GRENFELL TOWER INQUIRY RT

Day 293

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(10.00 am)

SIR MARTIN MOORE-BICK: Good morning, everyone. Welcome to today's hearing. Today we're going to begin hearing closing statements in relation to Module 6, and the first statement is going to be made on behalf of some of the bereaved, survivors and residents by Ms Barwise Queen's Counsel.

So, Ms Barwise, if you would like to come up to what is now the counsel's bench.

Before I invite Ms Barwise to start her statement, can I just say this: we have a very tight timetable to get through today, so I'm going to ask all counsel to make sure that they finish their submissions within the time specified in the timetable. I say "within", because I don't think anyone is going to be grateful to those who overrun or try to overrun and, if necessary, I shall intervene to invite you to draw your statements to a close.

With that, Ms Barwise, we should like to hear from you, please. Thank you very much.

Module 6B (Government, Testing and FRA) closing submissions on behalf of BSR Team 1 by MS BARWISE

MS BARWISE: Good morning, sir. Good morning, Ms Istephan. Good morning, Mr Akbor.

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Our submissions fall into five parts: first, an overview; second, the relationship between Building Regulations and ADB, the history of fundamental flaws in ADB and amendments made; third, delays in reviewing ADB following Lakanal and knowledge of risk; fourth, the department's systems failures; and, finally, the role of industry.

Starting with the overview.

The evidence has made plain that the seeds of the Grenfell disaster lie in the concealment, beginning over 20 years ago, of the fact that class 0 cladding was a fire hazard, at a time when 1960s blocks were failing and more energy efficient housing was desperately needed. The realisation of a burgeoning cladding crisis led to continued lack of candour, and the failure to adequately regulate the requirements for the external wall was motivated by a desire to allow the construction industry sufficient latitude to rapidly build housing. All this militated against exposing the dangers of existing cladding upgrades.

Over time, this was exacerbated by an overarching, unyielding, safety-blind deregulatory agenda, which ministers deny, but officials believe allowed no change to or clarification of Building Regulations or ADB.

The evidence has revealed an extraordinary conflict

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which the panel must resolve, in that ministers would have the panel believe officials laboured of their own volition under this fatal misapprehension, but that is not credible and the evidence suggests otherwise.

The other, allied fantasy which the panel must resolve is the portrayal of the department's Mr Martin as a lone wolf, the single point of failure, as Dame Dawes described him, and he, after seven days of evidence, accepted. Given his physical proximity to colleagues and the way the department operated, this is not credible. The truth of the matter is that he was put and kept in that position to execute the department's deregulatory strategy and, indeed, promoted even after Grenfell. Colleagues, despite their loyalty to him in giving evidence, must have been aware of his cavalier attitudes, which are evident in the majority of his emails. His fundamental desire to protect the financial interests of UK Plc, as he called it, secured his primacy in the Building Regulations division.

The department completely ignored all the coroner's recommendations following the fatal Lakanal House fire in 2009. The review of ADB was deliberately deferred until 2016/2017, when it would have been done anyway, and was then rolled up into a wider Building Regulations review. The panel has heard from Mr Ledsome that the

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roll-up of ADB into a wider review was so that savings could be made from ADB in order to introduce the necessary environmental changes into Approved Document L, and that was clear from the documents put to Lord Pickles, who did not deny the intent, but thought the figures merely projections.

The horse trade between parts B and L was, as both ministers and officials knew, to satisfy deregulatory policies, which required the introduction of any new regulation to be compensated for by the omission of existing regulation, so as to result in a net equivalent cost to business. These decisions were taken to subjugate Building Regulations to both the energy efficient housing and deregulatory agendas at the behest of Prime Ministers, initially David Cameron and latterly Theresa May.

The series of warnings concerning modern materials received by the department, often directly to ministers, either by submissions or APPG or the fire sector, in advance of ministers making deregulatory decisions on Building Regulations, makes undeniable that government knew both regulations and ADB were potentially hazardous, and yet forged on with its twin deregulatory and housing and deregulatory agendas.

An accompanying pattern of concealment emerges from

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BRE's misleading investigations into fires, from the department's failure to transparently report on them, from allowing ambiguity in 12.7 of ADB from 1992 onwards and failing to review ADB at all from 2006, other than for deregulatory purposes, until well after Grenfell. Indeed, the department made a conscious decision, as Dame Dawes told us, not to clarify clause 12.7 of ADB even after Grenfell. All this despite the 2009 Lakanal fire and inquest goes beyond peradventure.

From at latest Spring 2015 onwards, when BRE's seven workstream reports formally reported, the department was aware of ADB's antiquity and of it not having kept pace with modern materials, as made clear by those reports. They were withheld following input from the then Secretary of State Sajid Javid's adviser. The Building Regulations discussion document stalled in Lord Heseltine's office. It is clear both the workstream reports and the discussion document were withheld for political reasons. The discussion document was withheld until February 2019, despite the department's appreciation of its significance, because it would have committed the department to a review of Building Regulations, albeit the scope of the discussion document was purely deregulatory. The workstream reports were withheld because they exposed the extent to

which ADB was undermined by the use of modern insulation and showed the need for a complete overhaul of Building Regulations.

The deliberate decision-making is only consistent with a desire to suppress known risks, to avoid interfering with the two driving imperatives: energy efficient housing and deregulation. The panel has heard credible evidence from officials that the deregulatory and housing agendas took precedence over Building Regulations and ADB review, and Lord Barwell also made clear that the housing agenda was predominant. Generally, however, ministers did not admit that the housing and deregulatory agendas took precedence over ADB review despite the life safety risks. In the case of each deferral of ADB post-Lakanal, the relevant minister was aware of the dangers posed by delaying ADB.

The evidence has also exposed the tension between functional building requirements, Building Regulations which implicitly require state scrutiny, and ADB, which is prescriptive, exploited by industry and policed by an inadequate building control, in turn too lightly scrutinised by government. This was exacerbated by introducing approved inspectors, who did not compete on a level playing field with local authorities as they lacked powers of enforcement, and would lose fees if

work had to revert to local authorities for enforcement. Those authorities had to be cost neutral and, therefore, were desperate for work.

The department considered approved inspectors a regulator, but they are not a public body, have private competing interests and no enforcement powers. As such, they were merely an inspectorate. But this inequality was overlooked. NHBC's behaviour demonstrates its total unsuitability as a putative regulator. Its acceptance of non-compliant K15 drove it to interpret the regulations and ADB perversely, and latterly, in 2016, to publish guidance which approved the use of ACM PE together with combustible insulation without test. NHBC's closing observes that, as insurer of its own book, it is in its own interests not to lower standards. We agree, but, probably to save face, that is nevertheless what it did, although NHBC denies this.

Underlying ADB was a testing and certification regime propped up by BRE as test house and BBA and LABC as certifiers, with UKAS presiding above. The dishonest and unrepresentative testing and certification was client-focused and carried out by insufficiently competent staff. UKAS's failure to witness BRE testing for some seven years between 2008 and 2016 shows a disregard only consistent with not wishing to find

problems. UKAS emerges as an ineffectual organisation, too willing to assume competence in the bodies it oversaw, and so focused on pleasing them at the expense of public safety that it will not even report fraud. The frailty of this house of cards was an ideal prop to facilitate industry capture of an inadequately robust regulatory regime.

The role of BRE as adviser on ADB revisions and investigator of fires make it complicit in government's actions. BRE protest that it is not a regulator; we have never said it is, but its code of conduct requires it to hold paramount the health and safety of others. In this fundamental purpose, it failed.

Whilst BRE was somewhat hamstrung by the department in the way that it was funded and latterly required not to make recommendations, it is up to a competent service provider, especially a safety critical service provider, to inform its employer of any constraints affecting its ability to carry out its work. If the supplier doesn't advertise the difficulty, then it is complicit, as BRE was. This is exemplified by BRE's misleading and therefore dangerous research. It does not avail BRE to assert, as it does, that government received warnings from others. Many of these others might have been, and were, perceived as having their own agendas, whereas BRE

was supposedly independent.

BRE's flaccid recommendations to the department were unscientific and did not communicate the sense of urgency or importance of the recommendation. This was particularly true of the cc1924 test report, which recommended only that the fact that a class 0 panel was by far the worst performing of those tested may require further consideration.

Whilst BRE was independent from 1997, the relationship between it and the department, with Martin in both camps for nine years, was unhealthily close. BRE did the department's bidding. An important feature of the department's failure to clarify ADB is BRE's protectionism of its own role as custodian of the fire safety mantle, with a BS 8414 testing monopoly which blossomed whilst clarification of ADB was being mooted by industry. Whilst of course, in Module 6, it is right to focus on government and related institutions' responsibility, industry's role in the events which led to Grenfell is ultimately more important, as I will explain. What follows must be understood in that light.

I now turn to the relationship between Building Regulations and ADB.

Building Regulations are performance-based, requiring the designer to achieve the functional

requirements, and ADB is supposed to postulate routes by which the functional requirements may be achieved. Both the Building Regulations themselves and ADB make clear that following ADB is not a guarantee of compliance and, therefore, the designer must use judgement.

There are two relevant respects to Grenfell in which the department failed to adequately address the functional requirements: B4(1), external fire spread, and B1, means of escape.

First, external fire spread.

As explained, even if using the linear route, and particularly if using the test route, the designer must exercise judgement. Nevertheless, a culture of convenient dependency on ADB has developed, whereby industry has fixated on diagram 40 which, in the versions of ADB in force from 1992 onwards, provided a cladding panel need only achieve class 0 or, from 2002 onwards, class B or 0, regardless of its core. This permits ACM panels, even though that is clearly in conflict with the functional requirement.

The evidence shows that neither government nor BRE considered how the functional requirement, B4(1), was to be achieved effectively, despite prescribing routes which it now accepts it did not understand and did not know whether they would achieve the functional

requirement.

The test route depends on not failing the performance criteria in BR 135 which govern the large-scale BS 8414 tests. The panel has heard evidence from Drs Colwell and Smith that these criteria are completely arbitrary and are only failure criteria, so they tell the designer only what he should not use and do not assist with how to design a safe system.

As to the linear route, no one considered whether limited combustibility insulation and class 0 would achieve adequate resistance to flame spread in any type of building, still less a high-rise building.

These failures are the primary failures insofar as functional requirement B4(1) is concerned. Delay in withdrawing class 0 and in failure to introduce the Euro classifications in a timely manner are subsidiary to this failure, albeit significant contributors to the problems experienced.

Professor Torero considers the ambiguity resulting from the functional requirements, coupled with ADB, places a considerable burden on the designer, but Professors Torero and Bisby, Mr Hyett and Mr Sakula, also consider that a competent designer should have understood what the regulations and ADB required.

Second, functional requirement B1, means of escape.

The department failed to produce adequate guidance in relation to means of escape for those with disabilities. ADB was premised on inclusive design, albeit referencing a repealed statute, and, according to Dr Lane, a competent fire engineer should have appreciated additional measures would be required.

However, the department had known since 2004 that means of escape for disabled people, in particular the need to evacuate, were inadequate, especially given the defend-in-place strategy underlying ADB. This was why they commissioned BRE workstream report 7. Yet, despite that report confirming the guidance was wholly inadequate, nothing was done.

Martin admitted he was aware from his involvement in drafting BS 9991 that a better approach was to cater for the scenario where stay put is withdrawn and evacuation required, which Martin thought flowed from Lakanal. Yet there was no formal consideration, even after Lakanal, of ensuring ADB or the LGA guide which supported the Regulatory Reform (Fire Safety) Order was consistent with BS 9991. The interface was not addressed because Martin and BRAC considered ADB consistent with BS 9991, which they considered simply added more detail.

Martin's view and government policy on PEEPs was that disabled people would self-evacuate or, hopefully,

the Fire Brigade would get to them in time, and that PEEPs were impractical and too expensive. Martin and Upton were not willing to revisit that, despite Elspeth Grant, a disability consultant's letter, pointing out that the guide breached law. No equality analysis was prepared because they regarded the LGA guide as reflecting current practice, even though it did not; neither did the department seek advice, and no effort was made to consult. This inaction was not accidental, but was done deliberately to avoid disproportionate burdens on landlords.

Martin subsequently contradicted himself, saying government simply forgot to consult with vulnerable peoples groups. His take was characteristically offhand: pursuing the issue was futile. "It's a debate that has been going on for years", he said. He admitted to being "fed up with Ms Grant's persistence".

By 2013, Martin was aware BRE and the stakeholder group on workstream report 7 were relying on the concept of extraordinary effort, whereby disabled people would over-exert themselves in emergencies. Martin also knew compliance with the Equality Act was considered doubtful. Yet he did nothing to correct these disastrous assumptions or ensure that compliance with the Equality Act was required.

The failure to define functional requirement B4(1) in any adequate way and to provide adequate guidance for B1, means of escape, together with the government's failure to create reliable processes for timely review of ADB and procedures to stay abreast of market developments, created an unsafe system of regulation, which pertained from 1992 onwards. Government admits it presided over a system which facilitated disasters such as Grenfell.

The primary fault in relation to B4(1) was the department's failure to address the meaning of the functional requirement and its relationship with the two groups to compliance. Government admits, by its closing, that it has not been able to unearth any justification for why class 0 was used as a classification for external walls. That makes all the more extraordinary the now admitted catalogue of 13 missed opportunities to observe that class 0 was a flawed metric and failure to withdraw it, despite knowledge of the risks.

The catalogue of missed opportunities begins earlier than the department admits with the Knowsley fire. The panel may draw its own conclusions from the department's failure to address the impact of the Knowsley and Garnock fires, or to admit they were also missed

opportunities.

The necessary context is that overcladding was a means to solve the problem of failing 1960s blocks, and Knowsley was a pilot project. No witness could explain which individuals sent or received the BRE memo recording an instruction from someone in government to play down the Knowsley fire. BRE's failure to identify in subsequent reports that a critical factor in Knowsley was the combustibility of the cladding is an indicator that the subject was taboo.

Knowsley was followed by the unexplained removal of the word "adequately" from both Building Regulations and ADB for an eight-year period, thereby making the functional requirement to resist external flame spread absolute. Burd and Martin explained the reintroduction of the word "adequately" was decided by lawyers purely for consistency, but what is the panel to make of that? That the lawyers failed to notice this inconsistency for eight years? Or is it more likely that removal of "adequately" was in fact a reaction to the severity of the seminal Knowsley fire, which led to the Connolly system test which, in turn, led to the introduction of the large-scale test?

The word "adequately" nevertheless reappeared by amendment to the Building Regulations in December 1999,

despite the Garnock fire in June 1999. Whilst Knowsley is the fire which eventually led to the development of the large-scale test, Garnock should not be dismissed as simply non-compliance, as Martin and some others would have you believe.

BRE reported on Garnock in August 1999 to North Ayrshire, making multiple references to class 0. The deliberate excision from BRE's subsequent report to the department of any trace of class 0 cannot sensibly be justified by the fact that it was by then known that the cladding was not class 0.

It was highly relevant that the remedial solution proposed in BRE's August 1999 report was to replace what need only have been class 0 cladding with non-combustible cladding, especially given, in August 1999, the word "adequately" had not yet been reintroduced, so the functional requirement for no flame spread was then absolute.

Whilst Professor Bisby considers Garnock did not in a literal sense demonstrate the need for the large-scale testing because the GRP was not even class 0 and hence non-compliant, Garnock and Knowsley together led to the select committee report. Garnock should have prompted a reconsideration of the linear route. Given the purpose of the large-scale test is to eliminate the

worst systems, had it been the sole route to compliance, it would have eliminated Garnock's cladding.

Despite Martin and Colwell's continued involvement, and their having witnessed the catastrophic failure of a class 0 ACM PE in cc1924 testing in 2001, no one at the department or BRE ever reviewed the Knowsley or Garnock report in that light. On the contrary, following Lakanal, the department, Martin, actively procured BRE, Crowder, to produce bogus research, which led to two articles which did not identify the cladding as a significant cause of fire spread at Knowsley and Garnock, did not mention Lakanal and continued the misconception that class 0 cladding would limit the rate of fire spread.

This is disingenuous and misleading. Crowder accepts the research is flawed and Professor Bisby considers it profoundly inaccurate and unhelpful. Even if one of the original authors of the Garnock report, Penny Morgan, confused class 0 with limited combustibility, those who followed her at BRE suggest there was little confusion. Colwell claimed she never understood a colleague to have been confused about this. Crowder claims he may have been a little confused in his early career prior to Lakanal but not afterwards. These reports should have been the subject of proper analysis

by those subsequent BRE commentators who were not confused. It is, however, a convenient confusion to explain dangerously misleading reports.

Professor Bisby expresses amazement that no one realised the cladding or continuous cavity at Knowsley was to blame for fire spread, and instead focused on lack of cavity barriers. That amazement reflects the perversity of selecting an obviously wrong cause of fire spread, but it was, however, a necessary disassembling if one wished to detract from cladding being the cause. This happened again at Lakanal, when the government's Chief Fire and Rescue Adviser focused on compartmentation as the cause, at the expense of downward fire spread, which he now regrets.

The department has admitted 13 missed opportunities to withdraw class 0 began with Connolly's work in 1994; the second is the select committee's recommendations in 1999; the third, RADAR 2; and the fourth, the catastrophic ACM PE failure in 2001. The remaining admitted missed opportunities to withdraw class 0, which we do not consider to be a comprehensive list, spans the period 2008 to 2016, and includes Lakanal.

The department's explanation why these 13 opportunities were missed is wholly unsatisfactory. Apart from quoting Lord Barwell, who accepted that

ministers must bear some responsibility for the failures of the department, officials are blamed for the failure to understand their oversight function and their perception that they could not challenge deregulatory policies. We are therefore back to the position in which we started at Module 6, namely the fallacy that officials had misinterpreted ministers' and Prime Ministers' deregulatory agendas, including David Cameron's "bonfire of the Building Regulations", effected through the Red Tape Challenge.

Whilst the department admits to having other priorities, it does not admit that it was adherence to those priorities which meant ADB was relegated to the back of the queue and that, realistically, officials had no power to raise its profile. Instead, it blames Mr Harral and the Building Regulations team for becoming totally internalised in their thinking and, therefore, lacking the will to ensure their work was prioritised. That is blaming individuals for failure to resist an overpowering agenda fanatically adopted by ministers. It runs counter to the department's tangible frustration, and Harral's evidence that his 2017 exchange with Martin suggesting "gilding lilies" meant finding ways to make the discussion document more attractive to the rest of government and ministers.

The department claims its failure to abandon class 0 after the select committee report was not politically motivated, yet Martin's evidence was it was a deliberate decision to retain class 0, taken with understanding of the risks which had been clear since Knowsley in 1991. In the circumstances, it can only have been a political decision. Similarly, as the department admits, the failure to remove class 0 after the RADAR research, despite the clear warnings that programme gave as to the lack of equivalence between national and European classes, was a conscious decision not to distort the market or be a barrier to trade. That decision was one which was patently against the interests of safety and ought to have been recognised as such. It would not have been a barrier to trade to refuse to allow use of the national classes for a reference scenario for which they had not been designed, namely externally as opposed to internally within a compartment.

During the 2005/2006 consultation on ADB, the department received a clear warning from Martin, Colwell and Greenwood —— all then at BRE, but Martin seconded to the department —— that the provisions of section 12 of ADB governing external fire spread were insufficiently clear. The warning flowed from a serious cladding fire at The Edge in 2005, and led Martin to propose a redraft

of section 12 which required all materials in the external wall to be limited combustibility. Martin's evidence was that the department would not make this amendment as it would prohibit timber frame over 18 metres.

The resulting changed version was a hastily contrived fudge. By the insertion of the word "filler" into 12.7, the department deliberately left ADB 2006 ambiguous. The word "filler" had been mentioned in BRE's report on The Edge, but latterly mentioned in an NHBC consultation response on insulation provisions. The effect of inserting the word "filler" into a clause dealing with insulation in practice led to the confusion that, whatever "filler" meant, it did not mean the core of a cladding panel.

Both Burd and Martin initially said their thinking was focused on insulation as they were addressing The Edge, which involved insulating core panels, but their evidence evolved such that both later said the word was intended to prompt the designer to think more broadly about the use of a combustible core. It is now clear that the department had not itself thought through the implications of the word "filler", nor the products to which it applied.

The department adopted this approach in order to

allow the use of timber frame and other combustibles in the external wall because, without timber frame, the demand for factory-built, ready-to-assemble housing, which many volume housebuilders use, could not be satisfied. As Mr Burd said, requiring all materials in the external wall to be of limited combustibility was too blunt an instrument, and had the massive knock-on effect of prohibiting timber-frame housing, which Dawes described as "kit housing" and one of government's top 10 to 15 priorities.

At latest from 2013 onwards, Martin and likely others in the Building Regulations team, as well as BRE, were aware of the debate within industry as to the meaning of the external wall guidance. In 2014, an industry body, BCA, produced a guidance note, TGN18, which did what the department had not and suggested 12.7 required all key components to be limited combustibility. TGN18 was a mixed blessing. It tightened the linear route, but suggested a specific concept of desktops for BS 8414 tests not contained in ADB and not previously common practice. As NHBC observes in its closing, desktops were common for fire doors, but at least in those tests the entire doorset is tested, not only part of it. Indeed, BRE's Tony Baker, in 2013, said BRE would generally not carry out

a BS 8414 desktop unless the system was very similar to that tested.

Whilst Professor Bisby accepts desktops were permitted by the Building Regulations, as the designer may adopt any approach, Bisby does not consider desktops were expressly specified by ADB as a route to compliance, nor were they. Although ADB's introduction mentioned the possibility of a holistic fire engineering assessment, this was for complex projects such as airport terminals and was not a suggestion of desktops specifically for façades.

