



GRENFELL TOWER INQUIRY RT

Day 252

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(10.00 am)

SIR MARTIN MOORE—BICK: Good morning, everyone. Welcome to today's hearing.

Today, as yesterday, I'm taking part in the proceedings from a remote location because I'm afraid I have tested positive for COVID.

Today we're going to continue hearing evidence from Mr Brian Martin. So, if Mr Millett is ready, I'm going to ask him to invite the usher to call Mr Martin back into the room, please.

MR MILLETT: Yes, thank you very much, Mr Chairman. Could we please have Mr Martin back in the hearing room.

MR BRIAN MARTIN (continued)

SIR MARTIN MOORE—BICK: Good morning, Mr Martin.

THE WITNESS: Good morning, sir.

SIR MARTIN MOORE—BICK: You can obviously see me and hear me, judging by your response.

THE WITNESS: Yes, sir.

SIR MARTIN MOORE—BICK: Good, thank you very much. You're ready to continue, I hope?

THE WITNESS: Yes.

SIR MARTIN MOORE—BICK: In that case, I'm going to invite Mr Millett to put some further questions to you.

Yes, Mr Millett.

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Questions from COUNSEL TO THE INQUIRY (continued)

MR MILLETT: Yes, thank you very much, Mr Chairman. Good morning to you. Good morning, members of the panel.

Mr Martin, good morning to you.

A. Good morning.

Q. Now, you may remember last night, when we finished with your evidence yesterday, we were examining the 2005 consultation which led to the 2006 amendments to ADB published in April 2007.

Can I go back to that topic, please, and start with {CLG00000025}. This is the proposal for amending part B, fire safety, of the Building Regulations consultation document dated July 2005.

What was your role in putting this document together?

A. I had I guess a co—ordinating role, bringing various draft text together, drafting some of the text myself, managing the process of discussing various proposals with the BRAC working party, and really bringing all the various bits of evidence together, and eventually developing this draft.

Q. Which parts did you draft, from recollection?

A. I had a role in drafting — in at least looking at all of the various draft bits of text in there.

Q. I see. But was there any part of the text for which you

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had a primary role, which you drafted from scratch?

A. Difficult to — it was a very big project and lots of different pieces — people were contributing to it. I think I did quite a bit of work on means of escape guidance for care homes, is a bit I particularly remember drafting.

Q. Who else in principle did the drafting? When I say in principle, who mainly did the drafting work other than perhaps you?

A. It was a collaborative exercise between myself, officials in the department, and other colleagues at BRE. Dr Colwell had completed a contract that the department had commissioned reviewing the guidance on cavity barriers, to try and improve the clarity of that, so she contributed a significant chunk of work to that. I think another colleague at BRE had done some work on fire dampers, and again, they produced some draft text which I then sort of edited into the main draft.

Q. Who did the main work on what became section 12, external wall construction?

A. Probably myself and Mr Burd would have been the main people working on that.

Q. Right. Anybody else?

A. Not that I recall.

Q. Now, can we go to page 9 in this document

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{CLG00000025/9}, please, paragraph 15. It says here:

"The most significant changes the Government intends [in bold] to make include ..."

Then you can see some seven bullet points. If you cast your eye down, they comprise: smoke ventilation of common access areas in apartment buildings; additional smoke alarms; a suitable system of smoke alarms; cavity barriers; inclusive design, national maximum unsprinklered compartment size for warehouses; and compartment walls to take account of deflections during a fire. Do you see that?

A. Yes.

Q. It's not an exhaustive list, because it says it includes, but it doesn't include any reference to the provisions in B4 relating to external fire spread, does it?

A. That's correct.

Q. No, and if you look at paragraph 16, we can see a list of the provisions the government is "minded to introduce", as it says in bold there. Again, there's a long or longish list below that: sprinkler protection; fire protection of corridors in self-storage warehouses; firefighting shafts; dry rising mains; phased evacuation procedures; removing separate guidance on loft conversions; and then, finally, self-closing devices

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1 within apartments and dwelling houses, expecting garages
 2 and common escape routes.
 3 Again, no reference there to the provisions in B4
 4 relating to external fire spread, is there?
 5 A. That's right.
 6 Q. Why does neither of these paragraphs contain any
 7 reference to B4, external fire spread?
 8 A. I think the changes that we did make in the draft, we
 9 didn't think were significant. As I said last night,
 10 they were ... we arrived at them probably later in the
 11 day than perhaps -- most of these other bullet points
 12 you're looking at here were quite large pieces of work,
 13 so there'd been research and cost-benefit analysis,
 14 extensive discussions with the working party and other
 15 industry stakeholders to try and get the drafts right,
 16 and that had taken a number of years to get to that
 17 point, whereas the work that we'd done on external wall
 18 construction was something that we'd done much later in
 19 the day. As we said yesterday, the primary reason we
 20 looked at it was because of the issues that arose from
 21 The Edge fire, so that was much later in the day. So it
 22 wasn't something that we'd identified as a significant
 23 change.
 24 Q. Can we go back briefly to your email to Anthony Burd of
 25 18 January 2005. That's at {CLG00018832}. We looked at

