hadn't been put in those
 17 words, although we've sort of said that, you know, we
 18 haven't got approval for the construction which matches
 19 theirs, so this is the only data we've got, so it ...
 20 yeah.
 21 SIR MARTIN MOORE-BICK: Yes. Thank you.
 22 MS GRANGE: If we can look at your witness statement at
 23 paragraph 13 at the top of page 5 {KIN00022329/5}, you
 24 say this:
 25 "During the period I was employed by Kingspan,

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1 I don't know for certain how they decided what technical
 2 advice to give to customers in relation to the use of
 3 K15 in buildings with a floor over 18 metres in height."
 4 Do you see that there?
 5 A. Yeah.
 6 Q. "All I can reiterate is that the Technical Department,
 7 under the supervision of the Technical Manager, would
 8 advise customers that K15 did not meet the limited
 9 combustibility test (or non-combustibility test if in
 10 Scotland) in Approved Document B and therefore it was
 11 necessary to look at the alternative method of
 12 compliance."
 13 Do you see that there?
 14 A. Yeah.
 15 Q. Well, again, that's certainly not the advice you have
 16 given in all the examples you've looked at, is it?
 17 A. Well, we've referred them to the -- all of them refer to
 18 the alternative method of compliance. All of them
 19 referred to, like, the BS 8414 route. All of them refer
 20 to that.
 21 Q. Let's go to {KIN00005738}. This is an email chain that
 22 starts with a query by a Nick Jenkins of Euroclad about
 23 the use of K15 in buildings over 18 metres. We can see
 24 that from the bottom of page 1, on 4 September 2013
 25 Nick Jenkins at 10.42, and we can see the subject matter

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1 of the email is "Permissible use of K15 for building
 2 over 18m".
 3 A. Yeah.
 4 Q. And it's forwarded to you and Ivor Meredith. Then, at
 5 the very top email on page 1, Ivor Meredith sends
 6 an email to you and Joel Clarke, and you're asked by
 7 Mr Meredith for an update, and he says as follows:
 8 "No,
 9 "Gareth should have a draft of the FAQ's which you
 10 could use ... G have you made any headway?"
 11 A. Yeah.
 12 Q. Then he says this:
 13 "I suggest you circulate the stock answer just to
 14 make sure we are all communicating our stock answer in
 15 the best way."
 16 Do you see that?
 17 A. Yeah.
 18 Q. Do you agree that this email shows that you're part of
 19 a team devising a stock answer to questions about the
 20 permissible use of K15 for buildings over 18 metres?
 21 A. I wouldn't -- potentially it looks like there was
 22 a project there to write up some common bits, you know,
 23 based on standard answers we were providing out of the
 24 department. Yeah, I wouldn't necessarily have been
 25 producing the sort of stock answer myself, but I would

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1 have been sort of putting those into a single document.
 2 Q. I see.
 3 Let's go now to {KIN00009542}, and this is the last
 4 email chain that I need to take you to. Second email
 5 down is an email chain between you, Ivor Meredith and
 6 Joel Clarke. The email subject is "K15 FAQs For
 7 Review". Do you see that there at the top of the page?
 8 A. Yeah.
 9 Q. In this email sent by Joel Clarke to you and
 10 Mr Meredith, there are proposed answers to draft
 11 frequently asked questions, FAQs. At the top of the
 12 email Joel Clarke says:
 13 "(Answers in red below assume the building has
 14 habitable storeys above 18m in height unless stated
 15 otherwise)."
 16 Do you see that there?
 17 A. Yeah.
 18 Q. Did you have a hand in drafting these FAQs?
 19 A. I'm not sure, not sure.
 20 Q. You're not sure?
 21 A. No.
 22 Q. So, contrary to what you have said in your witness
 23 statement where you said you don't know for certain how
 24 you decided what technical advice to give, you actually
 25 had FAQs that were drafted, didn't you?