The whole purpose of ADB was to provide specific routes to comply with the functional requirements. The notion of desktops for BS 8414 tests seems to have created the confusion that BS 8414 equated to a model test, suggesting generic fitness for use. On one view, desktops contradicted the express terms of BR 135, which governs BS 8414, and stipulated the classification report is confined to the precise system tested. Furthermore, it's a test designed to eliminate the worst offenders, and so offers limited data from which a positive assessment can be made.

Desktops opened the door to products prohibited by the linear route. Following TGN18, desktops became the preferred route to compliance, such that BRE was

overwhelmed with the number of requests. TGN18 was therefore causative of industry behaviour.

The impact of TGN18 was exacerbated by the June 2015 edition, which expanded the category of those who might make the assessment to "any suitably qualified fire specialist", which was an offensively broad definition and, in real terms, meant anyone claiming to be a fire specialist could carry out desktops, even if devoid of relevant qualifications.

Industry continued to issue warnings as to the lack of clarity regarding the external wall from 2013 onwards and, in 2016, revealed the legacy of ACM PE as a ticking timebomb. Yet these, coupled with a spate of international cladding fires, did not provoke clarification of ADB.

As the department admits and was clear from Martin's evidence, from at latest 2014, he appreciated ACM posed a threat, given the rules permitted it, yet claimed to have underestimated the scale of the hazard. The department nevertheless took no position on it, nor did it change ADB to prohibit ACM PE.

I now turn to delays in reviewing ADB post-Lakanal and knowledge of risk being ignored due to the overarching housing and deregulatory agendas.

The department's closing fails to analyse extensive

evidence put to Minister Stephen Williams and Lords Wharton and Barwell of their own individual knowledge of safety risks involved in deferring ADB review. APPG repeatedly warned Williams that the timeframe for ADB review was too slow and posed a life safety risk, but he simply toed the party line, petulant at being "slagged off", as he said, by APPG on account of his dismissive responses to their justifiable concerns. Despite claiming to be aware of such issues, he considered himself unable to flick the dial on them and, as he said, was more focused on zero carbon homes. He admitted that during the Sophie Rosser debate in spring 2015, which addressed the fire safety issues such as doors, he said the Building Regulations review was on track, not because he believed it, but because officials told him to.

Williams' motivation may derive from the many conversations he admitted to having with Oliver Letwin, then cabinet minister for government policy, whom Lord Barwell and Dame Dawes described as the minister pushing the deregulatory agenda and leading on the Red Tape Challenge, which Dawes considered a very important part of the drumbeat of the coalition government.

Following the department's receipt of BRE's seven workstreams, Harral asked Martin for a "worry list".

Harral claimed the purpose was just to have a cohesive list of things people had expressed concerns about.

The language in itself is telling. Despite describing the seven workstream reports as "overall low risk" in a 2016 email, Harral knew that the seven workstream reports did give cause for worry, hence his telling the panel that they were "desperate" to release them. As he understood, the first report warned of increased temperatures in fire caused by part L insulation requirements, and the seventh was "entirely damning", as he said, of the guidance on means of escape for disabled people.

The worry list was followed by the May 2015 "war book" produced for Wharton to brief him on concerns. A forwards-look produced at his request in late May 2015 introduced the concept of the discussion document, specifically to address the commitments to the Lakanal coroner.

As the panel heard, by summer 2015, review of ADB was rolled into a wider review of Building Regulations. Pausing here, an orderly review of either ADB or the Building Regulations would have required the publication of the seven workstream reports and, thereafter, a discussion document directed by those reports, as opposed to directed by the deregulatory agenda, as was

the eventual draft discussion document. The reports showed the premise of ADB was undermined by increased temperatures due to insulation, and report 6 expressly highlighted that it didn't include the effect of fire spread on the external wall.

As from May 2015, Lord Wharton was on notice by the war book of ongoing concerns about the impact of modern materials, particularly combustible foam insulation and wood-based products. The decision to roll ADB into a wider review so that the department could maximise deregulation was a conscious decision taken by the department at the highest level, not only at director general and director level, as Dame Dawes claimed, but also by Lord Wharton, who was aware of the extent of delay caused by the deferral, this despite being warned of the risk and urgency of ADB review by APPG's letter received the following day.

They told Wharton the failure to review ADB had significant life safety implications, yet Wharton met with housing director, Peter Schofield, and director for Building Regulations, Sally Randall, to discuss the submission in October 2015. Following a further patently deregulatory submission copied to the then Secretary of State, Greg Clark, which made clear the extent of delay to the discussion document and Building

Regulations review, Wharton approved it. His evidence was he believed earlier review of ADB alone sub-optimal.

That he understood the purpose of roll-up was deregulatory is clear from his telling APPG that the review's principal objective was simplification and red tape reduction.

Lord Wharton became aware, if he was not already, of the catastrophic Old Tannery fire, which happened on 4 July 2015, and about which he was interviewed a year later. The note of interview recorded:

"We had a lucky escape with Tannery last summer and the Minister fully understood this."

The failure at Old Tannery was extensive failure to install cavity barriers at the outset, as was the Kennett Drive fire in June 2014, which led to the timber-frame housing debate in December 2014, and of which both Brandon Lewis and Stephen Williams were also aware. Both fires caused total destruction of many homes but, miraculously, without loss of life.

The significance of the timber frame and cavity barrier issue is not that it was causative at Grenfell, but rather it demonstrates government's continued disregard for fire safety in housing, in circumstances where Martin said he knew that, from 2014, a major fire might occur due to lack of cavity barriers. Despite

this, nothing was done to ensure compliance or to reconsider the use of timber in façades.

During Lord Barwell's time as housing minister, the limited process of review which was underway ground to a halt. His time in office began in July 2016 and lasted until shortly before the Grenfell fire. Lord Barwell, unlike his predecessor, had responsibility both for housing and Building Regulations and, on his watch, both the publication of the seven workstream reports and the discussion document stalled. The discussion document would always have required write-round to all departments and the Cabinet Office but, as Barwell told the panel, it was unnecessarily deferred pending publication of the housing white paper.

The office of the then Secretary of State, Sajid Javid, proposed to Lord Barwell in September 2016 that Javid's dedicated housing policy [adviser], Tim Leunig, with whom Barwell worked closely, should review the discussion document as agent for Javid and shape the review. As Ledsome told the panel, Leunig is the person who could have told Javid he could give the green light to the discussion document.

As a result of senior officials' subterfuge in November 2016, forcing two ministers to communicate with each other in a desperate attempt to make progress

on ADB, Lord Barwell received a significant warning. It put him on notice of the longstanding commitment to review ADB and warned him of the need not to become complacent, and that the fire sector was concerned about matters including vulnerable people and changes in construction technology, in particular increased use of combustible materials. He did not ask officials what those were, claims to have probably assumed the materials were timber, and considered it to be addressed in the review or the discussion document. He accepted, however, that the only review in progress was the purely deregulatory discussion document.

In April 2017, Lord Barwell approved the discussion document and gave his steer to his private secretary that parts B and M were "the two areas where I feel politically there's a significant pressure to move rapidly". But Ledsome told the panel that Barwell's email to Leunig in April 2017 suggested Barwell again wanted Leunig's buy-in on the discussion document. It read:

"Gavin was content with the recommendations ... particularly interested in the work in parts B and M. Any thought[s] Tim ...?"

Leunig evidently had some negative thoughts on the discussion document because Harral never received

Barwell's approval of it and Ledsome never even saw this email thread prior to giving evidence. Barwell was at a loss to explain, but explained his office and Javid's office had caused five months' delay to the discussion document as a result of taking a collective decision to prioritise the white paper.

The decision to withhold the seven workstream reports was at the highest level. Contrary to Harral's evidence that they were politically low risk, Lord Heseltine's private secretary in May 2016 advised Lord Wharton that, "there are some potential issues here – I will come and speak to you both". In context, these can only have been political issues. Lord Barwell characterised the delay in publishing the reports until February 2019 as absurd, and yet latterly the reports got stuck in his office in 2017, albeit some of that time was with Javid's special advisers, or SPADs. SPADs are not technically minded; they advise purely on policy.

The only conclusion that can therefore sensibly be drawn from this evidence, taken together with the government's post-Grenfell misinformation campaign that ADB prohibits a PE core -- a point it continues to argue -- is that government was deliberately withholding the reports. To disclose them would have revealed that

government had known ADB's flaws since, at latest, early 2015, and knew overhaul of the Building Regulations and ADB was necessary. Given the warnings which led to Grenfell -- some deliberately ignored, such as the select committee and the chorus led by APPG -- delay releasing these critical reports is yet further proof the department was enslaved to its deregulatory agenda in disregard of safety.

I now turn to the significance of the department's systems failures.

The department is keen to present its failures as due to a lack of understanding its oversight role and inability to gather intelligence. The department was supposed to obtain information from industry to ensure policy reflected current technology. This was known as the "intelligent client function". Future developments were to be anticipated by a process known as "horizon scanning". Both were an abject failure.

As the panel heard from Mr Harral, the department was a behind-the-curve function and inherently unresponsive. As a result, Building Regulations did not keep pace with modern materials. The department not only failed to horizon scan, but to notice, still less defuse, the ticking timebomb on which it stood.

That said, department officials were aware of

combustible insulation potentially being in hundreds of homes, and although Harral and Ledsome denied being aware contemporaneously of the "filler" debate, Martin claims to have discussed this with them in the four years preceding the fire. Harral and Ledsome also considered warning ministers of flammable tower cladding in 2016 but, in fact, failed to do so.

The process failures, significant as they are, and resulting as they did in an unsafe system of regulation which failed to protect life, are really the product of the overarching and unyielding deregulatory agenda, coupled with the extreme financial constraints following the 2008 crash which, as Harral said, halted the regular review of Building Regulations.

It is therefore fundamentally misleading to characterise the parlous state of the Building Regulations and associated guidance as an unfortunate by-product of a prolonged lapse in concentration by the department's officials, tinged with some unspecified ministerial responsibility and a degree of austerity. It is more than that. The evidence points to wilful blindness and complacency towards safety, which was subjugated to the more pressing and politically appealing housing and deregulatory agendas.

That this is so is evidenced by the department's

knowledge of risks to life, coupled with deliberate concealment dating back to the instruction to play down the Knowsley fire, which concealment continued through Garnock, through the catastrophic 1924 tests, which were never published and not disclosed to the Inquiry until leaked to the press. Latterly, the way in which the department approached the Lakanal inquest and its failure to implement the coroner's recommendations makes clear its disregard for safety in the face of proven risks.

Finally, I turn to the role played by industry. It is ultimately responsible for the events which led to the Grenfell disaster. The Inquiry's experts consider the external fire spread guidance in ADB, even as it stood, was intelligible to competent designers and, therefore, if Grenfell's designers had been competent, they would have understood it. Those who rely on the ambiguity of "filler" are not fit to design façades if they fail to realise the core should not equate to diesel or lighter fluid, as ACM PE does, and if they fail to appreciate the risks of using combustible materials.

The Inquiry will of course also need to consider the impact of Arconic's testing of its rivet product to obtain a class B, and its use of that test to obtain

a BBA certificate extending to both the rivet and cassette product. That, together with Arconic's reliance on a class 0 classification for the PE/FR product, despite the PE never having achieved a class 0, led to a highly misleading BBA certificate.

Although Arconic's Mr Schmidt accepted Mr Wehrle knew or suspected the class B was not honestly achieved, and although it was superseded by a later test for rivet resulting in a C, which was subsequently downgraded by Arconic to an E, Arconic's closing perversely maintains its continued reliance on class B was legitimate.

Although industry could not be expected to appreciate Arconic's misrepresentations to the BBA, industry's knowledge of the implications of using ACM PE is clear from its characterisation of the situation as a ticking timebomb. It is therefore not certain that if government had clarified the word "filler", or even required A2 in external walls over 18 metres, as it now has, the façade at Grenfell would not have supported lethal fire spread. This is because Grenfell's designers did not claim to be confused by the regulations, principally because most were not familiar with them, and neither was RBKC building control competent to detect the patent non-compliance in relation to both the insulation and cavity barriers,

despite the requirement for those two elements being entirely clear.

Similarly, in relation to the other critically relevant consideration for the Inquiry, namely means of escape for those with disabilities, Dr Lane considers ADB is premised on inclusive design and did make clear to the reasonably competent engineer that additional measures were required, and that legislation protecting those with disabilities must be complied with. Competent designers were aware of BS 9991 and the different approach to evacuation and stay put.

To conclude that the failure to clarify or amend ADB led to the lethal fire spread at Grenfell is to overlook the role of the construction sector in deliberate non-compliance, even in areas where ADB left no room for debate, such as insulation and cavity barriers. The relatively small contribution of any insulation, combustible or otherwise, to the Grenfell fire, which Professor Bisby puts between 2 to 10%, does not detract from the significance of the prevalent culture of non-compliance and lack of competence.

Industry's capacity for both good and bad behaviour is nowhere more starkly personified than in Nick Jenkins, on the one hand advocating greater clarity in section 12.7 of ADB in 2016 and drafting guidance

accordingly, but, following Grenfell, assisting Kingspan in manipulating the outcome of a Building Safety Programme test, the "NJ joggle", as he called it.

Furthermore, just after industry recognised the ticking timebomb posed by ACM PE, NHBC produced its irresponsible July 2016 "Acceptability of common wall constructions" note. Whilst NHBC accepts by its closing this note was deficient, it was worse than that. It permitted the use of the very products used at Grenfell without the need for test or even a desktop. Whilst the note itself was not causative of Grenfell, being published after the completion of the refurbishment, it evidences the degree to which industry sought to manipulate and circumvent the regulation. NHBC has notably not, in its closing, addressed how the volte face which led to it issuing this note occurred.

It appeared from the Module 2 evidence that Kingspan may have lobbied NHBC for the production of that note. They certainly had lobbied for the widening of the desktop provision of BCA's TGN18.

Kingspan's closing suggests we argued Kingspan was seminally causative of fire spread at Grenfell. We did not, but said, and still say now, that Kingspan created a false impression from 2005 onwards of the suitability of combustible materials at height. It did so by being

the first insulation to seemingly pass a BS 8414 test, and by misleading marketing, coupled with Kingspan's express desire to "educate the market" in matters of combustibility and its insignificance in terms of individual product performance.

In that sense, it was seminally causative of the UK market's willingness to use combustible materials at height. The fact that at Grenfell neither Kingspan nor Celotex's insulation was causative of the fire spread beyond the 2 to 10% that any insulation would have contributed does not mean these insulations could not be causative in other constructions. Professor Bisby has been at pains to stress that such insulation, particularly K15, could be significantly causative if used in a different form of construction.

To conclude, whilst it is beyond doubt that the department never addressed functional requirement B1 or B4 adequately, with the result that it has allowed an unsafe framework of regulation to exist for over 30 years, those designing façades and fire engineers designing fire safety strategies must be competent. Had they been, they would have understood the functional requirements and taken responsibility for interpreting them correctly. Whilst Arconic's, Kingspan's and Celotex's products were potentially dangerous, the

designers should have appreciated their unsuitability for use in a high-rise building with a stay-put policy.

Whilst, of course, regulation must be sufficiently clear, building regulation alone cannot prevent disasters. The sectors themselves must engender competence. That alone, however, is not sufficient, given the competence crisis that we have. As a minimum, the title "fire engineer", we say, should be legally protected.

Those are my submissions, sir. Thank you.

SIR MARTIN MOORE-BICK: Thank you very much indeed.

Well, we're going to take our morning break rather earlier than usual, and we'll take it at this point. After the break, we're going to hear a closing statement on behalf of other bereaved, survivors and residents by Mr Stein Queen's Counsel and Mr Mansfield Queen's Counsel. That we'll do at 11.15.

At the moment, therefore, we shall rise for our morning break.

Thank you very much.

(10.59 am)

(A short break)

(11.16 am)

SIR MARTIN MOORE-BICK: We're now going to hear a closing statement partly by Mr Stein Queen's Counsel and partly

by Mr Mansfield Queen's Counsel on behalf of the other bereaved, survivors and residents.

Good morning, Mr Stein.

MR STEIN: Good morning, sir.

SIR MARTIN MOORE-BICK: We are ready to hear you as soon as you are already. Thank you.

Module 6B (Government, Testing and FRA) closing submissions on behalf of BSR Team 2 by MR STEIN

MR STEIN: Thank you, sir.

As you have already outlined, I will be addressing, first of all, matters on behalf of Team 2 insofar as they concern testing and certification. I will also be dealing with disability issues, and then Mr Mansfield will then come forward and then take on the question of central government.

Sir, we say this: it is a disgrace that the cladding and insulation manufacturers, Arconic, Celotex and Kingspan, knew that their lethally combustible and toxic materials were being sold on to residential buildings, and that they continue thereafter to profit substantially in the aftermath of the Grenfell Tower fire. But it is also a national disgrace that the testers, certifiers and government all knew of the dangers of these materials as well. It is a disgrace that, despite this knowledge, nothing was done to

protect the only people who did not know: the people living in tower blocks and, in particular, those living in the Grenfell Tower up until the night of 14 June 2017.

Heaped upon this disgrace is the fact that around 650,000 families, children and disabled people still live in buildings covered in combustible cladding, five years and six days after the fire at Grenfell Tower. That's five years and six days after 72 innocent men, women and children, and one unborn child, lost their lives due to crime, compound negligence and neglect across this industry.

Sir, this is why we have called within our written submissions for accountability. What we mean is that, at the very least, those who knew and had responsibility should be sacked. Dr Colwell should go from her position at the BRE and Brian Martin should be removed from any future work that might have a detrimental effect on people's lives. We don't make this call lightly or frivolously. It is made in the light of the evidence that you have heard during this module. Both individuals, through indolence or professional ineptitude, missed clear opportunities to change the system of regulation which would have prevented the tragedy at the Grenfell Tower.

The fact that a building industry-wide ban on Grenfell-style aluminium composite materials with an unmodified polyethylene core is only coming into force this year is yet another disgrace. Multitudes of flats are still covered in this stuff.

In November 2018, the government introduced regulations intended to ban the use of combustible materials on high-rise residential buildings over 18 metres. Only material achieving the two highest reactions to fire classification, class A2 and A1, could be applied. But, notwithstanding the presence of similar fire safety risks to those in other residential buildings, such as hotels, hostels and boardinghouses, they were excluded from the scope of the restrictions introduced under the 2018 regulations. It has taken further public outcry and another consultation.

The government has finally decided to extend the 2018 regulation restrictions in the 2022 regulations. This means that this year there will be a complete ban on the use of the type of metal composite material used on the Grenfell Tower, those with an unmodified polyethylene core, to ensure it does not become part of an external wall or specified attachment of any new building and buildings undergoing building works, irrelevant of height or use, and, finally, hotels,

hostels and boardinghouses will also and finally be brought within the ban's scope.

The 2022 regulations should come into force on 1 December 2022, and apply unless an initial notice, building notice or full plans have been deposited beforehand and work has started or starts within six months of that date. But why allow this? The industry has fair warning in the form of the tragedy at the Grenfell Tower: don't use these materials. They are dangerous and they are going to be banned. Does it make sense to let an unscrupulous company buy up the no doubt ever cheapening stocks of this material to shove on hospitals just in time to limbo under the ban? Can we please stop putting corporate profits over safety to life?

The real question posed by the Module 6 evidence is how it was that so many buildings, including the Grenfell Tower, were made dangerous by the combustible cladding placed on them. We suggest that the witnesses called within Module 6 have done their best to try to hoodwink you, the panel. Witnesses have presented their evidence to imply that there were some suggestions of problems with combustible cladding and insulation, and little more than that. The truth is much worse.

Grenfell Tower was built not long after the

Ronan Point disaster, where an entire corner of a tower block fell away due to poor construction. Ronan Point was a 22-storey tower block in Canning Town, Newham, East London, that partly collapsed in May 1968, only two months after opening. At Ronan Point, four people died and 17 were injured. Because of Ronan Point, Grenfell Tower was built to last, until the corrupt, incompetent manufacturers and builders, and the erosion of the regime of inspection and building regulation, fatally undermined its safety.

We need, first of all, in the line of documents that we're going to be examining shortly, to weigh up the understanding of the relevant guides from the BRE, starting in 1988.

The first edition of BR 135, the 1988 guide, warned of risk posed by overcladding materials. We will see that, by 1988, concerns regarding cladding systems were already well understood. Concerns of class 0 were also clear.

I take you first of all, please, to the document BR 135 1988. That is {BRE00005553/6}. Thank you very much.

Under "Regulatory Aspects" you will see, bottom right corner:

"Control over the external surface of walls of

buildings, particularly those of multi-storey flats, to avoid ignition and flame spread which might endanger the lives of residents above by breaking down effective 'compartmentation' is currently controlled by reference to tests specified in BS 476: Parts 6 and 7. However, these tests only provide information on surface fire behaviour. The overall fire performance of a ventilated cladding system or insulated assembly, incorporating independently-supported weathering finishes and complicated reveal details, can only be investigated under actual fire conditions on a full-scale building facade. To identify the design principles on which constructional recommendations might confidently be based demanded research. This would be to determine both the risk of flame spread over the surface of the building and the risk of progressive spread via a cavity within the cladding system or through a layer of combustible insulant to areas remote from the original fire."

Further down on page 7 {BRE00005553/7}, the document refers to "Investigation of the problem". You will see there:

"Current concern has involved the likely performance in fire of large areas of external wall insulated in these ways when a flame plume emitted from a window on

one storey impinges on the facade above.

"In high rise buildings it was felt that a life risk might be caused by the penetration of fire or smoke through walls or upper windows resulting from ..."

I will read the second of the two bullet points:

"Fire spread through continuous cavities or combustible insulants contained between the solid wall and the external finish of the system."