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1 this yesterday in some detail, but if you look at the
 2 second paragraph, you can see that, in the last sentence
 3 in the second paragraph, you say:
 4 "However, we do feel it is important that something
 5 on this matter [that's The Edge fire] is included within
 6 the consultation to ensure that this matter is given due
 7 consideration."
 8 Due consideration by whom?
 9 A. Anybody responding to the consultation.
 10 Q. Right.
 11 Looking at that, it's clear, isn't it, that you, as
 12 the author of this email, were expecting to consult on
 13 any proposed change leading from what you had learnt at
 14 that point from The Edge fire; yes?
 15 A. Yes.
 16 Q. Yes. Why didn't that happen?
 17 A. I think as I said yesterday, I think the problem the
 18 department had is the point at which the project had got
 19 to. It was difficult to insert a new piece of subject
 20 matter without falling foul of various government
 21 processes, which would have delayed the publication of
 22 the consultation.
 23 Q. Yes, you did. I just want to explore a bit more with
 24 you the process by which that occurred.
 25 Would I be right in thinking that you, Sarah Colwell

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1 and Sam Greenwood had concluded that it was important
 2 that something about the core of an external panel was
 3 consulted on? That seems to be what you're saying in
 4 that last sentence.
 5 A. Yes.
 6 Q. Yes.
 7 Did you yourself come to the view, after that, that
 8 in fact it wasn't important to consult on it, or did you
 9 remain of the view that it was important to consult on
 10 it?
 11 A. I'm not sure if I can remember what I was thinking at
 12 the time. But --
 13 Q. Right.
 14 A. -- I think we raised it with the department and it was
 15 a matter for the department to decide how it wanted to
 16 respond to that.
 17 Q. Right. What I'm really seeking to get at is whether
 18 your view changed, and you decided, in fact, it wasn't
 19 quite as important as you had said here, or whether you
 20 were overruled.
 21 A. My honest answer is I can't remember exactly how the
 22 conversation went.
 23 Q. No, but can you remember the gist of what happened? Did
 24 you remain of the view that it was important that it be
 25 consulted on and were overruled, or did somebody

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1 persuade you that in fact it wasn't quite as important
 2 as all that and could wait until after the consultation,
 3 if ever?
 4 A. I wish I could remember more detail of this,
 5 I appreciate how important it is, but I'm loath to guess
 6 what happened.
 7 Q. I'm not asking you to guess. I'm asking you to give us
 8 the gist of your recollection, and you did say that it
 9 was the department, you raised it with the department
 10 and a matter for the department to decide how it wanted
 11 to respond.
 12 Who at the department did you raise it with?
 13 A. Well, it would have been Mr Burd.
 14 Q. Yes, and did he decide that, notwithstanding your view
 15 that it was important to include this question within
 16 the consultation, nonetheless it should not be and
 17 wasn't? Did he make that decision?
 18 A. I don't know whether he consulted with anyone else, but
 19 that's my recollection, is that that was the decision
 20 that was made, was it was ... wanted to get the
 21 consultation paper to progress, and at the stage it was
 22 at, there was a limit to what we were able to do without
 23 having to do a lot more preparatory work, so it was
 24 decided to wait until after the consultation to look at
 25 the question again.

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1 Q. Right.

2 Let's go to your statement, please, which we haven't
3 seen for a while, {CLG00019469/37}, paragraph 110. Now,
4 you're dealing, I should say, with a slightly different
5 matter here in this statement, which we're going to come
6 back to later, this is some time later on, but I want to
7 look with you at the fifth line down. If we start in
8 the middle of that line, you say this:

9 "My recollection is that the lessons from the fire
10 at The Edge in Manchester had been taken into account
11 when the revisions were made to ADB leading to the 2006
12 Edition which by way of including the word 'filler' in
13 what became paragraph 12.7. I am unsure why
14 Mr Greenwood stated that the fire had 'signalled the end
15 of rainscreen cladding'; rainscreen cladding continues
16 to be used to this day."

17 Now, leave aside the last sentence there, which
18 we'll come back to. You refer there to the lessons from
19 the fire at The Edge. What specifically were the
20 lessons from the fire at The Edge?

21 A. I guess that it's the issue of an insulation material in
22 a location that perhaps hadn't been envisaged in the
23 original — in the 2002 edition of the approved
24 document.