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1 A. Yes, but they're just using sort of previous -- that's
 2 sort of common questions that had previously been
 3 answered. That's just putting them together in one --
 4 they're already common answers. So it's not sort of
 5 producing the answers, it's sort of just collating
 6 common questions and putting them all in one group
 7 together as ...
 8 Q. If we look in the second paragraph starting at (iv), do
 9 you see that there, at the top of that page, in black it
 10 says:
 11 "Do we have test data, or suitable assessments to
 12 demonstrate compliance for their proposed construction?"
 13 A. Yeah.
 14 Q. Then the suggested answer is this:
 15 "Kooltherm K15 and Kooltherm K5 have been tested to
 16 BS 8414-1 ... and, when assessed in accordance with
 17 BR 135, are acceptable for use in buildings over 18m in
 18 height. Successful testing to BS 8414 means that the
 19 products can be used in areas normally limited to
 20 non-combustible and limited combustibility products."
 21 A. Yeah.
 22 Q. Pausing there on that line, that's thoroughly misleading
 23 and inaccurate, isn't it, to state that successful
 24 testing to 8414 means that the products can be used in
 25 areas normally limited to non-combustible and limited

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1 combustibility products?
 2 A. Yeah, so this is a draft sort of internal document, this
 3 is not the finished version that had just been sent to
 4 a customer, so this is something in process had been
 5 written.
 6 Q. I see. But you accept that that's thoroughly
 7 misleading, isn't it?
 8 A. It's not the whole picture in there, no.
 9 Q. You can't take a product that's been in a system test
 10 and then say, "Well, that product can be used in areas
 11 where you would normally use non-combustible or limited
 12 combustibility products", can you?
 13 A. No, they would need to refer to the construction or
 14 something, yeah, that it's been tested in there, to give
 15 a fuller sort of answer, yeah.
 16 Q. Then in the fourth paragraph of this email in red, if
 17 you go down, there's a heading -- or it starts in
 18 brackets with:
 19 "(Extra question from JC for clarity)"
 20 Do you see that there?
 21 A. Yeah.
 22 Q. There is the question:
 23 "But my construction is different from the one you
 24 tested ..."
 25 Then you are coming up with proposed FAQs, which

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1 reads:
 2 "Our testing has demonstrated that Kooltherm K15 is
 3 suitable for use as a component in compliant system.
 4 The overall performance of the assembly will depend on
 5 the suitability of all the components used."
 6 Do you see that there?
 7 A. Yeah.
 8 Q. Are you prepared to accept now that Kingspan's one test
 9 to 8414 from 2005 demonstrated no such thing?
 10 A. Well, it doesn't show that it can be used in all types
 11 of construction, no. No. I don't think we've claimed
 12 it has.
 13 Q. Well, you say, "Our testing has demonstrated that
 14 Kooltherm K15 is suitable for use as a component in
 15 compliant system".
 16 A. Yeah, it's an internal draft of a document in
 17 production, it's not something that's sort of a finished
 18 document or piece of literature that's sent to
 19 customers. This is an in-process document, this is.
 20 Q. Then the fifth paragraph in red, there's some italics in
 21 red that read:
 22 "(Final throw of the dice for when all else
 23 fails ..."
 24 And then it says:
 25 "' If required Kingspan can assist in gaining

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1 a third-party assessment of the proposed
2 construction ..."
3 Do you see that there?
4 A. Yeah.
5 Q. What did you understand "final throw of the dice" to
6 mean there?
7 A. I'm having to speculate a bit, really.
8 Q. Would you agree with me that Kingspan were actively
9 seeking to have K15 specified using any means available
10 to it?
11 A. They were looking to use it on all of the projects where
12 it was deemed suitable, yeah, yeah.
13 Q. Would you agree that Kingspan actively pursued all
14 available options to demonstrate the compliance of K15
15 for buildings over 18 metres without relevant test
16 evidence on which to base those claims?
17 A. They did look at all the different routes of compliance,
18 yes, yeah.
19 Q. I'm suggesting that they pursued options without
20 relevant test evidence on which to base those claims;
21 yes or no?
22 A. In terms of that, I can only comment specifically on
23 what I've done but, yeah, I've always supplied the
24 construction information with ... when I've sent
25 information out.