What does this mean?

From 1988, cladding fires -- which may destroy reliance upon compartmentation and meant that stay put as an answer to a fire in at least some tower blocks could not be sustained -- this means that from 1988, cladding fires were a known risk, a risk that could kill. A killing risk.

The test programme is described in the first edition of BR 135 at {BRE00005553/7}, bottom left-hand corner. That is a timber crib that at point (a) was designed to provide, "Flames typical of a fully-developed building fire impinging on the facade". Page 7 shows the results carried out. Figure 3 shows the rig before the test. It is worthwhile noting that in relation to figure 3, if we look at -- and, in fact, at figure 4 {BRE00005553/8} we can see the same -- some consideration was given to windows being included in the test rig.

If we go back to page 7 {BRE00005553/7}, bottom right-hand corner, "Experimental fires":

"Typical experimental fires are illustrated involving:

"(a) a system with insulation sandwiched between rendering and wall ...

"(b) an aluminium-faced cladding system incorporating expanded polystyrene, the extent of the ventilated cavity being limited by fire barriers ..."

Then at the top of page 10 {BRE00005553/10}, please, these are the test results, which revealed, at the top of the schedule, under the "Performance" column, that:

"Cladding melted allowing active EPS fire in cavity and dropping from base of cladding. Process slowly self-sustaining."

Just three years after the 1988 BRE guidance was shared with industry, a fire tore through a flagship government-funded project at Knowsley Heights. The guidance in 1988 had foretold the fire's behaviour. The panels there, GRP, glass-reinforced polyester, were class 0, and the cavity acted as a chimney, and smaller window frames created gaps filled with combustible materials. This may sound familiar.

As a further premonition of the Grenfell Tower fire, flame re-entry occurred throughout the build. Mr Martin

was asked in his evidence in relation to the Knowsley Heights fire why small-scale fire tests, including a class 0 classification, were an inadequate basis for trying to predict and control a fire in the external cladding. His answer: well, he couldn't recall discussing it, and asked rhetorically: where does a surface start and finish? Class 0 remained in place, allowing a clear threat to life safety to go unchecked.

The resulting 1991 Building Regulations called for cavity barriers in an external cladding system, which of course proved ineffectual at Grenfell. The functional requirement, B4, "The external walls of the building shall resist the spread of fire over the walls". Jumping ahead in the chronology, it was following the next major cladding fire in 1999 at Garnock Court that B4 was diluted to read, "The external walls of the building shall adequately resist the spread of fire". Suddenly, therefore, in one stroke, fire risk became a subjective exercise, although Anthony Burd of the DCLG claimed his insertion made no difference at all, agreeing, as he put it, it was a "lawyers' thing".

Now, the BRE had been privatised in 1997. The BRE's ability to advise on policy and carry out crucial research was now severely limited by the new client relationship with government, a relationship

demonstrative of government's willingness to limit their own knowledge of risk in favour of cost-saving. Beyond this, client confidentiality on manufacturers' failed tests protected the results from wider dissemination.

In the future, it is essential and in the public interest for data on failed fire performance tests to be made publicly available. We must ensure decisions made on compliance are able to take account of all known facts, not just those that are proffered by manufacturers in pursuit of a route to market instead of a route to safety.

Even though privatised, the oversight body that could have stopped the BRE from running wild was ineffective. Despite identifying multiple failings at the BRE, UKAS failed to enforce throughout the decades. Assessment of the BRE generally was lacking, and the BRE were permitted to act in the interests of industry over public safety. They relied on corporate contract terms to protect them from the obvious need to protect life.

On 11 June 1999, there was the fire at Garnock Court, a 14-storey block of flats in Irvine, North Ayrshire, Scotland. It led to the death of a man who used a wheelchair. Five others were injured. Cladding was a significant factor in the fire spread. The fire spread via the external cladding, reaching the

12th floor within ten minutes of outbreak, destroying flats on nine floors.

At Westminster, the environment, transport and regional affairs select committee conducted an investigation.

I am going to turn, please, to the FBU's memorandum, which is {FBU00000127/6}.

The FBU's memorandum outlined the risks from cladding and concluded starkly. It's under the heading "Whether a Risk is Posed by Such Cladding":

"2.1. There are a number of risks that may be posed by the use of combustible, or badly installed, external cladding systems. Having said that it should be understood that cladding systems themselves are unlikely to be the first item that is ignited. They are far more likely to become involved in fire as a result of a fire in a room that has vented through the room window(s) and which is travelling up the building face. This is a common occurrence and is predicted by the laws of physics (ie, heat rises therefore fire travels upwards).

"2.2. The primary risk therefore of a cladding system is that of providing a vehicle for assisting uncontrolled fire spread up the outer face of the building, with the strong possibility of the fire re-entering the building at higher levels via windows or

other unprotected areas in the face of the building. This in turn poses a threat to the life safety of the residents above the fire floor.

"2.3. A secondary problem of fire spread through external cladding may be caused by the method of fixing the panels to the exterior facade of the building. If lightweight fixings (aluminium or metal alloys, etc) or resin bonded systems are used to attach the panels. There is a risk of the panels becoming detached when exposed to fire and failing from the face of the building posing the associated missile risk to firefighters and members of the public in the vicinity of the building."

Following the Garnock Court fire, and as a result of a request from the subcommittee to review standards, the BRE cc1924 contract was born. This was meant to be a programme of work to review the guidance given in BR 135, the fire performance of thermal insulation for walls of multi-storey buildings. A major part of this involved large-scale experiments in 2001, one of which included ACM PE as cladding. Dr Colwell recalled this experiment's results as shocking after the rig erupted into 20-metre flames. Mr Martin, however, could only recall it as an "interesting outcome", stating that Dr Colwell -- she described the mechanism by which it

reacted with the fire, ie the aluminium burnt away, exposed the polyethylene, and then the polyethylene began to burn. Mr Martin put it this way, "I think she said that it failed the test". Yet again, this clear risk was not acted on.

The ACM PE had been included as a result of an industry survey on materials in cladding systems. It is a further total disgrace that this obvious screaming risk to life was simply left, hidden from the public eye until this Inquiry's investigation.

A final part of the cc1924 work was the production of the second edition of BR 135, dated 2003, written by Sarah Colwell and Brian Martin. I take you, please, to the document, which is {BRE00005554/3}.

Both at that time were working at the BRE. It was written from the perspective of the BRE's FRS, the Fire Research Station, as part of the contract cc1924, placed, as you can see, by the Office of the Deputy Prime Minister.

I'm now going to turn you to another image, but before I do so, it would be best if I give an image warning. The image potentially is upsetting as it may call back memories of the tower fire. I will therefore pause just for one moment for people to react if they wish.

(Pause)

Therefore, please turn to {BRE00005554/2}. You can see that there could be no doubt that the severity of a cladding fire was understood. As we can see, a test rig completely under fire on the front page.

Now turn in the same document to page 9 {BRE00005554/9}, showing the schematic that we are all familiar with.

BR 135, the second edition, shows the mechanism of fire spread. A reminder of dates: we've had 1988, strong warnings, compartmentation at risk. By the time we get to 2003, there is absolutely no doubt at all from this schematic of the nature of the risk and how it can be demonstrated on paper. We can see that this diagram shows graphically a cladding system contributing to fire spread. It can result in a risk of multiple simultaneous secondary fires.

The left-hand side of the block of flats schematic, just below the floor second from the top, the schematic states:

"If the external cladding contributes to the flame spread there is a risk of secondary fire spread to all levels."

Page 10 {BRE00005554/9}, under paragraph 2, "Fire break out":

"Following the initiation of a fire inside the building, if no intervention occurs, the fire may develop to flashover and break out from the room of origin through a window opening or doorway. Flames breaking out of a building from a post-flashover fire will typically extend 2 m above the top of the opening irrespective of the material used to construct the outer face of the building envelope ..."

We can see there figure 3.

The severity of the danger is then emphasised under paragraph 4, just further down the page, "Fire re-entry":

"Window openings or other unprotected areas within the flame envelope provide a potential route for fire spread back into the building. This creates the potential for fire to bypass any compartment floors that may be present, leading to a secondary fire on the floor above. If secondary fires are allowed to develop without intervention before flashover occurs, then flames may break out again thus extending the flame envelope and threatening other openings further up the building, irrespective of the materials used on the building envelope."

Finally, at paragraph 5, there is a reference to the impact on firefighting. I'll skip the first sentence.

"However, where the external cladding system is contributing to the fire propagation rate, the potential exists for the fire to affect multiple storeys simultaneously, thus making firefighting more difficult."

Perhaps a considerable understatement.

This means that, from 1988 and confirmed in 2003, Dr Colwell, Brian Martin, the BRE, government and the building industry are all aware that cladding and insulation can provide a route for fire and be a fire risk itself. If cladding and insulation are involved in a fire, this may leap up a building. If cladding and insulation are involved in a fire, compartmentation may well fail. If cladding and insulation are involved in a fire, firefighting will be made more difficult.

Despite the clear warnings in the 1988 edition about the risk of re-entry via window or otherwise, in the 2003 second edition, any attempt to include windows or apertures in test rigs had also now gone, as we can see at the same document, second edition, which is {BRE00005554/20}, figure A1.

Sir, you will recall recently the questioning by Counsel to the Inquiry of Professor Bisby, insofar as it touched upon the question of windows/apertures not being included in the test rig. So at 1988 there was some

attempt to include. By the time we get to 2003, no windows, no attempt to provide apertures within the test rig.

The next revision of BR 135 is in 2013, the third edition. I will take you briefly to {BRE00005555/2}. Then moving on, please, to {BRE00005555/13}, we see our familiar schematic. The third edition of BR 135 repeats the same embedded warnings of fire spread up a building and increased difficulty with fire service intervention, as shown in the second edition.

It is worthwhile pausing just to remember what's going on now at the Grenfell Tower itself.

By 2013, the refurbishment plans at the Grenfell Tower were well underway. As an example, in November 2012, there was the design team meeting involving the TMO, Studio E, Curtins Consulting, Max Fordham and Appleyards. The discussion point there regarding cladding was colour and ratio of zinc for the façade, and nothing else.

I will take you back, please, to the BR 135 third edition to {BRE00005555/23}.

In addition to previous warnings noting the dangers of combustible cladding and insulation, with this third edition, there is consideration of combustible panels at underscore page 23, second paragraph to the bottom

right-hand side. You will see there the "Combustible panels" reference:

"Combustible panels are typically based on vinyl or glass-reinforced plastic, although various new products are being developed in this area, some of which also contain insulation materials. These products generally have good surface spread of flame characteristics to prevent rapid fire spread across the surface of the system, but once the panels become involved in the fire, they have the potential to generate falling debris, add to the overall fire load, and provide a route for fire to propagate up the outside of the building."

This paragraph dismally confirms that, whilst the outside shell of a product may resist fire spread, it can also be dangerously combustible, making clear the threat posed by its use when involved in a fire. This provides no excuse for the unremitting danger to life from these materials being used on buildings.

The trend, therefore, from 1988 to 2003 to 2013 has made it clear to all and sundry -- government, BRE, all of industry -- what is the nature of this risk, what is the extent and seriousness of this danger. But, of course, we have the evidence that relates to other fires. It has already been mentioned by Ms Barwise Queen's Counsel: the fire at Manchester's The Edge

development. That building was clad -- this is 2005 -- in sandwich panels that contributed to rapid fire spread up 17 floors in just ten minutes. Dr Colwell's subsequent report on the fire suggested the government revisit the relevant section of Approved Document B guidance around external wall construction to remove confusion about what materials were compliant.

Following that work, Mr Martin rewrote this section as part of a new draft version of Approved Document B, including a new section stating that "insulation or any other material" used in external wall construction in a building over 18 metres tall should be of limited combustibility. However, despite this being included in the draft, the final version of Approved Document B omitted that amendment, instead stating that any "insulation product or filler material" should be of limited combustibility. That phrasing never went out to consultation and Mr Martin admitted the thinking was so that they could come back and slip in something unconsulted-on later.

You have also heard the evidence that relates to the group meeting at the CWCT, the Centre for Window and Cladding Technology, which effectively tasked the BRE's Dr Sarah Colwell in July of 2014 to draft an FAQ. According to the meeting minutes, the dangers of ACM

cladding with a polyethylene core were raised, with attendees pointing to major fires in the Middle East and France.

Pausing again, 2014. By that stage you've had the Water Club Tower, Atlantic City; you've had Wooshin Golden Suites fire in South Korea; Mermoz Tower, Roubaix, France; the Saif Belhasa building fire in Tecom, Dubai; and the Tamweel Tower Dubai fire. These are all fires involving exterior panel façades.

So at that meeting, Dr Colwell was directed to the fact of the other fires in other parts of the world. Dr Colwell apparently tried to explain that Approved Document B was intended to prohibit ACM use in buildings over 18 metres tall, but was told the current wording was insufficient as it only referred to prohibiting combustible insulation products, with cladding panels apparently subject to the lower fire classification, class 0, a standard many ACM products claimed to obtain.

Dr Colwell appeared to take responsibility for a clarifying FAQ and raised it with Mr Martin, the civil servant responsible for the guidance. Mr Martin, as you will recall, had attended the meeting but left before this discussion. Dr Colwell never completed the FAQ, later claiming she believed the issue would be dealt with in a forthcoming revision of Approved Document B.

She said:

"... it was assumed that ... it would be taken up with that, so I didn't pursue that conversation with Brian, which, with hindsight, is something I should have done."

Therefore, Approved Document B was never revised and remained in place until after the Grenfell Tower fire.

Dr Colwell indicated that, by September, she had decided not to draft an FAQ, but failed to inform the CWCT group. She said:

"On reflection ... it is something that I should have followed up directly with [the group] ... I fully acknowledge that that was a lapse on my part ... not keeping them [fully] informed [with regard to the whole process] ..."

It was also, as you will recall, revealed in her evidence that Dr Colwell failed to reveal those details in her witness statement.

The Inquiry has heard that she told an attendee at the March 2015 meeting that she had completed a draft of the FAQ. However, when an attendee chased for an update, she ignored multiple emails and voicemails until that individual gave up.

It should be remembered that the CWCT 2004 meeting came at a potentially critical moment when the final

decisions to clad Grenfell Tower in highly combustible polyethylene-cored panels were being considered.

Despite a clear golden thread of knowledge of risk posed by the cladding, industry-produced guidance flew in the face of public safety. The BCA, the Building Control Alliance, Technical Guidance Note 18 legitimatised desktop studies, which operated in a space of entirely insufficient knowledge of performance of materials, and Professor Bisby has recently described the six desktop studies he reviewed as "missing basic information", "pretty inadequate" and "not evidence-based". Mr Martin was aware of incompetent studies in use but entirely failed to act or warn his own department, even speaking at the launch of the later 2016 note permitting the Grenfell cladding and insulation combination.

It is against the background that we have set out of known danger to life that the evidence of all Module 6 witnesses must be judged. It is not just that in the past these witnesses didn't take the risk seriously, but, importantly, they didn't take account of the seriousness of the risk.

In addition, we urge the Inquiry to give careful consideration to the abject performance of organisations such as the NHBC and LABC who have, through a process of

evolution, taken on regulatory functions under the guise of profit-making businesses. From 2009 to 2015, the LABC certified Kingspan's K15 and Celotex's RS5000 based upon missing, false or misleading data, and NHBC ultimately green-lit the use of ACM, RS5000 and K15 in their 2016 guidance.

Now, we all recall the evidence from Professor Bisby describing what he was describing as the limited contribution to the fire of those materials, but we need to remember at all times the toxicity of those materials and the gases that they gave off and, therefore, the contribution cannot just be limited to how much flame they produced.

Both the LABC and NHBC, private companies, gave false reassurances as to public safety. This was against the background of industry having the clearest of warnings surrounding the use of these products from BR 135 editions 1 to 3. As with the certifiers in Module 2, there is a clear tension between the public service obligation of ensuring public safety and commercial pressures where private businesses conduct regulatory or quasi-regulatory functions. It should not need to be said, but public safety must be the driving and principal concern in any and all circumstances. The evidence you have heard demonstrates that, instead,

profit-making has been given an equal and sometimes overriding emphasis over public safety.

As of this moment, the evidence from Inquiry experts, Professors Bisby and Torero, stands to say that much must be done to test cladding systems and materials used within such systems, and much must be done to test such systems before we can get a standard for such construction. What does that mean? Well, it means this: that until the science is settled, our ability to measure the safety of existing exterior cladding systems is also seriously suspect.

Our clients say: with responsibility comes accountability. As stated by Professor Bisby on Day 291 of the Inquiry:

"... if it's your job to write building regulations, then you need to make sure that what you are doing is representative of what is happening in the world, and if you don't, then you're not doing your job."

He mentioned the fact that this jurisdiction stands on an international stage. Our systems are not just our own, but emulated by other countries. That means that we cannot imagine that our disgrace from a failure to act on the consistent knowledge of risk, dating back over four decades, affects just us.

This cannot be allowed to continue. The system must

be reformed so that the discharge of regulatory functions concerning public safety is put back into the hands of entities that are protected from and not subject to any competing forces such as the desire to make money.

Further, attention should be paid to the market dominance of organisations such as the NHBC which, because of their market share, hold an inordinate amount of power in shaping safety standards.

Our submission is that a new safety standard must be set within the building industry, a Grenfell standard. This must be not only what is thought to be safe but, additionally, a wide margin on top to account for industry crime, builders' and designers' ignorance and incompetence and expert error. The Grenfell standard should mean that, in practice, a door that is rated potentially to withstand 30 minutes subject to a fire, judged to be sufficient to allow for the arrival of firefighters, add 30 minutes to make sure, to make safe. The Grenfell standard could become a mark of safety across the building industry and be a very small part of remembering those who died in the fire.

I now turn to disability issues.

The bare minimum we should accept is that a block is only safe if it is safe for all residents, not just for

all residents except disabled people. The future litmus test for fire safety should be to regard people with disabilities, those who need the law's protection most, as mentioned by Mr Thomas Queen's Counsel early on in the Inquiry, and their ability to survive as the minimum standard by which we should judge risk to life from fire.

We have heard shocking evidence about government attitudes towards disabled residents and their safety from fire in the years between Lakanal and Grenfell, but the government has even managed to trump this. On the eve of the fifth anniversary of the fire, two and a half years after the Prime Minister committed to implementing the recommendations, the government reneged on that commitment by openly rejecting the recommendations most focused on protecting disabled people.

What could have led to that mindset? We have seen how little the government wish to do to improve things after the Lakanal coroner's recommendations. For disabled people, it was worse. Post-Lakanal, the government chose to actually make them less safe. According to the DCLG's Louise Upton, Lakanal House was totemic, and for the housing sector, guidance was the thing that was most wanted after the fire.

Brian Martin admitted that, before 2011, all

statutory guidance on means of escape for disabled people recognised that disabled people had a right to a plan for their evacuation in case of a fire. To the government, that was a big problem.

Within two days of his office being selected to write the LGA guidance, Colin Todd recorded that disabled evacuation had been identified as one of the showstoppers to address, as he put it, evacuation or not. What resulted was the 2011 LGA guide.

By 2013, without independent analysis, the official statutory guidance was born and endorsed by Lord Pickles in his response to the Lakanal Rule 43 letter. The LGA guidance stated, without precedent, that responsible persons need not have any plan for how disabled people would evacuate a building in case of imminent danger. In getting there, the government dismissed concerns that it was discriminating against disabled people contrary to the Equality Act. We suggest this: the government's guidance on landlords' evacuation duties to disabled residents was unsafe and unlawful, ignoring the public sector equality duty.

We now know that this arose out of a culture of complete disregard for the views of disabled people. Neither Mr Todd or the government consulted disabled people or disability organisations or specialists at all

before deciding it was unrealistic to expect landlords to have an evacuation plan for disabled residents. Why didn't they ask disabled people?

There were two strands to government-led officials' evidence on fire safety and Building Regulations. On the one hand, they forgot about disabled people. But the more illuminating and deadly strand was that they didn't think disabled people had anything useful to add to their own safety from fire, and landlords' views would suffice. As a result, the only stakeholders whose views counted were Mr Todd's office and his clients, landlords, not residents. This is how the government operated. So current practice became best practice.

Now, the government had hardly allowed the ink to dry on the transcripts of this evidence before they revealed their stance on this Inquiry's PEEPs recommendations. At the Building Safety Bill's third reading in May of this year, building safety minister, Lord Stephen Greenhalgh, stated:

"Fifteen of the 37 disabled residents living in Grenfell Tower died in the fire. That is more than 40% of the disabled residents. The Government are committed to supporting the fire safety of disabled and vulnerable residents."

In the next breath, his tone changed:

"The Government ran a consultation on the issue of personal emergency evacuation plans – PEEPs – in July 2021. The consultation has made clear the substantial difficulties of mandating PEEPs in high-rise residential buildings around practicality, proportionality and safety."

Except it didn't. The PEEPs recommendations were massively backed up by the public consultation, including by disabled people and organisations. 80 to 90% supported PEEPs.

That mantra, "practically, proportionality and safety", was not new. We've heard those words before. This is a haunting echo of the government witnesses' evidence to this Inquiry about why it attempted to relieve landlords of their vital duties to disabled people.

These three obstacles to implementing the 23 recommendations purportedly revealed by the July 2021 consultation were, in reality, taken from the same playbook employed a decade ago and defended in Mr Martin's evidence. First, Lord Greenhalgh said:

"On practicality, how can you evacuate a mobility-impaired person from a tall building before the professionals from the fire and rescue service arrive?"

Disabled people and organisations had told the government how PEEPs could work with the assistance of staff or others, the phrase used in the guide itself. But the government regurgitated the same stance Mr Martin used in his dismissal of the contemptuously named "benevolent neighbour".