25 Q. When you say an insulation material, do you mean

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1 a material commonly used for insulation purposes?

2 A. Yes, so the use of the polystyrene foam in a location
3 perhaps you wouldn't have expected to find it at that
4 point, and so ... and the conclusion was that you should
5 be concerned about that, whether it's a ventilated
6 cavity or not, and that you ought to be thinking about
7 similar materials even if they're not being used as
8 insulation. The issue is the material's fire behaviour,
9 not the fact that it's an insulator.

10 Q. That's it, the issue is its fire behaviour, not the fact
11 that it's an insulator. Now, that distinction you've
12 just identified, was that one in your mind at the time
13 in 2005?

14 A. I think so, yes.

15 Q. Right, okay.

16 When you say here that the lessons from the fire at
17 The Edge in Manchester had been taken into account when
18 the revisions were made to ADB, I think you've accepted
19 that they were taken into account in the final draft
20 which went to press, but not taken into account in the
21 public consultation exercise.

22 A. I think we struck out the ventilated cavity line in the
23 consultation draft.

24 Q. Was that as a result of The Edge fire, or the lessons
25 from it?

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1 A. I think in general, yes, and the other issues that had
2 arisen from polystyrene that had been used in sandwich
3 panels in other buildings.

4 Q. Right. But other than the striking out of the reference
5 to ventilated cavities, I think you would accept, given
6 your evidence so far, that the lessons from The Edge
7 fire, so far as finding combustible material in places
8 you might not expect it was concerned, were not taken
9 into account in the consultation process, but only in
10 the final draft?

11 A. Yes, I think that's fair.

12 Q. Yes, thank you.

13 Now, you say here that it was:

14 "... taken into account when the revisions were made
15 to ADB leading to the 2006 Edition by way of including
16 the word 'filler' in what became paragraph 12.7."

17 Now, "by way of including the word 'filler'". Now,
18 when, can you remember, between the date of the fire at
19 The Edge on 6 January 2005 and the publication of the
20 revised version of Approved Document B in — well, it
21 went to press in December 2006, between those dates, had
22 it been decided that the word "filler" would be the
23 appropriate way to take account of the lessons from
24 The Edge fire?

25 A. I can't remember the exact date, but it was after the

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1 consultation had closed.

2 Q. By whom had that been decided?

3 A. I've a vague recollection of a conversation between
4 myself, Mr Burd, I think some of the other team members
5 at the department. I can't remember if Mr Greenwood was
6 involved or not.

7 Q. Who might have been the other team members at the
8 department?

9 A. So I think Tracey Cull was one of the team that worked
10 with Mr Burd.

11 Q. What was her experience, expertise?

12 A. She was a policy adviser, so not a specialist civil
13 servant, but a policy adviser.

14 Q. Right. Tracey Cull. Yes. Anybody else?

15 A. I'm not sure if Darren Hobbs was involved, I can't
16 remember when he ...

17 Q. But he was a policy adviser as well, was he?

18 A. Darren was a specialist.

19 Q. In what?

20 A. He's had a background in building control, so similar to
21 Mr Burd and myself.

22 Q. Right.

23 Do you know or can you remember when those
24 discussions took place?

25 A. No.

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1 Q. I know you say you have a vague recollection.
 2 A. I can't answer more accurately. I know it was after the
 3 consultation but I can't remember when.
 4 Q. When you had those discussions after the consultation,
 5 was your proposed text from the 18 January email
 6 discussed? Was it looked at? Or did you have another
 7 form of words in front of you?
 8 A. I don't remember. I just — I remember that — I can't
 9 even remember who came up with the idea of the word
 10 " filler ". I know it was a word that was used by some of
 11 the respondents to the consultation.
 12 Q. Yes.
 13 A. So what we were looking for was some text which was —
 14 it was trying to get people to think more broadly, given
 15 that there are a range of different ways that you could
 16 construct an external wall. So anything that was very
 17 prescriptive and very specific, you'd get the same
 18 problem that people might read it in a very prescriptive
 19 way and say, "Well, I'm using polystyrene here or
 20 polyethylene or whatever, it's not one of those three
 21 words and therefore it doesn't apply to me", whereas
 22 what we wanted the readers to do would be to look at the
 23 materials they're using in the wall and think for
 24 themselves as to whether or not they felt that that
 25 might present a risk to fire spread.