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1 Q. Would you accept that Kingspan did that aggressively?
2 A. Well, they did go out to try and gain a lot of projects
3 so there were -- salespeople were contacting lots of
4 potential specifiers and things like that, and handing
5 out brochures and doing things. So they were, sort of,
6 I suppose -- yeah, they were sort of aggressively
7 looking to gain work, yes, certainly.
8 MS GRANGE: Mr Chairman, I've come to the end of my
9 questions.
10 SIR MARTIN MOORE-BICK: Yes, very well.
11 MS GRANGE: I'm sorry that I've taken until 4.30, but
12 I think if we had a ten-minute break for any final
13 questions.
14 SIR MARTIN MOORE-BICK: Yes.
15 Well, Mr Mills, when counsel thinks she's finished
16 her questions, we need to have a short break so she can
17 take stock, and also to enable those who are following
18 the proceedings but not from this room can suggest
19 questions that might need to be put to you.
20 So we're going to break now until 4.40 --
21 THE WITNESS: Yeah.
22 SIR MARTIN MOORE-BICK: -- and then we'll come back and see
23 if there are any more questions that we have for you.
24 THE WITNESS: Okay.
25 SIR MARTIN MOORE-BICK: Again, please don't talk to anyone

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1 about your evidence while you're out of the room.
2 THE WITNESS: Yeah.
3 SIR MARTIN MOORE-BICK: If we're told that a little longer
4 is required, we may have to extend the break. But,
5 anyway, we will keep it as short as we can.
6 THE WITNESS: Okay.
7 SIR MARTIN MOORE-BICK: Thank you very much.
8 (Pause)
9 Ms Grange, I'm going to say 4.40 but, as usual, if
10 you need more time, come and tell us.
11 MS GRANGE: Thank you very much.
12 SIR MARTIN MOORE-BICK: Thank you.
13 (4.32 pm)
14 (A short break)
15 (4.40 pm)
16 SIR MARTIN MOORE-BICK: Right, Mr Mills, well, we'll see if
17 there are any more questions for you.
18 Ms Grange, do you have any more questions?
19 MS GRANGE: No, no further questions, thank you.
20 SIR MARTIN MOORE-BICK: Well, there you are.
21 MS GRANGE: It just goes to say: thank you very much,
22 Mr Mills, for coming today to assist us with our
23 inquiries. Thank you.
24 SIR MARTIN MOORE-BICK: Yes. Well, I would add my thanks on
25 behalf of the panel, Mr Mills. Thank you for coming to

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1 spend the day here answering our questions. It's been
2 very useful to hear from you.
3 THE WITNESS: Okay, cheers.
4 SIR MARTIN MOORE-BICK: Right. Well, now you are free to
5 go, so would you like to go with the usher?
6 THE WITNESS: Okay.
7 SIR MARTIN MOORE-BICK: Thank you.
8 (The witness withdrew)
9 SIR MARTIN MOORE-BICK: Right, thank you very much. That
10 must be it for today?
11 MS GRANGE: It is, and then tomorrow morning Mr Millett will
12 be taking the last Celotex witness, Ms Debbie Berger,
13 and then we will hopefully start Mr Philip Heath for
14 Kingspan in the afternoon.
15 SIR MARTIN MOORE-BICK: Right, good.
16 Well, we will break there and resume at 10 o'clock
17 tomorrow, please.
18 MS GRANGE: Thank you.
19 SIR MARTIN MOORE-BICK: Thank you very much.
20 (4.45 pm)
21 (The hearing adjourned until 10 am
22 on Thursday, 26 November 2020)
23
24
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