Secondly, Lord Greenhalgh stated:

"On proportionality, how much is it reasonable to spend to do this at the same time as we are seeking to protect residents and taxpayers from excessive costs?"

A decade previously, the government dismissed discrimination concerns due to an anxiety to avoid imposing disproportionate burdens on landlords, and Ms Upton agreed that this should have been disclosed in a spirit of candour.

That purported concern for residents and taxpayers resulted from closed-door meetings with landlords. That disabled people should be trapped to die in fire to avoid excessive cost was one of Brian Martin's dark facts. Brian Martin was asked:

"So people die in their flats because they're bedbound, because it's too expensive to have a system to get them out?"

His answer:

"I suppose so."

Lord Greenhalgh's third point was:

"On safety, how can you ensure that an evacuation of mobility-impaired people is carried out in a way that does not hinder others in evacuating or the fire service in fighting the fire?"

Lord Greenhalgh's attempts to justify why disabled people would continue to be left in their flats in a high-rise fire because they might slow down non-disabled people exercising their rights to evacuate. It was that mindset that led to 40% dying in the Grenfell Tower.

It was the view, he went on to say at the time, that "hopefully the Fire Brigade would get to them in time", but if not, "that's one of the reasons why there are a large number of people that -- with disabilities that die in fires, is because they can't get themselves away from an incident."

This was the government's decision: rejection of your Inquiry, this Inquiry's recommendations on PEEPs and sharing information with the FRS for nearly all high-rise blocks. For the very small fraction of high-rise blocks with simultaneous evacuation policy, the very highest risk, there is a person-centred fire risk assessment, a PCFRA. Typical suggested outcomes include fire retardant bedding and fire safe ashtrays.

Well, they're fine in themselves, I suppose, but they're not an evacuation.

It was the minister who said 40% died in Grenfell. This was not because they had a cigarette in bed. What this is instead is a sad reminder of the evidence before this Inquiry that, apparently, disabled people are a risk to themselves and to others.

Has time already softened the tragedy's impact? Have the government's failures and their consequences already been forgotten? It's the purpose of this Inquiry that this should not happen and that this tragedy should never be repeated. We suggest that the government's rejection of this Inquiry's recommendations to safeguard the most vulnerable who are at risk of death strikes at the heart of that purpose.

One final point: when I came into this Inquiry, I had to make myself familiar with the system of regulation that in theory existed, and I paid close attention to Dame Judith Hackitt's reports, which predicted much of the concerns and considerations that you have considered within this Inquiry. Heaven knows what Dame Judith would now say, after hearing this evidence. She said that the regulatory structure was not fit for purpose. What words would she use now?

One thing that we all expected was that there would

be a system of some type, a system with checks and balances, risk assessments, impact assessments, the very stuff of regulation. We've seen nothing of that. On all of the issues that I've been speaking about this morning, including disability issues, if there had been any type of system at all, impact assessment, risk assessment and their type, consideration by committees, by meetings, by those people that actually are paying attention to these details, then this tragedy may have been avoided.

So we're looking ahead now to a system in the future, but it needs to be one that has a system of checks and balances, risk assessment and impact assessment, that looks carefully at these matters into the future.

My final point: that is never going to be cheap. It has to be paid for and it has to be funded.

Sir, those are our submissions.

I now turn and cede my place to Mr Mansfield.

SIR MARTIN MOORE-BICK: Thank you very much, Mr Stein.

Yes. Well, now, Mr Mansfield, you're going to add to that statement on behalf of your clients, so would you like to come up.

(Pause)

Yes, Mr Mansfield, when you're ready.

Module 6B (Government, Testing and FRA) closing submissions on behalf of BSR Team 2 by MR MANSFIELD

MR MANSFIELD: Good morning, Chair, Thouria Istephan and Ali Akbor as well this morning.

You have had —— in a sense, the public will realise, because it is publicly available —— from the families —— that's split into Team 1 and 2 —— extensive, detailed written submissions on this part of —— well, the whole of Module 6, but the part I am dealing with is included in that.

Now, in addition, you've had detailed submissions this morning, so I hope that it might be acceptable if I were to —— and would be of assistance to you if I were to —— in my case I'm sitting back, but stand back a little, and try and sort of distil some principles for the future out of this module, because as you listen, perhaps the most startling fact is that the simple solution that might have obviated the need for any of us to be here was present for many years, was neglected by successive governments, but obviously particularly one I shall come to in a moment between 2010 and 2015, namely David Cameron's. There was one staring them in the face.

This can't be explained by the fact that they didn't know, because they did know. It can't be explained by

oversight, forgetting, falling between the gaps. It's much more serious than that. And one has to say, as the select committee did, the fire service did before that: just how many deaths do there have to be before changes are made, a refrain that you will have come across many times.

It's not limited, interestingly, to Building Regulations or other forms of social interplay. It's a kind of lethargy which says, well —— and, in fact, Martin said this at one point. I think he wasn't so keen to adopt the strength of the words, but it's the "Let the bodies build up, where are the bodies?" attitude before pedestrian crossing, whatever it happens to be, a safety issue, is put in place.

So it's no accident that this has happened, and of course the measure that can be focused on very simply, and was spelt out in the select committee, as you've seen, in 1999 —— not entirely it was encompassed, but it was there, the seeds were there, and have remained there, namely a ban on combustibles.

It's what the families whom I represent and everybody else who you have heard represents —— these are the questions: why did it take so long for this to happen? In fact, it's only really happened about a week ago. Interesting. Just before this part of this

module, that finally we get the complete picture. It isn't even complete yet. Why has it taken a decade, essentially a decade, to get to this position?

Now, that question —— because you will recall that Counsel to the Inquiry —— very helpfully, we put them in our submissions —— set out four questions for this module:

What were the risks from fire, and were they in high—rise properties understood by government before the blaze? First question. I'll come back to that.

Had lessons been learned from previous incidents in the United Kingdom and overseas?

Third question: what steps had or had not been taken by government to address these risks from fire?

Final question, perhaps of all the most important, because it links to what I'm saying at the moment about why, namely: what motivated government in its approach to fires before the 2017 disaster? That, we say, is the key to answering why it took so long.

It is in fact, of course, a motivation that is discernible, and I'll come to exactly —— and you've heard it before, but it's worth just going over it a little, to indicate the strength of that motivation, because the length of time waiting is excessive and extraordinary and can't be explained by anything other

than a determined policy not to do it; in other words, not to have the ban.

The second allied question to that, you may think, that it is necessary for this Inquiry to think about, because of the length and duration of dilatory behaviour by government, not just the one in 2010, and what has to be remedied for the future, appreciating the Inquiry itself may not be able to encompass all of this, but it is essential to think: how did such a motivating force over such a long period survive and, to a terrible extent, succeed —— because it killed 72? There was no ban. I appreciate there are other factors, but the ban is pretty central.

Part of the answer to that part of the "why" question is, of course, the nature of the governance under which we all live.

I want, if I may, just to address that, because it is a situation in which, when a centralised government is motivated in the way successive governments obviously right up to the last were motivated, we do not appear to have the means any longer. It is —— like Grenfell Tower itself, the fault line in government are severe. It's when you begin to address those two questions related to the —— I'm calling it the "why", but the motivation question as set by counsel, that one begins to say: why

did that happen?

Could I just bring it up to date, just with things that have happened. We say the legacy is still there, the legacy of the why it happened over ten years, to even get to the stage we're at.

Sir, you may remember, because you were there when I first opened the case in Phase 1 for the families, and I used a quite astonishing occurrence, and I want to just refer to it again because there's a risk that it's all going to be repeated, and I appreciate that none of you as the panel want to look back and feel that the work that everybody has done and put into this Inquiry, resources into this Inquiry, are going to be at the behest and whim of whoever happens to be in power at that point.

But the example I gave at the beginning was —— and now might be perhaps even more potent because of the evidence you've heard —— that on 14 June, the day of the fire itself, there was a meeting set up. A meeting was convened in the name of the Red Tape Challenge, RTC, which has this —— it's like an éminence grise in this case, it hangs behind, set up in April 2011, essentially by David Cameron, but chaired by Oliver Letwin.

Now, the terrible irony of this, as it were, motivational factor, the "why" question, is that on that

day, what were they due to discuss? They were due to —— so it certainly wasn't off the agenda, as Lord Pickles seemed to think, and I have to come back to him obviously. They were considering whether it would be possible to liberate a little more cladding on to the market in the absence of European standards to enable industry to, as it were, exercise their rights in the marketplace.

Of course, as it is understood, the meeting didn't happen. However, that's a telling example of what is possible here.

I raise it because, not only does it illustrate what was going on in that period particularly, but there is a risk that a similar situation could occur again. It may not have come to everybody's notice but, on 14 June this year, recently gone with the memorial week that there has been, there was a meeting in parliament of —— and it's the first one that has happened, apparently —— the National Insulation Association held its first parliamentary meeting. There were members of government there, and a member of the House of Lords who was a minister as well, all there. In principle, of course, that's part of the process of our government. But what is interesting is not just that this was publicised on the 14th —— the actual meeting was just before, a week

or so before —— it was publicised on the 14th, and what was extraordinary was —— and it shows that there is a legacy unless we're careful —— there was no mention of Grenfell.

One doesn't obviously want to fall overboard, but one is somewhat surprised, in the publicity that they gave to this on the 14th, the meeting happening a few days before, not a single mention of Grenfell. A lot of mention of the role of the insulation industry in relation to green energy. That's a perfectly valid point. However, one might have thought that the lessons of Grenfell had percolated industry to such an extent that on that week before the memorials, they might at least have remembered, they might at least —— because you've heard this morning from the previous speakers about the role —— and you've heard in evidence as well —— of insulation in this particular case.

What it tends to demonstrate —— I don't overegg it —— what it tends to demonstrate here is the relationship between those in government, ministers in particular, industry, and safety is still at risk if it's not respected, if it's not given the place that it's due in our society.

The second point has been touched on by Mr Stein only minutes ago, so I don't go back through it. But

what is interesting is in the debate over building safety, fire safety guidance, which is being put out at this moment, is in fact the terms —— he's been through the terms on which it's, for the moment, been rejected so far as the recommendations for those who are less able, those who are vulnerable. In a way that is, as the word has been used, the litmus test. The phrase has been coined on many occasions that the measure of a society lies within how it treats those who are most vulnerable, attributed originally to Mahatma Gandhi but it may have been others. It's had different phraseology at different times. But the point is a very simple and extremely good one: namely you do at the end of the day —— whatever else you do or don't do, that's the one.

To suggest that it's going to cost too much —— it's going to cost too much if you don't, as we now see. It's the wrong economic analysis, which should not be applied. But that's the worst aspect of what was said in the House of Lords over these measures, sent back for consultation for another, as it were, kick into the long grass, is that in the same way that fire safety became an impediment to government policy in 2010, 2011 and 2012, we now find that the disabled, those less abled, they have become the impediment, because they might get in the way of the able-bodied making a quick exit. One

only has to put that in its, as it were, true light to recognise the risks that still pertain in terms of making progress on all of these matters.

So before I just distil a couple of principles, I would, if you would forgive me, want to just read -- I am not sure, obviously, of the extent to which you may have already read the written submissions, but there are just a few initial paragraphs in the one we submitted on behalf of Team 2 for government, because it does summarise our position, but also it leads into the principles I just want to develop in the time we have today.

The paragraphs, so that you have them in case you need to refer to them again, come under the heading of "Central government", and they're the preamble. It's a few paragraphs, 81, 82, 83, 84, 85. That's it. But this is how it's phrased, and I just would like to read this part of it:

"81. The nature and substance of the evidence in the Inquiry in this part of the module beggars belief -- belief in a system that failed to protect the right to life. There is one overarching conclusion: that the edifice of government was, and remains, as much at risk as Grenfell Tower itself was in 2017.

"82. The Inquiry has exposed the fundamental fault

lines in both, the former significantly contributing to the latter. An unresponsive system of parliamentary democracy, wherein the concentration of power is vested in a cabal of short-term Ministers, bereft of any technical expertise to enable challenge, enquiry, robust oversight and transparency; this was, and is, a recipe for disaster. The core accelerant fanning the flames was a deep rooted, remorseless, aggressive political dogma disguised as freedom, freedom to facilitate the interests of industry and private enterprise.

"83. This combination of forces nurtured a hostile environment where health and fire safety, human rights, and equality within social housing were systematically portrayed as impediments to the free market. This provided licence and momentum for behaviours ranging from incompetent to grossly negligent and corrupt.

"84. The testimony in the government part of this module, which has singularly marked those in positions of authority and responsibility, is characterised by arrogance, ignorance, indifference and, in some instances, deceit. Witnesses have regularly shown a remarkable lack of awareness, effectively, 'the higher you go the less you know' as if this is a quality to be proud of. It has often been born from 'not wanting to know' as it did not fit the political purpose of

government. It has become increasingly clear that few, if any, of the Nolan 'seven principles of public life' have been upheld by the majority of senior politicians and civil servants."

We list those principles. I do it quickly without the description that follows. These were published in 1995, and it's easy to overlook and brush them aside but these principles are:

"... Selflessness; Integrity; Objectivity; Accountability; Openness; Honesty; Leadership."

I pause on that before finishing the last paragraph, because, again, a reflective moment: is it possible to look back on this module and say that really any of those have been satisfied by the witnesses, particularly the ones in prime position, particularly Brian Martin, particularly Lord Pickles? I'm going to add David Cameron, for reasons I'll come to at the end. The answer I think would be: no, they have not been upheld and, in fact, worse, seriously undermined.

These weren't contrived, these principles, just for academic discussion; they were contrived because it was necessary to imbue public life with a sense of morality, if nothing else, and in a sense that's what the families are looking for here.

The last paragraph of this preamble reads as

follows:

"The apotheosis of this race to the bottom came in the module's final stages with Lord Pickles. His demeanour, excuses and ill-informed attempt at empathy do not bear repetition. Even his apology is couched in terms of an involuntary act of 'misspeak' for which he is not really responsible."

Well, we say here you have another fine example of why these principles are extremely important, because one has to re-examine, as part of the Inquiry's robust approach to the evidence, is -- to the "why" question again, why it went on for so long, because actually at the end of the day, those concepts that are contained in those principles, combined with the concept of ministerial responsibility -- where is it?

Mr Millett put very carefully to Lord Pickles, which he accepted, in the end, responsibility -- but it was like, if you remember, a brush-off, "Yes, yes, yes, of course I'm responsible". It doesn't mean anything because, within minutes, of course, were the errors that he was making.

The ministerial responsibility in our system at the moment, which is important in terms of not only those principles but the question of accountability -- it's not just me or Mr Stein or Stephanie Barwise asking

these questions; the families —— as you attended, the memorials last week, more than one, but particularly the one at the tower, what is it that the families and those who speak on their behalf are wanting? It's easy, it trips off the tongue: justice. It can be a meaningless concept, but not in this one. This time it's very meaningful, because justice for those who are truly responsible —— and, of course, I'm already putting fingers very carefully on those who are responsible —— they are expecting that those who have and should have, if ministerial responsibility is going to mean anything, then there has to be a follow—up, there has to be justice for the families in terms of the accountability.

There's two forms of accountability: there's the one you have here, in which witnesses come and they're asked questions, perfectly properly. But the families are not —— and it isn't —— and obviously not wishing to obviously indicate what the Inquiry's function is, as you know well, it's not expected that you will deliver accountability; you will identify where responsibility lies in this particular instance. That has been done through the evidence, and it is hoped that those who are watching, those who are listening, those who are receiving this evidence will understand that this is only half the exercise, long though it's taken to do,

but necessarily do in careful detail. So that process has not yet finished.

So accountability, part of the Nolan principles, is absolutely vital if this Inquiry at the end of the day, besides making changes in government thinking —— and one hopes that the government will rethink their rejection of the less able or vulnerable.

So accountability we say is a key point here but, actually, at the end of the day, it's combined with another proposition, and that is the one that is likely still to be pushed to the back, and that is a respect not just for those who are less mobile, but a respect generally for public health and safety. We say that hasn't been present. It's one of the reasons for the gap. The length of time is because the deregulatory agenda, which existed long before, many years before the advent of the coalition government in 2010, so it had existed for many years before, that deregulatory approach, safety was not taken seriously. It wasn't on everybody's lips. It wasn't something that was a pressing need. But, of course, that's stage 1. It's not given the respect it's due. Once it isn't given the respect, and it's something that's an also—ran, something that can be traded off so that industry can get on with its business, and so it becomes obviously

later one in, two out, three out and so on, the honed regulatory agenda, which is the key one here.

So it has not been regarded with respect, but it gets worse than that. Again, that's the key factor here because, obviously, deregulation goes back through a number of governments and, as I shall be saying at the end, there is some character in this whole scenario that you haven't heard from, but he is, we say, responsible for the deregulation agenda, deregulatory agenda, being honed specifically not just to disregard fire safety or —— and safety, but actually to ditch it, actually to target it, actually to kill it off. And then one wonders why it's taken ten years or more. Because the critical years in the lead—up to refurbishment at Grenfell Tower and all the rest, we have, as it were, the tentacle reaching out and essentially corrupting the system. And the problem was there wasn't a way of dealing with this for those who felt, as many —— and I would submit the majority of the population would want there to be not a risk—averse society, as was held, not a cowardly society, as it was described by those in the Red Tape Challenge, but a courageous society that puts the priorities —— even though they may cost in the initial stages money, but save in the longer run.

In this context, therefore, with these principles in

mind, there are just one or two documents that it's worth reminding oneself of.

I wonder —— we have given notice. I'll make sure I get the right reference: {HOM00018307/2}. Yes, here we are. That's it, thank you.

I called up this document because it's had some exposure, you will recall. This is the letter that Lord Pickles says is a fancy letter, it's the sort of letter CEOs send out from time to time to get their ... I'm sorry, this is exactly the mentality of those who obviously don't regard safety as a top priority. But this letter, which was dated, as the first page shows, in April 2011 on the 8th(sic) —— I'm not going to read it all. Can we go back to the second page, please. We've got the date: April 2011. This marks the demarcation between the deregulatory policies before the coalition and then how the coalition, as it were, lifted all of that, as it were, work that had gone before and then honed it and focused it on safety, which they did.

I'm not going to repeat the Maidenhead speech which in fact came a year letter in 2012, because the theme of targeting fire safety and safety generally as an albatross had been going on all around. So this is what ministers are getting. The last page of the letter —— I don't ask for it to come up —— indicates

that this is a letter that went to all government ministers, it went to the Cabinet Office and to the Permanent Secretaries of the civil service throughout. There's no mealymouthed about this, there's no ambiguity about this, about new regulations. The top paragraph:

"... I want us to be the first government in modern history to leave office having reduced the overall burden of regulation, rather than increasing it."

Next paragraph:

"... bold ambition ... if we try a new approach."

Then he's talking about scrapping this, that and so forth. I don't read all of it:

"In the past, when government has tried to deregulate, Ministers were asked to make the case for abolition. In other words, the assumption was that regulations should stay, unless there was a good case for getting rid of them. We are changing that presumption; we are changing the default setting.

"Our starting point is that a regulation should go (or its aim achieved in a different, non-government way [industry]), unless there is a dear and good justification for government being involved. And even where there is a good case for this, we must sweep away unnecessary bureaucracy and complexity, end gold-plating of EU directives, and challenge overzealous

administration and enforcement.

"This marks a change from the old ways of doing things ..."

You see quite clearly -- I don't trouble you with the terms of the rest of it. It's all in the same vein.

This isn't a fancy letter just to get the troops a bit worked up. This is the Prime Minister making very clear that his government is going to do things quite differently even to the pre-regulatory regime that went before. That is why this letter is extremely important, and it's this letter combined with what the Prime Minister was saying in the Maidenhead speech and elsewhere about fire safety that meant you had a combination -- an aggressive approach to this policy. Safety is no longer given respect. It's kicked down the road because it's seen as the albatross or the hindrance.

This explains clearly -- because this is 2011; the speech in Maidenhead, 2012; the coroner's letter, 2013. So the coroner's letter is coming into central government, Lord Pickles in particular, but others, at a time when actually nobody is taking it seriously, any more than the letter, carefully crafted, was taken seriously.

You will remember -- astonishing -- the head of

civil service within the department, Dame Melanie, I'm calling, if I may, her "Lakanal moment". How could she be in this department, head of the civil service? She did not know about Lakanal, she did not know about the Rule 43 letter, until the morning of the fire, when the Red Tape Challenge were meeting just down the road. She didn't know anything about it. But she wasn't alone. She hadn't been briefed. Why? Because it wasn't of concern.

You saw some of the -- well, you saw the results of the slideshows that some ministers were given. The briefings were usually very brief, very informal and not adequate at all, which is why Lakanal was on the back-burner. But the slideshows themselves didn't deal with external fire spread, didn't deal with ADB, because they weren't -- despite the Building Regulations, 70% are really concerned with safety, and yet it was relegated. It was relegated because of this kind of agenda. And it's serious because if you -- there's another document I would like to also refer you to, and that is the ... sorry, just one moment while I get the reference to it.

I don't seem to have it readily available, but you will remember it is the Amess -- the statement that he made to the House of Commons. I read it out in opening

this module, and you will recall how serious that was for him. We put it in our main submissions, but it is something that needs to be reflected on, because he, now the late Sir David -- and in a way he summarises the attitude of anybody who tried to challenge -- that's why the system is at stake here, and this is what Sir David was trying to say. This was a speech in 2019:

"The world was horrified when we saw a tower block ablaze in the fourth or fifth wealthiest country in the world, and it should never, never, have happened. Over the past six years, the all-party group has met resistance when seeking improvements to fire safety, despite compelling evidence that such measures should be introduced. In the 13 years since the regulations were last reviewed, nothing has happened. It is perhaps rather easier for a Conservative Member to make those points than it would be for other Members, because we should never have got to the position of the Grenfell Tower fire tragedy, especially after the warnings and the recommendations from the coroner after the Lakanal House fire and the 2013 inquest, the rule 43 letter to the Secretary of State ... the large number of letters exchanged between me and numerous ministers [21, I think, all together] and meetings with successive Ministers.

"It brings no comfort to the victims of Grenfell ... It is the fault of the Conservative Government ... the Labour Government ... of every Member of Parliament that our voice was not heard and the recommendations were not listened to."

Now, in a sense, that is a tribute to a man who fought hard, who was really rebuffed, who was seen as an irritant, they didn't encourage anybody to go and meet him -- what's the problem with this? The problem is twofold. The system is not allowing this to penetrate the cabal-led cabinet, not allowing a position in which -- and this was the APPG, 10 or 11 members as it was then, with Ronnie King, you will recall, Ronnie King of great experience lending his services to the committee. This is how Ronnie King was dismissed by Brian Martin, which led to the cross-examination by Mr Millett. Basically he, Brian Martin, wasn't going to allow anybody who knew what they were talking about to get anywhere near ADB, to be allowed to make a constructive contribution. Why not? Oh, because -- and this goes back to what's being said in the House of Lords recently -- because, "Oh, we'll go bankrupt, we'll starve to death". It's this approach that where you have safety in mind, it's getting in the way of, what? Profit? Getting in the way of -- it's

such obvious equations that are being used, that are remiss.

I want to pause, if I may, just on this because we have --

SIR MARTIN MOORE-BICK: Mr Mansfield, I hope you'll forgive me just for reminding you that we were going to break for lunch about now.

MR MANSFIELD: Ah, I misread. I thought I was going to go to 1.00. I'm quite happy to do that.

SIR MARTIN MOORE-BICK: Are you sure?

MR MANSFIELD: Yes, yes, yes.

SIR MARTIN MOORE-BICK: When I mean break for lunch, I mean you've run out of your time.

MR MANSFIELD: Well, I think I started at 12.05, but I can -- if you can give me an extra five minutes, I can do it now.

SIR MARTIN MOORE-BICK: Shall we say 12.50, would that be all right?

MR MANSFIELD: Yes, yes, yes. Sorry.

The point -- there are a number of other points within this, in terms of recommendations. Could I just pause to make the recommendation here. Besides a system of government, perhaps it's time to suggest that APPGs are given a statutory basis. There are a number of them, because there, within their basis -- and to be

given powers, because at the moment they're informal, they don't have statutory powers, and on the whole, if government wants to ignore them, that is precisely what they do. So I would ask for that to be considered as a possible recommendation for the future.

The two other points I want to make, one is that an example of how the Rule 43 letter was ignored and an example of why things are still the same -- may I just -- it's not a regulation, it's a different point, but it is within the ambit of what's been talked about today.

You will recall Hanan Wahabi gave evidence in Module 4 right here, and she describes what it's been like walking away from the fire. Her family were divided, in the sense that half her family survived because her half, they got out; the other half didn't because they were on a higher floor and they stayed put. Stay put. The question being asked by the families this week, BBC asked the question, right this week: if I live in a high-rise block, what am I supposed to do? Do we know? No, we don't.

Looking at the government website on this issue, we're nowhere near getting answers. London Fire Brigade, yes. Government, no. The government has four stages. It's barely finished stage 1, which is

only looking at the past evidence. Another three stages to go. Are we going to wait for people to die again? It's the same lethargy. There needs to be an urgency about these issues that we've been over, and we would impress you to, as it were, persist in the way that you have to date.

Now, the final point in the last two minutes is this. We put it in the opening, and on behalf of Team 2 I request consideration by the panel again. The key figure in the 2010 coalition, the key figure, the architect of the policy that targeted safety was David Cameron. This is Hamlet without the prince. Why is he not being called? We have requested -- it has been said, twice, in reply that it would be disproportionate, it would be unnecessary. Well, may I say, we're not asking for every Prime Minister who has been, as it were, overseeing deregulation, just the one that turned, as it were, the focus towards fire safety. There are obviously necessary questions that the public and the families deserve an answer to, and that is when he did say the things that he did, both in the letter and the Maidenhead speech and elsewhere, did he recognise what he was doing, creating the hostile environment in which these errors, these gaps, these mistakes, worse, occurred, because he'd created the

conditions of causation? And we say, once again, it needs answers from him rather than assumptions. And although we appreciate the pressure of time, we would be obliged for further consideration of that matter.

And I'm sorry, I misjudged the time.

SIR MARTIN MOORE-BICK: That's quite all right.

All right. Thank you very much for your statement, your remarks. We will break there. We will resume, please, at 1.45, and we shall be back on track then.

Thank you very much. 1.45, please.

(12.52 pm)

(The short adjournment)

(1.45 pm)

SIR MARTIN MOORE-BICK: Now, the next set of closing statements is going to be made by Mr Martin Seaward on behalf of the Fire Brigades Union.

So, Mr Seaward, if you would like to come up to the desk, you may begin your remarks.

Module 6B (Government, Testing and FRA) closing submissions on behalf of the Fire Brigades Union by MR SEAWARD

MR SEAWARD: Thank you, sir, members of the panel.

These oral submissions are evidence-based. The references are given in the FBU's written closing statement, or most of them anyway, for this part and are not repeated here.

I start with the true causes of the Grenfell Tower disaster.

The evidence received in Module 6 shows that the fundamental underlying causes of the terrible loss of life at Grenfell Tower were political decisions made by central government from 1979 onwards in the service of a social and economic system driven by profit and greed. In particular, the disaster was a product of the neo-liberal agenda over the last 40 years of deregulation, privatisation and marketisation, with the introduction of competition into the public sector in areas previously governed through direct public control. Regulation and oversight by the state of fire safety and fire and rescue services at national and local level was deregulated and replaced by looser regulation, self-regulation and guidance. The dominant mantra was that the private sector knows best, with the public sector being opened up to ever greater private provision, and the public sector being increasingly run down and marginalised, especially after the regime of austerity.

Corporate interests were prioritised over and above the needs and rights of citizens, particularly those living in social housing, including as to life, fire safety and equal treatment. The deregulatory agenda has

been accompanied by a tolerance of cronyism and corruption, and a war on health and safety regulation.

We start by looking at the government, which led the race to the bottom.

The election in 1979 of Margaret Thatcher's government heralded a significant ideological change, whereby the market and the private sector were to be set free as far as possible. In 1979, Michael Heseltine fired the starting gun for the deliberate policy of deregulation in the construction industry. He advocated the part-privatisation of Local Authority Building Control, and reducing the Building Regulations to overarching functional requirements as set out in the consultations, including the Future of Building Control in 1981.

Professor Bisby described in his Phase 2 report how the changes first introduced by Heseltine in 1984 provided the construction industry with the flexibility it had been seeking with the creation of private building control, so that designers and contractors were no longer necessary limited by constraints applied by a local authority building control. He said it unleashed a race to the bottom. We agree. The civil servants and DCLG agree.

Mr Burd, head of technical policy in the DCLG until

2013, told the Inquiry the clear pre-1985 rules which had told builders they couldn't use a class 0 panel with a polyethylene core on a high-rise were deliberately replaced by a far more innovative functional approach. Mr Harral, who replaced Mr Burd, said that the Building Act 1984 was intended to deliver a system with the minimal possible government intervention to deliver compliance in the marketplace. Mr Martin gave similar evidence, adding that market forces made building control bodies more willing to let third parties tell them something was acceptable, and that the government approach was to let the sector resolve its own problems.

Mr Burd's view that the new functional approach should have been sufficient was at best naive. The commercial marketplace is not some kind of consensus-seeking academic forum, but is driven by the commercial imperative to maximise profits, cut costs and undercut competitors. Ambiguities in the guidance for the Building Regulation regime caused confusion and provided a means to cut costs and corners and, for some, to bend and sometimes break the rules.

What is worse is that the government was aware of all this, as is now partially admitted by DLUHC at subparagraphs (d) and (h) at paragraph 6 of their closing and paragraphs 124 and 130. It knew that there

were ambiguities in ADB, that the deregulation regime was failing to prevent the use of unsuitable materials on high-rise, and that markets know no morality. I am quoting here:

"It is government's responsibility to bring a balance."

That is what Mr Heseltine said at the outset. But they failed to bring that balance.

The tragedy at Grenfell Tower could well have been avoided if a stricter regulatory regime of the pre-1985 Building Regulations had been preserved, preventing the use of combustible materials in rainscreen cladding systems on existing high-rise. Introducing the functional requirement approach without adequately resourcing and supporting local authority building control was a recipe for the Grenfell Tower disaster.

In view of Professor Torero's evidence, including his oral testimony on 16 June 2022, it's clear that the competency gap in all sectors should have been filled before deregulation. The free market, driven by the desire to maximise profit, was never going to be the correct mechanism for ensuring safety in the construction industry. As Mr Harral told the panel, the English marketplace failed in terms of safety. The ambiguous guidance in ADB and the failure to clarify it

made compliance with and enforcement of the functional requirements much more difficult, and gave the construction industry the flexibility we saw exploited in Modules 1 to 3 of Phase 2.

The FBU ask then: why did no one on the GT refurbishment project think fire? The answer is provided in this Module 6-2. The government policy of deregulation, compounded by austerity cuts, allowed fire safety to become a costly burden which could be disregarded with impunity, pending a disaster like Grenfell.

We agree with the written closing submissions for this part of Module 6 of BSR Team 1 at 1.1 and 1.3; of BSR Team 2 at paragraphs 3 and the paragraphs referred to earlier today by Mr Mansfield, 81 to 85, and paragraph 159. We also agree with the Mayor's submission at paragraphs 18, 21 and 33, and note the concessions made by the current Secretary of State for DLUHC in his written closing statement, already cited.

The government knew from 2002 specifically of the dangers posed by ACM cladding with polyethylene core. Mr Burd admitted that by 2002, following the failed BRE test on 18 July 2001, he was aware (a) how ACM cladding with a polyethylene core could behave in a fire and that it should not have been used over 18 metres; (b) of

Dr Debbie Smith's view that class 0 was at least questionable as a classification for a product to be used as or as part of an external wall over 18 metres; (c) although a product such as ACM cladding could achieve a class 0 reaction to fire classification, nevertheless it presented a clear external fire spread hazard; and (d) that a PE-cored aluminium rainscreen cladding product was likely to perform dangerously with respect to external fire spread hazards.

However, the government not only failed to act but, when ADB was modified again in 2006, the routes to apparent compliance were actually extended, by keeping the class 0 classification while introducing the option of desktop studies. These significantly weakened the already lax fire safety regime. They were brought in despite the knowledge the government possessed about the failures of ACM cladding systems in the full-scale tests of July 2001. Far from tightening up fire safety protection, the revised ADB maintained and created a regime which could be exploited by the greedy and the unprincipled. As you are aware, even when the all-party parliamentary group on fire safety and rescue repeatedly raised concerns about ADB between 2014 and 2017, including with ministers, their concerns were given short shrift. There can be little doubt that

deregulation and the failure to clarify ADB were significant factors which directly contributed to the Grenfell Tower fire.

Deregulation impeded the work of civil servants in DCLG. Civil servants have consistently testified that deregulation stifled attempts within DCLG to address concerns about the ambiguities in ADB and the use of dangerous materials for cladding over 18 metres, even after the coroner's recommendations following the Lakanal fire inquest.

Mr Burd told the panel that the deregulatory agenda of the government after 2010 had throttled the possibility of new regulation, and went on to explain the savings that had to be made before any regulatory provision could be introduced. He also said the plan to review ADB triennially was overtaken by the coalition government's policy on deregulation, that regulation was seen as a last resort, that his shrinking team spent an inordinate amount of time looking at how they could deregulate and undertaking other activities supporting deregulation at the expense of other work.

Mr Ledsome told the panel that DCLG was a deregulating department. Deregulation was an important government policy and they were addressing the spirit of what the government wanted to achieve as

well as the letter. The job of officials, he said, was to provide ministers with the widest range of deregulatory options. No new regulation could be introduced without a compensating reduction in regulation elsewhere, and there was no exemption for the Building Regulations. There was no process of seeking an exemption, other than applying to Secretary of State. No application for an exemption was made to the Secretary of State because they didn't think they would have got one and it wasn't judged a fight worth having.

Deregulation was the reason why the review of ADB was wrapped up into a broader review. A piecemeal review was ruled out as it would have made it more difficult to offset any changes as required by the one in, one out, one in, two out and one in, three out rules. This approach was agreed by the director general. The coroner's recommendations following Lakanal did not result in ADB being exempt from the deregulatory regimes of one in, one out, et cetera.

Mr Harral testified that from 2015 there was a far more vigorous and aggressive approach to deregulation. He explained there was a general sense that regulation was bad, and even when there were proposals to do something that was regulatory, in terms of introducing something that was attractive to ministers or something

they might want to do, when they recognised it was regulation, they would pull back from that generally, because that was not the way they preferred to drive change.

The DCLG was frustrated by the depth and challenge of regulatory policy. Further, the policy was intended to make it difficult to introduce new regulation.

Anything that involved amendment or change to an approved document triggered a regulatory impact assessment. Deregulatory policy applied to matters of life safety.

This is all what Mr Harral told us.

The review of ADB had to be packaged with a wider review of the Building Regulations to avoid having to find the necessary savings within part B.

At the end of 2016, Mr Harral was told by an official from the better regulation unit not to consider proposing regulation because the department was struggling with its regulatory budgets. The better regulation agenda, he said, prevented the government acting on the improper use of materials and had an impact on people's willingness to comply with the regulations.

Likewise, Ms Dawes gave evidence that the deregulatory imperative cast a shadow over teams in the

department, and without rolling up the review of ADB into a wider review of the regulations which could be seen as deregulatory, it would have been difficult to progress.

Between 2014 and 2017, the government adopted a far more rigorous approach to deregulation, with increased scrutiny of regulatory proposals. There needed to be very good reasons, she said, for any new regulation or the kind of regulatory oversight put in place from 2017. It would not have been very well received in 2015.

Better regulation would not have happened without the Grenfell fire, she said, and she went on to explain that she found it horrific to think that it took a fire:

"... but I honestly am not sure that it would have happened otherwise."

The Red Tape Challenge, the undervaluing of regulation, the localism agenda which removed oversight and the demise of the audit commission all contributed to Brian Martin becoming what's been dubbed the single point of failure.

Mr Martin told the GTI that after the 2015 general election, there was an even greater ambition towards deregulation, and any document that came out from the department required political approval. Policy change and raising standards was incredibly difficult under

this regime, Mr Martin told the panel. Government policy progressively hardened. The Prime Minister described people like him as an enemy of enterprise. The approach of successive governments to regulation affected resources and the mindset of the team and contributed to Mr Martin becoming a single point of failure.

All this evidence fully supports our contention that its obsession with the deregulated free market was the cause of the government's failure to do anything about ambiguities in ADB and the use of dangerous materials for cladding and high-rise. Based on this, we submit the panel should find deregulation was a significant cause of the Grenfell Tower fire.

We turn now, sir, to the evidence of Lord Pickles.

Lord Pickles stated in his evidence that the failure to review ADB was the fault of the civil service, who misunderstood government policy, and not a consequence of the drive for deregulation by him and the rest of the government. He claimed that all fire safety regulations, including the Building Regulations and ADB, were exempt from the Red Tape Challenge and deregulation.

We submit the panel should prefer the evidence of the civil servants, which clearly shows the Building

Regulations and ADB were not exempt from the Red Tape Challenge and deregulation, and reject Lord Pickles' evidence on this matter as self-serving and untrue.

Mr Burd said that ADB and the Building Regulations were not exempt from deregulation policy. Mr Ledsome said the deregulation policy applied to ADB as well as the Building Regs, even though it was non-mandatory guidance. Mr Harral said that one in, one out, et cetera, all applied to Building Regulations and guidance. Further, the better regulation framework manual applied to both the Building Regulations and the guidance.

Lord Pickles did partly but not fully exempt the Regulatory Reform (Fire Safety) Order from the Red Tape Challenge and the drive for deregulation, but this was not because he wished to ensure regulations relating to life and, in particular, fire safety were exempt. Instead, as he himself stated towards the start of his evidence, the Fire Safety Order was not included as it was itself a product of the deregulatory agenda. This evidence was confirmed by Mr Ledsome, who added that a lot of the fire safety legislation was repealed when the Fire Safety Order was introduced, and from Dr Crowder, who recalled the Fire Futures review of December 2010, which was about decentralising fire

safety, government having less of a presence in fire safety, and encouraging industry to take the lead in this belief that it had that industry would lead the way and do what it needed to do.

However, the Building Regulations were not even partly exempted from deregulation, and there was nothing in place to ensure the life safety provisions were exempt.

Lord Pickles was asked by Counsel to the Inquiry:

"Question: Were there any policies in place to ensure that departments such as yours observed their obligations to safeguard life, including under Article 2 ... and were properly prioritised?

"Answer: I can't think of anything that springs to mind, but I would hope that that would be the case."

Hope is not good enough for someone who is the Secretary of State responsible for both fire safety and the policy of deregulation in his department. We submit that he knew full well that there was no such exemption, and Lord Pickles was not being honest in his evidence.

Ms Dawes, the Permanent Secretary, would surely have known if there were any specific exemptions to this central government policy. However, her evidence was that she was unaware of any checks and balances to ensure the policy of deregulation didn't go too far in

areas impacting life safety. Nor was she aware of any policies or guidance in place concerning the DCLG's obligations to safeguard life. There were none.

Indeed, a letter from Lord Pickles dated December 2011 expressly included the Building Regs and ADB as part of a programme of, I quote, "barrier busting" deregulation, which was expected to produce £63.6 million by regulatory cuts.

Lord Pickles claimed this was a mistake due to naivety on his part, but he accepted he had authorised a deregulatory review of the Building Regulations, which came to be known as the "quick wins" proposal, in 2010.

On the second day of his evidence, when trying to show he had exempted the Building Regulations and ADB from the deregulatory agenda, Lord Pickles referred to several documents which he claimed supported him. They do no such thing and the panel is asked to reject his evidence about them.

Firstly, the letter exchange between Mr Stephen Aldridge and Will Cavendish of the Cabinet Office from November 2011. It wasn't even seen by Lord Pickles at the time but, in any event, it made no mention of Building Regulations or the ADB. His claim that it was deliberately vague is not supported by any other evidence, and the fact is that neither Building

Regulations nor ADB were reviewed, despite the recommendation of the Lakanal House coroner.

Secondly, a policy development document from Ms Upton in January 2012 relied on by Lord Pickles was also not seen by him at the time, but it too made no reference to the Building Regulations or ADB. It was unambiguously addressing the Fire Safety Order and the King's Cross fire regulations. Lord Pickles' reference to it, to its constructive ambiguity, is self-serving and unhelpful to the Inquiry.

The submission containing the response to the Cabinet Office on the Red Tape Challenge at annex B to the submission sent to Lord Pickles' private secretary, made it clear that the Building Regulations were not exempt. I quote:

"Maintenance and improvement of the Building Regulations into the future will continue to be done in accordance with the Government's approach to regulation - not least the one-in, one-out approach to regulation and the Spending Review commitment to reduce the burden on housebuilders by 2015."

Lord Pickles tried to explain this by saying that there was an exemption for ADB. His assertion is both unfounded and illogical. ADB was guidance on how to comply with part B and therefore could not be subject to

a separate standalone exemption.

Other documents demonstrate beyond any reasonable doubt that the Building Regulations and ADB were very clearly subject to the policy of deregulation, see eg the email dated 24 June from Jane Houghton, a government press officer, described by Lord Pickles as highly competent, which included a section "Cutting Down Red Tape Regulation for the Construction Industry". It went on to state:

"... building regulations have placed more burdens on industry than any other DCLG policy area ... We are conducting a 2013 Building Regulations Review ... to ensure they are fit for purpose and to identify opportunities to deregulate where possible."

Lord Pickles unconvincingly claimed this was not policy but "puff" to get more coverage in the press. When pressed on this email, he became prickly, saying:

"I respectfully remind you that you did promise that we would be away this morning, and I have changed my schedules to fit this in. I do have an extremely busy day meeting people, but this is more important than anything. But I would urge you to use your time wisely."

The fact that deregulation was a core policy of the government from 2010 is evident from a letter from Prime

Minister David Cameron in April 2011, which Mr Mansfield has already referred to. I will just cite one sentence in that letter which he didn't cite, which was David Cameron saying:

"Dear colleagues,

"[Et cetera, et cetera] ... Be in no doubt: all those unnecessary rules that place ridiculous burdens on our businesses and on society — they must go, once and for all."

I just want to emphasise the description of "all those ridiculous burdens on our businesses". That's fire safety, it's ridiculous.

Lord Pickles unconvincingly tried to claim the letter was not directed specifically at him, which of course is true; it was addressed to all cabinet members. He said it wasn't particularly serious as it was addressed to "Dear colleagues", yet it was not only copied to all ministers, but also Permanent Secretaries, who were instructed to prioritise tackling unnecessary regulation. He said it had to be seen against the background of private discussions with Mr Cameron. He seemed to be claiming that the Prime Minister had written a letter saying one thing when his intention was the opposite.

The panel is asked to reject Lord Pickles'

explanations concerning this letter. It clearly reflected a very important policy for the Cameron government. That deregulation was a key government policy with no exemption for life, including fire safety, was supported by evidence from some of the politicians as follows:

Lord Wharton told the GTI that he considered the work of the Building Regulations division in the DCLG to be deregulatory. He reportedly told the APPG that there was a political policy of not increasing the burden of regulation, and the introduction of one measure would need to be offset against the removal of two others, although he couldn't actually recall having said that. He couldn't recall any specific policies to provide checks and balances to make sure that life safety issues were not compromised by the deregulatory agenda. There were none.

Steve Williams agreed there was a more rigorous approach to deregulation under the coalition government. He also said Lord Pickles was sceptical about regulation and agreed there was no exemption to deregulation for health and safety.

Gavin Barwell gave evidence that the Cameron government had driven hard on deregulation. The Red Tape Challenge and the one in, two out rule remained

manifesto commitments in the Conservative party manifesto and, in 2016, became the one in, three out rule. However, at no stage did they take steps to allow life safety regulation by way of exemption or otherwise.

David Cameron's now famous speech in January 2012 showed the Conservative government gave deregulation precedence over safety when he said:

"This coalition has a clear new year's resolution: to kill off the health and safety culture for good."

It's simply not credible for Lord Pickles to claim that deregulation did not apply to the Building Regulations and ADB. Lord Pickles also claimed that no one ever discussed cladding with him in the five years he was Secretary of State. We ask the panel not to accept that evidence, particularly given the letter from the Lakanal House coroner. It's inconceivable that no one discussed cladding with him or that he did not raise the issue himself, given his assurances to the coroner.

Lord Pickles told the GTI:

"I asked my private office and the larger conglomerate of director generals that I really only had two things I wanted from them, I always gave the same speech, which was loyalty and tell me when things are going wrong. And I promised that I would not seek to

blame them; if things were going wrong, I would try and sort it out. And I think I can say that I succeeded in doing that. I had taken over from people who shouted at officers, who threw things about. I can safely say I never raised my voice to a single officer in the whole of those five years."

Yet now, sir, in the face of this disaster, he is doing precisely what he said he wouldn't do: blaming his civil servants for something that went appallingly wrong and which was clearly his responsibility.

So moving on to the Fire Safety Order.

Lord Pickles' evidence in relation to the Fire Safety Order was simply not accurate. Although the Fire Safety Order was not included in the Red Tape Challenge, it was not exempt from the impact of deregulation. The deregulation policy prevented any effective review of the Fire Safety Order, despite significant concerns over the competence of privately employed fire safety assessors and what was meant by "common parts", which were both the subject of the Rule 43 letter to Lord Pickles of the Lakanal House coroner. These issues were not addressed, again, because of the policy of deregulation.

When it was introduced, the Fire Safety Order brought in a far looser self-compliance regime than the

certification procedure it replaced. Louise Upton, head of DCLG fire safety policy team, agreed that the government were aware that the Fire Safety Order would allow a mixed bag of unqualified fire risk assessors. This was a deliberate policy of government designed to spare landlords the expense of having to consult experts in fire safety. A paradigm example of a deregulatory agenda.

Ms Upton testified that whilst businesses in the fire safety area wanted more regulation -- we can think of the Fire Sector Federation, for example -- the wider business and policy environment was for less regulation. They were in a very deregulatory environment. The government did not support the sector's efforts over the fire risk assessor competency because the policy was "hands-off". Ministers didn't want to review the Fire Safety Order because of the deregulatory agenda. That's what she said. The general thrust of deregulatory policy, she further said, led to 43 fire and rescue authorities all enforcing the Fire Safety Order in different ways.

It wasn't just civil servants who took this view; Dennis Davis of the Fire Sector Federation said that mandatory competence requirements for fire risk assessors was opposed by a deregulating government.

Brandon Lewis effectively accepted that, despite evidence that the sector was failing, the government failed to address the issue of the fire risk assessor competence, both because of the ideological presumption against regulation, and because government did not consider the cumulative evidence. He expressly recognised a political predisposition against further regulation in the field of fire safety.

There is a direct causal link to the Grenfell Tower disaster here. Deregulatory policy resulted in the appointment of Mr Carl Stokes, who was insufficiently qualified and not competent to risk-assess the fire safety of such a complex building. Mr Stokes is by no means unique, as was reported by Her Honour Judge Frances Kirkham after the Lakanal House inquest and by Senior Coroner Nigel Meadows after the inquest into the death of Firefighter Stephen Hunt in Paul's Hair World in Oldham Street, Manchester.

The civil servants were clear that commercial interest took precedence over life safety. Selecting just a small sample of the evidence, Ms Upton said that the government was more interested in the wheels of the Fire Safety Order running smoothly for business than in legislating for competent accredited fire risk assessors, and that the government had a business-led

agenda that lost proportion on cutting regulation and lost sight of important matters.

Mr Ledsome said that any change, even to the guidance, was seen as disruptive and costly to the construction industry. He explained the wrapping up of the review of ADB into a broader review was due to the cost/benefit to business criteria, and said there was no principle that balanced life safety against cost.

Mr Harral explained that even just looking at a document was seen as creating a cost for industry. He agreed that there was a clear level of commitment in government to deregulation, irrespective of life safety.

Mr Martin said lower standards of fire safety were accepted by the government for economic reasons. The government didn't want to impose the cost of large-scale fire testing on business. The retention of class 0 was for market distortion, not fire safety reasons, and was politically motivated. He said a review of ADB would have had a disruptive effect on the construction industry at a time that the government was very focused on avoiding anything that might impact the economy in a negative way. He said that every review had to consider transitional costs, and the regulatory policy committee would have rejected anything that did not recognise that people would have to familiarise

themselves with the new guidance document.

There was a competition between government departments as to which could save industry the most money through deregulation. This was dismissed as sibling rivalry by Lord Pickles, but it can be seen clearly in a document published by the Department for Business, Innovation and Skills in December 2014. A table headed, "Table 2: Departmental regulation and deregulation from ... 2011 to July 2015", showed the DCLG made a net saving to business over the parliament of £201 million.

Please screen page 2 of Professor Bisby's report {LBYP20000001/2}. It's the first document on the list. You can see his paragraph 6.

"... by the time of the Grenfell Tower fire there had been numerous opportunities where the statutory guidance and regulatory compliance testing regime could have been made simpler or less permissive. However, in each case there appears to have been powerful commercial and ideological incentives to increase complexity, whilst also increasing flexibility for industry."

In our opening for Module 6, we submitted that the drive for deregulation and the war on health and safety created a culture of complacency, with an increasingly prevailing attitude that safety did not matter.

Following the oral evidence in Module 6, we would now go further and say that the government showed a callous disregard for health and safety. It was simply not an issue for them. All that mattered were commercial interests. It can come as no surprise that, given this culture, private sector companies involved in the refurbishment of Grenfell Tower behaved as they did. Safety considerations were not an issue for the government, so why should they be for anyone else?

Government ministers and officials ignored and suppressed inconvenient reports and evidence that might have prompted measures that could have prevented the fire at Grenfell Tower. An example is the government's failure to publish the report of the failed BRE tests on 18 July 2001 on ACM cladding with a polyethylene core.

Mr Burd accepted that even though the government were around that very time consulting on revisions to ADB, these reports and data had not been put into the public domain, that they should have been published and that the BRE would not normally publish reports of this sort by themselves without the consent of government. That's Mr Burd acknowledging that they should have been and were not published.

Mr Burd denied there was a cover-up, but he had no explanation for the failure to publish this crucial

evidence, and we submit it was not simply an oversight; the government chose to put profit ahead of fire safety. As reported by Professor Bisby:

"Rather than eliminating the use of Class 0 for external cladding products, or alternatively more tightly restricting its application to products where the testing methods underpinning a Class 0 classification were more technically credible, the Government chose to simply add a new – and potentially lucrative to the recently privatised BRE – alternative route to demonstrating compliance with the recommendations of the Approved Document B; i.e. large scale fire testing to BS 8414."

The DCLG did not want to know about fire safety problems and deliberately buried its departmental head in the sand. The instruction to "play down the issue of the fire" in the aftermath of the Knowsley Heights fire and recorded in a handwritten note in file AT 66/398, uncovered by Professor Bisby, indicates government thinking at the time: "Don't tell me; I don't want to know".

From October 2012, ministers required the BRE not to make any policy recommendations or propose revisions of ADB as part of deregulation. That's requiring the BRE not to make any policy recommendations or propose any

revisions of ADB. Another clear example of burying head in the sand. This was reinforced by an instruction from Debbie Smith at the BRE to fire safety staff not to raise issues directly with the DCLG. Likewise, the BRE's government contract to investigate and report on real fires was changed to prohibit on-site investigations, save with the specific agreement of department.

Ministers woefully failed to interrogate such reports as they did receive. What are they getting paid for? In his comprehensive Phase 2 report, Professor Bisby set out a detailed analysis of the investigations following various major fires since 1991. He notes in each instance the flaws in the investigation and the failure of government to learn any lessons from them.

The following should all have been interrogated, by which I mean read intelligently, understood and questions asked. They were not and the only credible explanation is that the government didn't care.

So after the investigation into Knowsley Heights in April 1991, which found that the cladding complied with class 0, no concerns were raised as to whether this provision was adequate, nor to what extent the GRP rainscreen product may have contributed to the fire.

After Garnock Court in 1999, where the fire rapidly spread via the external cladding, there was little or no investigation of the contribution of the cladding to the fire. The cladding did not satisfy class 0, which should have raised concerns about non-compliance and enforcement. None were raised. No questions were asked.

After The Edge fire in Salford in 2005, another rapidly spreading cladding fire, Professor Bisby says the BRE investigation failed to achieve any of its objectives, but no questions were asked.

After Lakanal House in 2009, no questions were asked nor any action taken, despite the coroner's Rule 43 letter.

Professor Bisby concludes that following the Lakanal House fire at the latest, class 0 should have been withdrawn. Had this step been taken, the disaster might never have happened.

Again, to cite Professor Bisby:

"The consequence of the choice to retain Class 0 in 2002 would manifest in many subsequent fires over the following 15 years. However, none of these events were apparently sufficient to motivate the government to withdraw Class 0. It would take the deaths of 72 people at Grenfell Tower to motivate government into

withdrawing Class 0, and into disrupting industry's status quo. Only then did government see fit to act on Class 0 and to discontinue its use."

There was a readily available alternative to the testing regime in the European Union, which the UK was still part of at that time. The harmonisation of methods of fire testing and reaction to fire and fire resistance, based on EU standards, could have had a huge impact on safety. However, it would also affect the profits of manufacturers and their ability to sell their current products on the UK market. The government was aware of this and exploited their ability to delay the transition period and to determine the equivalence between the testing regimes to the full.

Consequently, even though they were aware of the inadequacies of class 0 compared to the EU standards, and that by maintaining class 0 the UK market would be open to cladding products of inferior reaction to fire performance -- I'm citing from Mr Burd -- they continued to allow it to be used purely for commercial reasons -- that's what Dr Crowder said -- with devastating consequences at Grenfell Tower.

As identified by those representing the BSRs, the consistent pattern of inadequate investigation and suppression of reports from Knowsley to Garnock through

to Edge and Lakanal goes beyond mere accident; it involves government collusion and reflects a corrupt culture.

The government regarded fires as something to be covered up or trivialised, such that the public might be reassured and avoid criticisms of underlying regulations, thereby continuing to allow industry the latitude it wanted.

We pointed out in our opening to Module 6 that, as well as a lack of competence, the involvement of the private sector brought with it a culture of deceit, cronyism and corruption. We illustrated this with a number of evidential examples.

Kingspan were clearly pleased with the government policy, including the delay of introducing EU testing standards. Its technical bulletin in May 2003 stated of the new European fire classification system:

"Existing nationality fire standards are not set to be withdrawn for five to ten years ... HM government has stated it will not implement the new Euroclass system until the industry is ready to adopt it."

In fact, the delay went well beyond five to ten years. By 2017, class 0 was still in use and EU standards were not in place.

The Grenfell Tower Inquiry has not investigated in

any depth the extent of collusion, including lobbying of ministers and other politicians or officials behind the scenes by companies such as Kingspan. Whether or not there was more active collusion or corruption, we submit government policy was driven by commercial considerations to the detriment of fire safety, and this ultimately led to the disaster at Grenfell Tower.

Sir, I'm about halfway through. How are we doing? Still on time?

SIR MARTIN MOORE-BICK: Yes, you're doing reasonably well.

MR SEAWARD: Reasonably well. I'll certainly live with that.

Sir, moving on to the next big topic, which is the Building Research Establishment.

The BRE was first threatened with privatisation in 1981. It was turned into a more commercial organisation during the 1980s, and became an executive agency in 1990. By that time, it had lost half its staff and was operating under market imperatives. BRE's privatisation in 1997 brought commercial pressures and conflicts of interest into the heart of the fire safety regime and limited the work the BRE could do in the public interest.

Professor Bisby cites the following passage from the BRE's deputy director then, Peter Field, and his

evidence to the parliamentary inquiry in 1999:

"We are a private sector organisation; we are not part of government. Clearly, in days gone by, when we were part of [government] then this work would have been done in the public interest without the need for formal contract. One regrets there are now commercial pressures that require clients to place formal contracts with us before we can undertake work."

Since its privatisation in 1997, the BRE has failed the wider public interest and been too ready to accept the restrictions imposed upon it by central government and too willing to collaborate with manufacturers.

A correction is needed to our written closing statement, {FBU000000191/32}, paragraph 86. I accept Sam Leek QC's submission at paragraph 4.4 of her closing statement that the BRE was not a regulator. So where I wrote that the BRE was more collaborator than regulator, I correct that to more collaborator than independent contractor. However, we consider that the parameters of BRE's work and obligations went further than was permitted or required under its individual contracts and the regulatory requirements affecting such work, as she submits.

Please screen page 4 of the BRE's written closing statement {BRE00047683/4}, paragraph 13. If you could

enlarge paragraph 13 so it's legible. Thank you very much.

Ms Leek submits there that the BRE was a charity, "with a mission to support research into the built environment for the public benefit". Those are the important words I want to draw to the panel's attention: "a charity ... with a mission to support research into the built environment for the public benefit".

You could probably go to paragraph 15 {BRE00047683/5}. She submits:

"The trust and charity structures were deliberately put in place to retain the authority and independence that BRE had developed while publicly funded, and to avoid the BRE being driven in any one direction by commercial pressures."

We submit this charitable mission should have permeated everything the BRE did, including negotiating its contracts and discharging its contractual duties. The BRE should, we say, have remained in the public sector and it should now be taken back into the public sector. But as things were, as a charity, at the least it should have carried out its charitable mission.

Please now screen page 3 of the BRE's code of conduct and ethics policy {BRE00035257/3}. So under the higher heading, "Respect for Life, Law and the Public

Good", this says:

"We give due weight to ... the wider public interest ..."

It goes on:

"▪ [We will] minimise and justify any adverse effect on society ...

"▪ hold paramount the health and safety of others."

Under the next heading "Expertise, Science and Research", it says:

"... we hold a privileged and trusted position n society, and thus expect to demonstrate that we are seeking to serve wider society and to be sensitive to public concerns;

"▪ demonstrate that we are aware of the issues that science and technology raise for society ..."

Those are fine words, but the evidence from Module 6—2 shows that, post—privatisation, the BRE took the benefit of being seen to be authoritative, independent and serving the public interest, without bearing the burden of carrying out its contractual work in a manner consistent with its charitable objectives and its code of conduct. This it failed to do. So when investigating fires for the government or other customers, it did not conduct research into the built environment for the public benefit but for the benefit

of its customer, the government. When discharging contractual duties for commercial clients, it readily agreed to keep fire data confidential to its customer, without any exception in the public interest. Accordingly, it did not hold paramount the health and safety of others or give due weight to the wider public interest, or minimise and justify any adverse effect on society. Nor did it seek to serve wider society and to be sensitive to public concerns, or to demonstrate that it was aware of the issues that fire science and technology raise for society.

From being a publicly—funded safety body, the BRE became a tool for use by government to limit its research and suppress fire data, and for use by manufacturers to market their products, whether they were safe or not.

Sadly, the BRE has now lost the authority and independence that it had developed while it was publicly funded. How did this happen? It happened because the BRE could not overcome the challenges to its independence introduced by privatisation in the toxic culture created by the government's war on health and safety. Instead, financial dependency on manufacturers and on a government increasingly disinterested in fire safety led to unresolved conflicts of interest, the loss

of independence and reduced health and safety research.

Dealing with conflicts of interest first, the BRE largely depended on contracts with government, but also looked to industry for sponsorship and sold fire tests to commercial clients for revenue. All of these activities were obviously loaded with potential conflicts of interest post-privatisation, particularly with a government disinterested in fire safety.

For example, Dr Crowder gave evidence, albeit hearsay, of the lobbying pressure from industry on government to preserve reliance on class 0, despite him wanting to dispense with it, and Brian Martin asserting a desire to discontinue it at some point. Dr Smith, a senior director of BRE, was unaware of any discussions within the BRE or with government about whether it was in the public interest that private businesses should sell fire safety tests for revenue, and made no effort to find out or consider possible safeguards of the government interest.

She agreed with Counsel to the Inquiry that her emails about the CWCT guidance on ACM cladding might be read as indicating that her sole concern was to protect the BRE's revenue streams and that she was not interested in matters of public fire safety. She said commercial bodies were never willing to fund fundamental

research or experiments for the benefit of a better understanding of fire safety in the public interest.

Dr Colwell also told the panel the potential conflict of interest between life safety and commercial gain was never discussed, and so it seems, members of the panel, that the BRE seems never to have challenged their clients' demand for confidentiality, not negotiating a public interest exception to the confidentiality clauses in its contract.

There is no evidence that Drs Smith or Colwell or anyone else at the BRE attempted to negotiate a variation of the contractual negotiation where it conflicted with the wider public interest or otherwise put the case for publication to alert other interested parties of fire safety risks.

The BRE cites a British Standard in their closing statement as requiring it to preserve clients' confidentiality, but paragraph 4.2.1 of that British Standard provided, and I quote:

"The laboratory shall inform the customer in advance, of the information it intends to place in the public domain."

So why didn't the BRE do this? We invite the panel to conclude that commercial and government interests prevented the BRE from notifying its clients that it

would put information into the public domain, or at least share with other testing houses and regulatory bodies, information about failed tests or policy recommendations that arose from its work.

The BRE could and should have insisted upon incorporating a public interest exception to the confidentiality clause in its contracts, both with commercial clients and the government. The BRE could then have published failed test results and made public its concerns about fire safety, but it didn't.

Moving on to policy implication reports. Even without a public interest exemption, it could have issued a policy implications report to the government when appropriate, but it didn't. Our search of Relativity found no policy implication reports for DCLG on amending the guidance in ADB or otherwise on the risks associated with the use of ACM panels on high-rise buildings before the Grenfell Tower fire.

Not publishing failed test results. Dr Smith agreed when asked by Counsel to the Inquiry that it would have been beneficial for public safety in relation to the BRE's work in the service of wider society, quoting from the code of conduct, to insist that failed tests be put into the public domain, but it didn't. Instead, the commercial imperative after privatisation disposed the

BRE to favour the commercial interests of its clients over the wider public interest.

Not pursuing concerns about fire safety. Mr Baker of the BRE agreed that Kingspan's product literature of 2013 was misleading -- that was on Day 100, it wasn't in this last module -- but he could not recall the BRE taking any action to address these concerns. He said the BRE was not a regulatory body and didn't have the power to do anything, but the BRE could and should have insisted upon incorporating a public interest exception to the confidentiality clause in its contract. BRE could then have published failed test results and made public its concerns, but it didn't.

Not advising government properly of the risks. BRE's review of what is better known as contract cc1924 -- I'm sure that's how you'll remember it -- back in 2000/2001, produced very clear evidence that the aluminium rainscreen product used in the rainscreen system 5 test -- that's one of the tests conducted -- was obviously unsuitable for external cladding applications and ought to have raised an alarm. It seems likely that this was an ACM PE rainscreen cladding product of the same type as that which was later used for the rainscreen cladding at Grenfell Tower.

Dr Smith testified that she was not in any doubt

after the rainscreen system 5 test that ACM panels with a polyethylene core should never ever be used above 18 metres, but she did not include clear advice to this effect in the report to government. She said the BRE's role was to present the technical evidence and data and signal what they think needs to be considered, then it is for government to consider and decide what to do. It appears, however, that she didn't even signal to government that this critical public safety issue needed to be considered. No policy implications report or other similar document was given to government.

Also, not advising other interested parties or the public. Dr Smith says she couldn't advise other parties of the dangers of ACM panels with a polyethylene core because of the contractual obligation to keep reports confidential since privatisation. She said it was a matter for the department, not for the BRE. We disagree for the reasons I've already outlined.

Not sharing fire data with others in the fire safety regime. Of the BRE's refusal to respond to CWCT's concerns about cladding, Dr Smith told the panel, tellingly:

"... CWCT are a competitor. I mean, how much time do you devote in terms of our effort and resources in producing documents for others?"

Where, we ask, was the wider public interest? The wider public interest was subverted to the commercial imperative of suppressing competitors in the marketplace.

Not guarding against cheating. Dr Smith realised it was always possible that manufacturers might attempt to game any aspect of the testing system, including by wilfully cheating, yet neither she nor anyone else in BRE took adequate steps to minimise the risk of it happening. She appears not to have considered steps that could have been taken, such as taking a full suite of photographs of the test rig or insisting that BRE employees set up the test rig according to the customer's design specification.

Sometimes, even actively assisting manufacturers to game the tests. It's obviously a matter for the panel to determine on the evidence, but Mr Roome of Celotex and Mr Meredith of Kingspan both testified that Stephen Howard and they said either Dr Sarah Colwell or Phil Clark of the BRE helped them devise tests that stood a better chance of passing and to better market their products.

Insufficient funds for health and safety research. Apart from modest funding available for research from the BRE Trust, for which staff could bid every now and

again, the BRE had to fund itself completely after 2002 —— there was a sort of subsidy until then —— and generate an income for each workstream carried out. So post–privatisation, the BRE did not have the resources to support all the health and safety work that it needed to do, like attending standards committees, to do the testing it wanted to do. So, for example, in contract cc1924, testing of the external wall build–up with and without fire barriers was not undertaken.

Drs Colwell, Crowder and Smith all confirmed that less work in support of fire safety research was carried out across the board post–privatisation, and that BRE investigate fewer fires as a result. Dr Smith also said less work in support of ADB was carried out post–privatisation. She told the panel:

"So you have to sit down and take decisions about which activities you can afford to support, and that's really the environment which we've had to exist in since privatisation. There is nobody there that is funding those attendances."

Dr Crowder said his information about the Sudbury House and Taplow House fires, two separate fires, was gleaned from press reports, not from a BRE investigation. He said the resources were not available to capture data and identify trends. Research had to

stop at the limits imposed by clients and their budgets, meaning fundamentals were not understood.

There was a reduced independence from government control of fire safety research after privatisation. The BRE could only do the research that the government procured. If the intended research wasn't aligned with particular government policy objectives, then it probably wouldn't get funded. After privatisation, the BRE lacked sufficient independence to carry out the necessary research in face of a government increasingly disinterested in fire safety.

On to the inadequate and misleading investigations. After and we say largely due to privatisation, the BRE carried out a series of inadequate and dangerously misleading fire investigations and research projects, and I've already mentioned Knowsley Heights through to Lakanal House and right up to the Grenfell fire. The common thread in these investigations is that they failed to report, let alone to highlight, the contribution to any of these fires made by or the combustibility of class 0 rainscreen products used. This is set out in Professor Bisby's report, which raises many questions, particularly about the conduct of the BRE.

We've highlighted several of these failed

investigations in our closing statement and do not repeat them here. On each occasion, the privatised BRE was prevented from performing its proper function, due, we submit, to deregulation and the commercial considerations which were given precedence over public safety.

So, to summarise, after privatisation, the BRE's financial dependence on a government increasingly disinterested in fire safety and on commercial clients with their own agenda led the BRE to fail the fire safety regime by not negotiating a public interest exception to the confidentiality clause, not issuing policy implication reports, not publishing failed test results, not pursuing concerns about fire safety, not advising government properly, not investigating fires properly, not advising other interested parties or the public, not publishing fire safety research findings, not sharing fire data with others in the fire safety regime, not guarding against the known risk of cheating in the fire tests, sometimes even possibly actively assisting manufacturers to game the tests.

Sir, that concludes our submissions on the BRE.

We've already referred at length in our submissions to the BBA and the NHBC and UKAS and don't repeat those here. But if time permits, a few words on the LABC.

The Local Authority Building Control is a clear example of regulatory capture. Privatisation and the introduction of competition had a disastrous effect on building control. Shockingly, it ultimately led to the LABC falsely certifying products as being of limited combustibility because of commercial interests.

Before I go on any further, sir, I don't want to fall into the same trap. How much time have I got left?

SIR MARTIN MOORE-BICK: Well, how much time do you need?

MR SEAWARD: Well, I should think I probably need about five minutes, maybe ten.

SIR MARTIN MOORE-BICK: Oh, you're fine at that.

MR SEAWARD: I'm fine at that, okay.

SIR MARTIN MOORE-BICK: Yes.

MR SEAWARD: Okay, thank you, that's fine.

SIR MARTIN MOORE-BICK: Good, thank you very much.

MR SEAWARD: That was very well negotiated, sir, you didn't actually give me a time.

SIR MARTIN MOORE-BICK: Well, I didn't wish either to cramp your style or to extend it too far, but you're doing all right. I'll indicate if I think you're running out of time.

MR SEAWARD: Okay, thank you very much.

So Barry Turner was a senior technical adviser at Local Authority Building Control, LABC, and that was

an influential membership organisation which advised, supported and promoted local authority building control bodies, who had difficulty competing with business with private building controllers. He said, "enforcement is difficult to sell ... developers don't want you looking over their shoulder".

LABC was not publicly funded and, like the local authority building control bodies that it supported, it needed to generate income in a competitive market. This provided ample scope for regulatory capture and the LABC was well and truly captured by Kingspan.

For a price, it issued type approval certificates and, after 2010, registered details for building products, which Mr Turner understood would be relied upon to fast-track building control approval on developments specifying those products. For example, LABC issued a type approval certificate for Kingspan's K15 insulation product in May 2009 which falsely stated it could be considered a material of limited combustibility. Mr Turner now accepts that this was inaccurate and misleading, but he could not explain how it came to be issued, despite concerns raised by members of the technical working group, which concerns were overlooked.

LABC also collaborated with Kingspan on a number of

projects and accepted sponsorship by Kingspan. Mr Turner accepted that this relationship probably affected the way LABC responded to concerns raised about Kingspan's fire performance statements.

For example, from September 2009, Mr Cody of Rockwool complained to Mr Turner about Kingspan's claims that K15 was of limited combustibility. Mr Turner could not explain why he neither invoked LABC's complaints procedure, nor replied substantively to Mr Cody, nor why he did not consult the BRE until June 2015. Incredibly, he turned instead to Kingspan's head of marketing before responding, at which stage, again incredibly, he defended the certificate. He neither reviewed nor withdrew the certificate. He said he would have dealt with it differently if he had appreciated the risk to public safety.

He was a chartered building control surveyor, a member of the Royal Institute of Chartered Surveyors with over 53 years' experience. We submit Mr Turner must have realised the risk to public safety of wrongly certifying K15 a product of limited combustibility. His false assertion that it was of limited combustibility revealed the truth: that the LABC was serving the manufacturers', not the public's interest. Once again, commercial interests took precedence over public safety.

David Ewing also now accepts it was a pretty major error to certify that K15 could be considered a material of limited combustibility, there being absolutely no test evidence in support. Likewise, he now acknowledges the claim made in the LABC registered details certificate of August 2013 that K15 was suitable for use above 18 metres was not substantiated by the technical data provided by Kingspan.

David Ewing was LABC's technical sales director, in charge of the registered details scheme. In July 2014, he was made aware of Brian Martin's concerns about the use of combustible insulation above 18 metres in his email exchange with Steve Evans of the NHBC, but he did not act in the public interest by, for example, alerting LABC's members to the issue or checking all certificates issued for K15.

The only credible explanation is LABC's financial dependency on Kingspan.

Mr Lewis says that issuing the K15 registered details certificate in August 2014, based on the 2008 BBA certificate and despite Brian Martin's concerns, was an oversight. He denied feeling any pressure, eg from Phil Hammond, the LABC managing director, to increase the number of registered details registrations, or of knowing this contributed to Martin Taylor's decision to

leave LABC. He further says he trusted Kingspan that they would not be providing inaccurate information. But any such trust could not have survived the warning from Steve Evans in August 2014 that Kingspan were not going to be able to prove that K15 was acceptable above 18 metres. His oral evidence on these points is, we submit, unbelievable. He did not act in the public interest and check Kingspan's assertion because it was not in LABC's commercial interests to do so.

Mr Ewing and the LABC were likewise played by Celotex in August 2014, when they failed to obtain any classification report before issuing a registered details certificate to Celotex in respect of its FR5000 product, stating falsely it was suitable for use above 18 metres.

The part-privatisation of building control, coupled with the absence of public funds or any proper governmental oversight, led to LABC's predictable yet shameful dependency on its fees earned from manufacturers. The LABC's certificates facilitated the successful marketing of combustible insulation for use above 18 metres over an extended period from August 2009 up and down the country, including at Grenfell Tower. The LABC's failures were themselves the consequence of a failed regulatory system that was not fit for purpose.

Moving on to the response to the coroner's letter following Lakanal House inquest. Just briefly a few points.

As the GTI is aware, the Rule 43 letter to Lord Pickles included a number of recommendations that he review the content of the Building Regulations and, in particular, ADB to provide clearer and simpler guidance in relation to matters such as the spread of fire over the exterior of a building. By the time of the Grenfell Tower fire, some four years later, no such review had been undertaken. In fact, Lord Pickles failed to take any effective steps to respond to the coroner's Rule 43 letter.

Following the oral evidence in Module 6, we submit that the simple explanation for the failure of the DCLG in relation to the coroner's letter is that it did not fit in with the drive to deregulate and to prioritise commercial interests. Consequently, it was ignored.

We submit there is an urgent need for a national oversight body to consider Rule 43 letters and other recommendations from inquiries to ensure they are properly reviewed and implemented.

Failings in government.

The evidence in Module 6 has shown that there were significant failings in DCLG, including by Brian Martin,

who has been called the single point of failure. However, we submit it would be wholly wrong to try and lay the blame for the Grenfell disaster on a middle-ranking civil servant. To the extent that senior government ministers have sought to do this, we submit that represents a shameful abdication of their responsibility. Mr Martin has admitted his failings and expressed remorse at their consequences. This is in stark contrast to the evidence of the politicians, who either couldn't remember or, as in the case of Lord Pickles, sought to blame others, including Mr Martin. We also note that he wasn't separately represented.

It's wrong and reprehensible that senior politicians who were responsible for the DCLG should seek to blame Mr Martin. We do not accept that any single point of failure by a civil servant caused the Grenfell Tower disaster. The fire at Grenfell Tower was the consequence of decades of policies promoting commercial interests at the expense of everything else, including fire safety. It happened due to the war on regulation as an albatross around the neck of business. Mr Martin was a product of this environment, not its cause.

In our opening in Module 6, we contended that side by side with ever more zealous promotion by central

government of deregulation and the commercial interests of the private sector was the degrading and undermining of the public sector. Further, over recent years, that process has accelerated as a consequence of austerity and cuts in public expenditure. We submit that the oral evidence in Module 6 has further supported those contentions.

There were cuts in civil service staff. The reduction in staff in the civil service, including in the DCLG, was clearly an issue, and the falling headcount reduced effectiveness. Mr Burd told the panel that the headcount in his section of the DCLG had gone down by 40% in the time he was there. This, we have to remember, is at a time when Professor Torero has explained the building environment was becoming ever more increasingly complex. He said declining resources, both in terms of research monies and in terms of headcount, coupled with the undertaking of and being cognisant of the various deregulatory measures, meant they had less and less time to focus on the Building Regulations.

Mr Harral also referred to the reduction in resources, including headcount. In 2006, he said, there were 14 construction professionals in a division with a much smaller scope of work. There were three grade 6s

supporting the deputy director. By 2015, this had reduced to five technical specialists with one grade 6, Mr Martin. He went on to describe those resource pressures as tectonic.

Ms Dawes also gave similar evidence about the lack of resources, and I won't take up time with those.

We submit that the performance of civil servants in the DCLG has to be evaluated against this background of significant cuts in staff. These policies are not just about numbers; they have real-life consequences, beyond people losing their jobs.

Ms Dawes was asked to comment on an email sent to her on 20 June asking how the DCLG might have incentivised RBKC's choice of the contractor Rydon, who made the lowest bid. She answered -- she's talking about the cuts to local council funding -- "the budgets for housing were very tight indeed".

Grenfell Tower, along with much of social housing, has suffered decades of neglect and lack of investment. This, too, was a consequence of central government policy. RBKC's housing stock was no different from that in the rest of the country. Although RBKC is a well-off local authority, the council were unable to invest any of their general funds in social housing because central government policy had restricted the available monies to

those which were generated by rent in the housing revenue account.

Ms Dawes went on to explain how matters deteriorated in 2015:

"But we were also very concerned just about general funding for any form of social housing investment, which had been stopped in the first year of the government following 2015, although it was reinstated later when Gavin Barwell and Sajid Javid did their housing work ... but we were worried about that as well, because that was just simply to keep house-building going in the social sector."

This evidence shows how central government policies forced poor choices on local housing authorities, including the use of inexperienced and inadequate contractors using poor and dangerous materials. Shoddy workmanship was common, as we highlighted in our opening submissions, and this issue too was addressed in Ms Dawes' evidence:

"Question: ... were you aware of this 'open secret' ... being the inconsistent standards and tolerance for shoddy work? Were you aware of that?

"Answer: Yes, I think I was ...

"Question: Were you aware of inconsistent standards and tolerance of shoddy work by building control

authorities before the Grenfell Tower fire?

"Answer: Well, I can't remember ..."

The impact of austerity and cuts as a contributing cause to the Grenfell Tower fire cannot be overlooked and, of course, there's the ongoing impact of austerity. Louise Upton, during her evidence, said there was little value in PEEPs without someone being there to implement them, and that to recommend that those who manage high-rise maintain information on vulnerable or disabled occupants would place a significant burden on them.

Counsel put to her:

"Question: Now, you can take it from me that this response ... didn't tell Elspeth Grant that the underlying rationale for the LGA guide's position on PEEPs was an anxiety to avoid imposing disproportionate burdens on landlords. Do you know why that rationale was not explained to Elspeth Grant?

"Answer: No.

"Question: Would you accept it should have been, in a spirit of candour?

"Answer: Yes."

The advice of a disability expert wasn't sought by the Home Office or anyone else. Ms Upton had no knowledge of disability law. It is clear that commercial interests of landlords are still the

priority, even today, over the lives of disabled people.

Finally, the lack of caretakers or concierge is itself the direct result of cuts in resources for social housing stretching back decades. Austerity and commercial interests continue to prevent issues in high-rise being effectively addressed today. We've just seen the latest recommendation on the government website not to implement your recommendation regarding PEEPs, as Mr Mansfield explained earlier.

As to the fire and rescue service, the Home Office portrays the white paper as progressive and positive. The proposals set out in the white paper, it says, seek to strengthen fire as a profession, enabling fire and rescue professionals to improve their skills and fully serve the community, as well as unlocking and nurturing talent. The proposal seeks to support a positive culture and to improve diversity and inclusion. In addition to this, the government intends to commission an independent review into the current pay negotiation process and consider whether it's fit for a modern emergency service.

The FBU knows, from bitter experience, that this heralds an attack on collective bargaining, which has nothing to do with the Grenfell Tower disaster, or the steps which the government should be taking to prevent

a recurrence.

In conclusion, the central state has a fundamental responsibility for the safety of its citizens in a modern society. We submit that central government has failed woefully in this task. They failed to regulate high-rise in particular by avoiding the foreseeable hazards of insulating them against the cold and rain through installing safe rainscreen cladding systems. They've cut back regulations and allowed businesses to ignore safety rules as part of a war on health and safety culture, and to prioritise profit over safety. They've abdicated the duty to research emerging fire risks and develop protection measures.

Whereas for half a century central government had an authoritative statutory fire and rescue advisory body that strategically assessed the risks and provided ministers with reliable expertise, that body was abolished as part of deregulation at a time when the built environment was increasing in complexity. The philosophy of deregulation has blighted efforts to improve and has actually worsened the living conditions of millions of people.

Grenfell Tower was the combination of more than four decades' worth of these policies. Those who lost their lives were also the victims of big business and an

economic and social system that values the generation of wealth over the protection of those without the wealth to protect themselves.

In the scramble for profits, those people were collateral damage. Central government and the economic system which they nurture bear ultimate responsibility for the Grenfell Tower fire.

Thank you for your patience.

SIR MARTIN MOORE-BICK: Thank you very much, Mr Seaward.

Well, it's a little earlier than usual for a break, but we did start earlier after lunch, so I think probably this is a good time to take the afternoon break.

We'll stop there and we'll resume, please, at 3.15, when we'll hear a closing statement on behalf of the London Fire Commissioner.

Thank you very much. 3.15, please.

(3.00 pm)

(A short break)

(3.16 pm)

SIR MARTIN MOORE-BICK: The next statement is going to be made by Mr Stephen Walsh on behalf of the London Fire Commissioner.

Yes, Mr Walsh, when you're ready.

Module 6B (Government, Testing and FRA) closing submissions on behalf of the London Fire Commissioner by MR WALSH

MR WALSH: Good afternoon, sir, Ms Istephan, Mr Akbor.

Sir, in this month of June, five years on from the tragedy in 2017, may I begin these relatively brief observations on the issues which arose in Module 6B, as I will call it, by again assuring you that the constant and ongoing work which the Brigade is engaged in to meet your recommendations in the Phase 1 report remains a priority for the London Fire Commissioner. As you know, there is much to do across a range of the Brigade's operations, and while a great deal has already been achieved, some of the improvements and the changes are complex and will take time to progress. Nevertheless, 26 of the 29 recommendations which related to the LFB have been completed, and a further two are to be completed by the end of the year. It just seemed an appropriate time, in June, to update you on that and those who are listening.

SIR MARTIN MOORE-BICK: Thank you, yes.

MR WALSH: So I know that the panel will have read our closing statement for Module 6B, and it's publicly available, so, as usual, I have no intention of repeating it all here, although I may well -- probably will -- repeat one or two of the points which have been

made by others during the course of the day. Forgive me for that, but those are points which actually do bear repetition.

I do, though, want to say something about the importance of context. The phrase "context is everything" might be -- probably is -- overused, and sometimes it's misunderstood, but it is a particularly felicitous phrase when applied to the Grenfell Tower tragedy, at least insofar as the operational response of the fire service is concerned. Whether it is the sheer scale and rapidity of the fire and the impact on operational resources that had and in the control room, or the chain of events which led to the building being shrouded in highly flammable materials, or the impact which the political atmosphere of deregulation had upon the efficacy of the Building Regulations -- just to give three examples of so many other matters of context -- a full understanding of the wider context is essential to a proper and fair assessment of the emergency response of the fire service on the night of 14 June 2017.

But, more importantly, it's also essential for the purposes of learning from the events of the past so that really effective and meaningful changes can be made. The reason why that's relevant to the submissions that

I make today is that module by module in Phase 2, the evidence has provided a very substantial body of essential context, from multiple witnesses on a wide range of issues, which were explored, as you know, with the LFB almost solely in Phase 1. The evidence in Module 6B has been of vital importance to a proper understanding of the extent to which aluminium composite material panels with a polyethylene core, ACM PE, were generally known to be in use on residential high-rise buildings and the effectiveness of the Building Regulations in preventing such use. When I refer to the Building Regulations, I include Approved Document B, although of course I recognise that one provides the functional requirements and one provides the suggested route to compliance.

We highlight ACM PE here, rather than dealing with modern materials generally and what was known about them, because, obviously, the evidence is very clear that it was that product and the system within which it was designed and installed which was the principal cause of the manner in which the Grenfell Tower fire behaved and the devastating speed of its extensive spread. As Professor Bisby reminded us only last week, it was the polyethylene core which was responsible not only for the velocity of the horizontal spread, but also, crucially, for its downward and lateral spread, which was so unusual, by reason of the extensive pooling of the molten product at the top of the building in the architectural crown.

Now, the London Fire Commissioner's position, as you know, and that of fire and rescue services nationally, as far as we are aware, is that, historically, a very high degree of reliance had been placed on the provisions of the Building Regulations as a bulwark against catastrophic, all-consuming fires in residential buildings of the kind which occurred at Grenfell Tower. It was those regulations which existed to prohibit the use of dangerous materials such as ACM PE from being used.

Now, in light of the evidence given in Module 6B, it is clear that, in the years leading up to the Grenfell Tower fire, with actually very few exceptions, the limited extent of the Brigade's knowledge of the risks of ACM PE materials and its reliance on the effectiveness of the Building Regulations was, it would seem, broadly shared across the fire sector and by government itself.

In our written submissions, we have set out some key evidence in Module 6B of witnesses for the responsible government department, DCLG at the time, and from the

BRE, formerly the British Research Establishment, most of whom, most of those witnesses, were highly experienced technical advisers in relation to the built environment. Now, in setting out that evidence, though, we do not seek to criticise individuals or point the finger of blame. Those are obviously matters entirely for you, for the panel, when you consider the context in which they had to perform their functions in the at least perceived climate of deregulation at key moments.

But, for present purposes, we just want to highlight, if we may, two important points which emerge from that evidence in Module 6B.

First, notwithstanding the failed test of an ACM panel by the BRE in 2001, which was reported to the government department in 2002 but not published until after the Grenfell Tower fire, none of those particular witnesses, those who gave evidence on behalf of the government department or the BRE, none of them, was aware of the use of ACM PE panels on high-rise residential buildings in the UK, save for Dr Colwell and Mr Martin from about 2014. To the extent that there was a growing awareness of the risks, there was obviously a failure to appreciate the extent of the hazard and, again crucially, communicate it more widely to the

industry and the fire sector.

Secondly, although there was an awareness of international fires involving ACM, there was a firm belief that those fires would not occur in the United Kingdom, partly because ACM was not thought to be widely in use on tall buildings, but partly, and perhaps mainly, because the Building Regulations were said to prohibit such use. Indeed, the department, the government department, expressed views to that effect when asked by multiple parties, including fire and rescue services, in light of fires involving ACM PE materials abroad.

Dr David Crowder -- and it must be remembered, he is and has been for a number of years a very highly respected expert in the field, in the fire sector, and someone with a great deal of experience and knowledge -- was of the view, you will recall, when he gave evidence, that that was an industry-wide belief, that is faith in the Building Regulations and an absence of knowledge of the use of ACM materials in high-rise buildings.

To take one important example -- I am now repeating things that have been said this morning, but it is worth it -- following The Torch fire in Dubai in February 2015, the government's Chief Fire and Rescue Adviser was informed by the government department later that month

that the dangers posed by ACM PE materials, cladding, should not be a problem in the UK because "there are provisions in the Building Regulations to prevent this kind of problem". The same broad view was expressed by the department, for example, in response to queries about The Address Hotel fire, also in Dubai, in late January 2016. That may be one reason why there was no system in government by which requests for information from foreign governments about foreign fires were routinely made.

No warnings by government were disseminated more widely of concerns expressed, for example -- and this is where there was an acknowledgement of the use of ACM, but no warnings were given or information disseminated about concerns expressed, for example, at the CWCT meeting in July 2014, that ACM may be in common use, or the expressions of concerns from Nick Jenkins, if you remember, of Booth Muirie in February 2016, that confusion over the interpretation of Approved Document B to the Building Regulations raised a risk of a fire in the UK like those in Dubai. It seems that those concerns were not escalated to senior officials in the department, again failing to appreciate the extent of the hazard.

Now, the London Fire Commissioner acknowledges and

has said -- you know this from the evidence -- that the Brigade wrote to central government and to housing providers on a number of occasions from at least 2009, raising general concerns about materials used in the construction and refurbishment of residential buildings and about levels of compliance with the Building Regulations. Now, while those concerns did not relate to ACM PE materials, because they were not known to be widely used, the commissioner accepts, on reflection, that more could have been done to highlight with government a growing awareness of the possibility that the regulations were not always being adhered to or were being interpreted in a way which impacted on fire safety.

It is in that context that part of the reason why the Brigade wrote to government seeking greater clarity in the terms of the Building Regulations, as did the Lakanal coroner in the Rule 43 recommendations, was that there was an important link to issues of enforcement of the Regulatory Reform (Fire Safety) Order, for which fire and rescue services are responsible. There's a direct link between the two.

Now, that hasn't been the focus of a lot of attention during the course of the Inquiry, but it is important that I make the point because, in a great many

cases, proof of a breach of one or more of the duties held by responsible persons under the Fire Safety Order, or indeed where such persons want to argue that they did all that was reasonably practicable to meet their duty, defending their position, where those arguments occur, they are dependent, very often, on an analysis of the requirements of the Building Regulations and British Standards, and those two are really inextricably linked.

The evidence in Module 6B, as we know, has highlighted a number of areas within the regulations where interpretations, especially in relation to ADB, vary to a significant extent. We also heard -- I know it's Module 7, but it's relevant to this -- that the combined effect just, for example, of regulations 8 and 11 of the Building Regulations is that more or less a complete discretion is given to depart from the express requirements -- this is for building control departments -- so long as "reasonable standards of health and safety for persons in and about buildings are demonstrated".

Now, the point about making that submission to you -- it's not in our written submissions -- is that as long as there is uncertainty of interpretation of the regulations and the statutory guidance, combined with

the wide discretion which is vested in local authority building control departments to depart from those express requirements, there will continue to be real challenges in the enforcement of the Fire Safety Order against building owners and responsible persons for fire and rescue services around the country.

But what is and always has been certain -- this is my final point -- about the Building Regulations, as Mr Martin accepted during his evidence, is that they did not -- do not -- allow for the contingency that stay put, as a safety strategy, might have to be revoked, they just don't provide for it at all, and that a full-scale emergency evacuation ensue. Such an eventuality is just not contemplated -- I know I've said it before, but it's particularly pertinent to 6B -- and, as a consequence, these kind of buildings were not designed to facilitate evacuation, as you know.

Now, following the fire, the tragedy in June 2017, for buildings in London, they have been inspected by the LFB and others. Just over 1,000 out of a total actually of 29,000-odd, both high-rise and low-rise residential blocks, have been identified to have potentially dangerous cladding. For those buildings, evacuation plans -- temporary fire alarms and so on, waking watches, that sort of thing -- have been put in place by

building owners and responsible persons, following the National Fire Chief Council's interim guidelines. That's the position in those buildings. And, of course, the Brigade has new processes to assist in effecting those strategies.

But, in general terms, if stay put as a principle of building design is to be abandoned, as Professor Torero suggests, as you know, it would obviously be necessary, as he says, to fundamentally change the regulatory approach -- you can't just change it overnight -- including ADB, and to establish multiple redundancies within the safety system to enable mandated phased evacuation, and that would include sprinklers, as we know, smart alarm systems and many other fire suppression measures, levels of redundancy.

The LFB has campaigned for the provision of sprinklers for many years, and currently campaigns for additional protected escape stairways. So if and when such changes are implemented by government -- there needs to be political will, of course, as we know -- the LFB will purposefully engage in making it work.

All reasonable efforts, of course, need to be made to ensure that residents, including those with disabilities, have an opportunity to evacuate or to be supported in doing so in the event of fire. That is

about the way in which buildings are designed and refurbished and built. That shouldn't be done by seeking convenient interpretations or loopholes in the statutory guidance about which we have heard so much, or, to echo the words of Stephanie Barwise Queen's Counsel this morning, deliberate manipulation and deliberate non-compliance.

That is all I have to say on behalf of the commissioner.

SIR MARTIN MOORE-BICK: Thank you very much indeed, Mr Walsh.

MR WALSH: Thank you.

SIR MARTIN MOORE-BICK: Well, now, the last statement due to be made today is going to be made by Mr Glasson Queen's Counsel on behalf of UKAS, and Mr Glasson is going to make his statement by Zoom.

We're rather earlier than we thought we would be at this stage, due to the expedition of other counsel, but, Mr Glasson, I can see you there waiting to speak to us. Is that right?

MR GLASSON: That's right. I hope you can see me and hear me as well.

SIR MARTIN MOORE-BICK: Thank you very much. I take it you can see us, and you don't need to hear us particularly, but we certainly need to hear you.

I'm sorry we have come to you rather earlier than you probably expected, but that might be a good thing in any event.

MR GLASSON: Absolutely. I'm sure on a day like this, everyone would like to be able to finish early.

SIR MARTIN MOORE-BICK: Well, we are ready to hear you, so if you are ready to address us, please start whenever you are ready. Thank you.

Module 6B (Government, Testing and FRA) closing submissions on behalf of the United Kingdom Accreditation Service

by MR GLASSON

MR GLASSON: Good afternoon, Chairman, Ms Istephan and Mr Akbor.

The United Kingdom Accreditation Service, UKAS, has, as you know, filed a written closing statement and, in these oral submissions, I'm going to expand on some of the points that we have made in writing, picking up on occasion on some of the observations made in the written statements by the other core participants.

At the outset, I would like to repeat UKAS's expression of sympathy to all the bereaved, survivors and residents of the Grenfell Tower fire.

I also want to emphasise on behalf of UKAS two central points.

First, UKAS recognises the strength of feeling

expressed in written statements from the bereaved, survivors and residents groups. UKAS recognises that the strength of feeling is justifiable, as UKAS acknowledges that some of the evidence relating to the BRE and the BBA demonstrates that improvements are needed on the part of UKAS.

Secondly and relatedly, UKAS is committed to learning all that it can from the Grenfell Tower tragedy, and UKAS is acting now on those lessons. It is that second aspect that I would like to focus on this afternoon, particularly as it will serve to foreshadow the evidence that UKAS intends to serve in October in response to the Inquiry's request for statements from core participants who have implemented or who are implementing relevant reform since the fire.

UKAS sought to respond to the fire swiftly. For example, UKAS conducted a number of additional visits to the conformity assessment bodies, CABs, in 2017. UKAS contributed to the Independent Review of Building Regulations and Fire Safety by Dame Judith Hackitt, which was published in May 2018, and has contributed to the ongoing Independent Review of the Construction Products Testing Regime conducted by Mr Paul Morrell, Ms Anneliese Day Queen's Counsel. Both reviews posed specific questions as part of the consultation, and UKAS

has responded to those with detailed submissions providing information, identification of gaps and shortcomings of the existing regime and suggesting recommendations.

As we explain in the written statement, UKAS has identified a number of key areas to focus on in response to the tragedy. Those areas are in addition to the work that UKAS has undertaken specifically in relation to the BBA and the BRE that I'll come to at the end.

The first key area of work relates to product certification activities. All existing accredited product certification schemes are being reviewed to ensure that they remain fit for purpose, are meeting end-user expectations and are adequately described in the scopes of accreditation. There are literally hundreds of those schemes.

In the past 12 months, UKAS has commenced a programme to review construction product certification schemes. UKAS has identified over 70 schemes which are being reviewed. That is involving an in-depth evaluation of the scheme criteria against the requirement of accreditation standards. Generally, the reviews are taking place alongside annual assessments to CABs, but specific attention is being given to those schemes that do not utilise national or international

standards or criteria set by regulations. For schemes that utilise criteria set by the CAB or by another scheme owner, this review is likely to be completed by the end of 2022. Further information on the review will be provided by UKAS in its statement to the Inquiry later this year.

The second key area relates to UKAS's assessment processes. Aspects of the assessment practice are being reviewed to see whether there are sufficient checks that ensure that the scope of accreditation is adequately covered having regard to the risks associated with that particular scheme over a four-year assessment cycle. That has involved a number of different strands of work, developing further processes to evaluate risk in the planning and conduct of assessments. To that end, UKAS established a product in 2020 aimed at developing an evaluation tool to be used for the assessment of each CAB. Criteria are being developed that take into account the scope and operating model of the CAB as well as the sectors in which it operates. The tool has been piloted in two sectors and plans are being established to fully embed the process within UKAS.

UKAS is establishing a new assessment portal in its IT system. As part of that, a new reporting format has been piloted. That will provide improved data to enable

trends in CAB performance to be monitored and to ensure that a root cause analysis can be conducted.

It has also increased monitoring of the effectiveness of corrective actions carried out by CABs, which is being established through additional training and ensuring that sufficient time is allocated to review corrective actions on assessments.

UKAS is also developing further guidance on the appointment of assessors to ensure any threats to impartiality are mitigated. As part of that, UKAS intends to introduce additional monitoring and audits to review how those threats are being mitigated.

The third area relates to technical expertise. A full review of the operation of technical advisory committees is underway. The committees will in future be managed by a central secretariat, which will enable harmonisation of best practice and increased oversight and enhanced management. There is ongoing work to ensure that there is a sufficient pool of technically competent resources and additional mentoring, which will be made available for new staff and for assessors. That additional mentoring will strengthen the technical expertise available to UKAS.

The fourth area relates to improving mechanisms for handling any significant non-conforming work that occurs

in CABs, and that will include a more detailed and structured technical review. UKAS has emphasised to CABs and to UKAS's own staff that there is a duty of candour on the CABs to report concerns regarding performance of CABs that UKAS accredits. UKAS has long had a learning culture and the importance of learning from adverse incidents will continue to be reiterated in training and all aspects of UKAS's operations.

The final key area of work that I would like to draw attention to is in relation to the proposed amendments to the customer agreement. In the course of Lorraine Turner's evidence, you pointed out, sir, that a number of the difficulties that have arisen in relation to UKAS's role could be addressed by amending the customer agreement. UKAS respectfully agrees. It has undertaken a review of the customer agreement with CABs and it has instructed external lawyers to advise on revising the customer agreement. Many of the proposed amendments strengthen and, in some cases, clarify existing provisions and powers. Nonetheless, the amended customer agreement will enable UKAS to be confident that it would be able to adopt a more robust role with CABs and that the agreement will address some of the issues that have been raised in this Inquiry.

The proposed amendments will go to a wide range of

issues, and we've detailed those in section C of the written note. I will just highlight a few points that are of particular relevance.

The first, sir, is in relation to the power to make unscheduled visits. Although this power is already implied in the existing customer agreement, the amended agreement makes that power explicit. The amended agreement specifies that UKAS may, at its sole discretion, carry out additional or unscheduled visits, in particular in order to verify that any notified changes to its requirement for accreditation have been implemented.

The second is in strengthening the obligations owed by the customer, the CAB, to UKAS. The amended agreement will impose more onerous and exacting obligations on the customer. It will provide that the customer must ensure that any information it provides to UKAS, whether as part of an application for accreditation, an assessment or otherwise, is true and accurate in all respects. The customer must notify UKAS as soon as is practicable if the customer becomes aware that information provided to UKAS is false or inaccurate. The customer must take all appropriate steps to correct any statements used by itself, any of its officers, employees or representatives, any of its

clients or any other person with which it is associated, which could bring accreditation into disrepute or could be misleading, regardless of whether it has been notified of the statement in question by UKAS or from any other source. Finally, the customer must action each mandatory improvement action raised in a UKAS assessment report within the period specified by UKAS.

The third area is in relation to the definition of "significant non-conformity", as well as the notification provisions. The draft amended customer agreement will set out an extensive definition of "significant non-conformity", and will impose an obligation on the customer to notify UKAS as soon as is practicable following identification of any such significant non-conformity.

What the draft amended agreement will do is to reconcile the confidentiality obligations imposed on UKAS with UKAS's wish to ensure that a CAB cannot prevent disclosure of significant non-conformities to regulators or users or other interested parties.

Just in terms of the confidentiality obligations imposed on UKAS itself, you may recall that, in her second witness statement, Lorraine Turner explained that UKAS itself is held to ISO 17011, which imposes confidentiality obligations. Clause 8 of the 2017

version, which is currently applicable, is the confidentiality clause. It may be helpful just to see that on screen. It's provided at {UKAS0011447/14}. You see at paragraph 44 of the written note we set it out, and the relevant provision to draw attention to is in 8.1.1:

"The accreditation body shall inform the conformity assessment body, in advance, of the information it intends to place in the public domain."

Then critically:

"Except for information that the conformity assessment body makes publicly available, or when agreed between the accreditation body and the conformity assessment body ... all other information obtained during accreditation process is considered proprietary information and shall be regarded as confidential."

I think we can remove that from the screen.

SIR MARTIN MOORE-BICK: Thank you.

MR GLASSON: The draft amended customer agreement will ensure that UKAS can comply with that confidentiality obligation but, at the same time, ensure that it can alert stakeholders, end users and the public to any safety-related information. To that end, the draft agreement will provide that the duty of confidentiality will not apply to "any disclosure made by UKAS in

circumstances following its apprehension or notification of any Significant Nonconformity or Customer Failure". As I've said, there's an exhaustive definition of what "significant non-conformity" means.

So the changes will make clear beyond doubt that any instance of fraud on the part of the CAB would allow UKAS to depart from its obligation of confidentiality, a point we know which was discussed in oral evidence and which has been commented upon by some of the core participants.

The customer will be under an obligation to notify any significant non-conformity to all interested third parties, including its clients, product manufacturers, regulators or impacted members of the general public. It will be for the CAB to identify any relevant impacted members of the public, and UKAS will ensure that sufficient action is taken. Who will fall within that definition will depend upon the nature of the accredited activity, and in the written note we give the example of a failure by a hospital laboratory, which would mean patients of that laboratory.

Compliance with this obligation will be through assessments of CABs and monitored by the UKAS technical quality and risk team. Then in relation to sanctions available to UKAS, again, you will recall, perhaps, from

the written evidence that Lorraine Turner explained that a CAB's failure to report significant non-conforming work or, indeed, non-conforming work to UKAS would be sufficient to attract sanctions, although there would be consideration of the relevant circumstances, such as -- and I quote from her statement:

"... the reasons why the CAB did not inform UKAS, the associated risk and the actions taken by the CAB to correct the issue and address the root cause of the significant nonconforming work."

There's a range of sanctions available that are detailed in the draft customer agreement, including terminating an application for accreditation or refusing an application; withdrawing, suspending or partially suspending an accreditation; reducing the scope of an accreditation; requiring a further assessment of the customer; and publishing that fact under suspension or withdrawal of the accreditation in any media it considers appropriate.

In terms of publication of sanctions, at the moment UKAS's website confirms which organisations are currently under suspension or have had their accreditation withdrawn. The information identifies where the suspension has been imposed as a sanction. This information is kept up-to-date to reflect the

current status of the CAB. If a member of the public wishes to find out whether a body has been accredited or subject to a sanction in the past, they are able to request this information from UKAS directly.

UKAS is currently reviewing whether the historical record of sanctions could be retained in the UKAS website, and whether this information is of use, bearing in mind two points: first, that the current status of accreditation is always available via the website; and, secondly, and critically, UKAS will not lift a sanction without confirmation that the issues that led to the sanction have been properly addressed.

Sir, as well as those major areas of work by UKAS in response to the fire, there are some specific areas of work that we mention in the written note that are worth drawing brief attention to, bearing in mind the closing statements that have been made by the other core participants.

First, the construction industry technical advisory committee. UKAS is reviewing whether to include fire performance testing of building products in that committee or whether to establish a standalone committee. That's ongoing work.

Secondly, picking up on some of the observations made by the core participants in their written

statements about UKAS's relationship with government, UKAS is working with BEIS to conduct a strategic review of accreditation and accredited conformity assessment. This work is expected to be completed over the summer and may result in changes to the BEIS/UKAS memorandum of understanding.

As I indicated at the outset, UKAS is also focused on the accreditation of the BBA and BRE.

First, in relation to the BBA, in his statement for the Inquiry, Mr Randall from UKAS explained at paragraph 15.3 that:

"Following the annual surveillance visit to the BBA in January 2021, UKAS has undertaken a review of the BBA scheme which has highlighted the need to update the references on the BBA schedule to reflect better the scope of their scheme."

Recently, UKAS has concluded the review of the BBA scheme and completed the annual surveillance assessment. That review indicated that a number of changes to the BBA scheme were required to enable UKAS to continue to include the BBA scheme within the scope of BBA's accreditation for product certification under ISO 17065. Alternatively, if the scheme is to continue in its current format, UKAS considers that it could be appropriate to transfer the accreditation to ISO 17020

as an inspection activity.

UKAS is currently in discussion with DLUHC and with the Office of Product Safety and Standards in its role as the new construction product regulator to work with BBA to determine next steps and the future direction of the scheme, taking into account that the scheme is used in industry to support evidence of compliance with the Building Regulations. We intend to provide further information on the scheme review in the October statement to the Inquiry.

As to the BRE, in April 2022, UKAS staff met with BRE staff to discuss ongoing assessment, to ensure that the requirements of ISO 17025 were met. UKAS emphasised the need for close monitoring of the effectiveness of corrective actions from previous assessments and the need for improved internal audits within the laboratory. The next assessment is taking place this month, where the issues highlighted in the evidence presented to the Inquiry will be covered.

A planning meeting has been held with BRE with respect to the coverage of the fire testing scope. It was noted at that meeting that the level and frequency of witnessing the fire testing activities has been increased. Additional monitoring and review of the assessment and post-assessment activities is being

implemented.

Drawing to an end, sir, I said at the outset that UKAS accepts that the evidence to the Inquiry, that the Inquiry has heard in relation to the BBA and BRE assessments, indicates that lessons need to be learned. Notwithstanding its acknowledgement that there are lessons to be learned, UKAS does not accept that it is fair to say that the evidence suggests that, as an organisation, it is not fit for purpose. Assessments are necessarily a sampling exercise and it cannot guarantee to find all areas of non-conformity. As acknowledged by some of the core participants, sampling is a valid way of monitoring. The CAB's own system should require ongoing monitoring of compliance with the requirements.

UKAS conducts a huge number of assessments each year. We calculate that over 30,000 assessment days per year are conducted using peer experts. What the Inquiry has seen is of course a very limited snapshot of those. However, what the Inquiry has seen is that UKAS has raised multiple non-conformities. It is not correct to say that UKAS does not wish to find problems.

What the Inquiry has also seen is that UKAS has witnessed tests; for example, in relation to BRE during the period 2012 to 2016, UKAS took a fire testing expert

each year, typically spending 46 days each year looking at the testing, including resistance to fire and witnessing a number of tests. It is recognised that the full BS 8414 test was witnessed only once in that period. However, the report submitted to the Inquiry demonstrates that multiple fire testing records were examined and staff, equipment and facilities were assessed each year on site in addition to a sample of other fire resistance tests.

It is unfair to say that UKAS does not raise criticisms because it is funded by the CABs. UKAS has in place robust safeguards to ensure that it can retain its impartiality and perform its accreditation function effectively despite its funding model which, as we say in our written note, is one shared with other accreditation bodies internationally. We have sought to explain those safeguards at paragraph 17 to 21 of our written note.

It is also important to bear in mind that UKAS itself is not a regulator. It has no legal or enforcement powers. UKAS itself is subject to a peer evaluation process and, like all recognised accreditation bodies, it submits to a programme of peer evaluation to maintain its European and international mutual recognition agreement signatory status and its

status as the UK's sole national accreditation body.

The peer evaluation last took place in May 2021 where a team of 13 accreditation specialists from other European accreditation bodies spent a week with UKAS. This evaluation included observation of blind assessments and detailed inspection of case records across all sections of the organisation, to determine the effectiveness of the assessment process and compliance with the international standard.

In addition, the peer evaluation team scrutinised UKAS's impartiality, as well as the effectiveness of the management system and overall technical competence. The review identified areas for further improvements, but concluded that UKAS has robust processes and systems in place that provide confidence in the reliability of the accreditation service that UKAS delivers. No systemic risks were identified with the UKAS system.

All of those points, however, are not made in any way to detract from UKAS's acknowledgement that lessons need to be learned and are being learned. That fact, I hope, has been demonstrated by the detail that is set out in our written statement and which, as I've said, will be developed in our October statement to the Inquiry.

So those are the submissions on behalf of UKAS.

SIR MARTIN MOORE-BICK: Well, Mr Glasson, thank you very much indeed. You've managed to complete well within the time that we estimated for you, so thank you very much.

That brings us to an end of the proceedings for today, but tomorrow we shall have some further closing statements on behalf of other core participants -- not tomorrow, no. I'm reminded, tomorrow is a terrible day for anyone trying to travel anywhere. No, we're going to sit on Wednesday.

So we shall not sit tomorrow at all; we shall sit on Wednesday at 10 o'clock, when we shall hear the further closing statements from other core participants.

So thank you all very much. Wednesday at 10 o'clock, then, please.

(4.05 pm)

(The hearing adjourned until 10 am on Wednesday, 22 June 2022)

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