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1 Q. You mentioned that yesterday, the idea of getting people
 2 to think. Standing back from that as a concept, was it
 3 your experience now, after, what, 12 years in
 4 building control, that building designers,
 5 building control officers, builders, would think for
 6 themselves, using fire safety as the absolute priority?
 7 Was that your experience?
 8 A. My experience from building control would be that what
 9 you'd want as a building control officer is some text
 10 that you could refer a designer to and say, "Look,
 11 you've not taken account of this". So the idea was
 12 being less prescriptive allowed a building control
 13 officer to say to a designer, "Look, this is important,
 14 I think in these circumstances you've got a problem
 15 here".
 16 Q. Wouldn't it lead to, as you say, more people thinking
 17 and more people debating and disputing, greater doubt,
 18 rather than isolating and identifying with precision
 19 what was allowed and what wasn't allowed by way of
 20 guidance?
 21 A. I think the problem was that we found it very difficult
 22 to do that.
 23 Q. Well, I'm going to come to that answer later, because
 24 I'm not sure that it was as difficult as that, but let's
 25 see.

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1 Before we do, can I just ask you: why was the text
 2 that you proposed in your 18 January email, which simply
 3 deleted the reference to ventilated cavities but said
 4 "other material", not used in the final version? That
 5 would have done the trick, wouldn't it?
 6 A. I think as I said in the email, I think the problem for
 7 the department would be that it probably went too far.
 8 The challenge is in a generic way trying to identify
 9 those things that are a risk and those things that
 10 aren't, and that's — and that was something that we
 11 struggled to do.
 12 Q. Well, the risk was simply combustible core of
 13 an external wall panel. Why not say that the core of
 14 an external wall panel should be a material of limited
 15 combustibility in the same way as insulation?
 16 A. Well, that addresses that problem, but not all the other
 17 potential places that someone might use a combustible
 18 material in a modern wall.
 19 Q. But you weren't addressing that, you were addressing
 20 a specific problem at The Edge, which was that somebody
 21 had put a combustible core inside an external wall
 22 panel.
 23 A. I think the problem we were trying to address is that
 24 an overly prescriptive piece of guidance would allow
 25 a designer to ignore what might otherwise be an obvious

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1 risk.
 2 Q. So what else were you seeking to require to be
 3 a material of limited combustibility?
 4 A. That — to some extent, the things we hadn't thought of.
 5 That was the point we were trying to address, is that
 6 there are a lot — the construction of external walls
 7 was becoming much more complex, and there were lots of
 8 different approaches that were cropping up. We wanted
 9 something which wasn't tied to a particular form of
 10 construction, because that to some extent has been the
 11 problem in the past.
 12 Q. So you were trying to go further than The Edge fire, but
 13 not as far as everything, and picking some kind of vague
 14 ground in the middle?
 15 A. Yes, that's where we landed, yes.
 16 Q. Right.
 17 Let's look at the source, then, of the word
 18 " filler ". Having now I think established where you
 19 landed, let's see how you approached the landing.
 20 I think we can start with this with Anthony Burd's
 21 statement, {CLG00019461/12}, and I'll put this on the
 22 screen, where he addresses this in three paragraphs, 29
 23 to 31, and he has given evidence about this, so I think
 24 I can summarise it.
 25 In summary, he says that it was NHBC who raised the

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1 matter in the consultation — that's paragraph 29 — and
 2 we'll come to the response in a moment. You can see
 3 that he quotes from it there. At paragraph 30 he says
 4 that the BRE had reported in the Investigation of Real
 5 Fires on The Edge fire and used the word "filler" there,
 6 as we saw yesterday, and then he had consulted with
 7 you — and that's paragraph 31 over the page
 8 {CLG00019461/13} — after which the addition was made.
 9 Now, I've given you a very broad summary of his
 10 recollection. Does that accord with your recollection?
 11 A. Yes.
 12 Q. Yes.
 13 Let's then look at the NHBC's consultation response.
 14 It's at {CLG00002410}. You can see that it says:
 15 "Response form for the consultation on proposals for
 16 amending [ADB]."
 17 Then in the right-hand side of the box:
 18 "Please turn by 18 November 2005 to:
 19 "Part B Review.
 20 "BRE."
 21 Now, we know that the metadata tells us that it's
 22 dated 8 November 2005. Take that from me, it's not
 23 clear from the screen.
 24 If we go, please, to page 24 {CLG00002410/24}, under
 25 paragraph 24, under "Any other issues", it says this:

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1 "Clause 11.8 — Clarification is required, within
 2 Clause 11.8, as to whether insulation material includes
 3 sandwich panel core material. Whilst the removal of
 4 reference to ventilated cavities is helpful, currently
 5 there is confusion as to whether metal cladding panels
 6 that use polystyrene as a filler can be used on
 7 buildings over 18 metres in height. Typically these
 8 panels are faced both sides with aluminium and as such
 9 may be considered by designers to be non combustible."
 10 Now, do you remember reading that consultation
 11 response at the time it was received, so early to
 12 mid-November 2005?
 13 A. I don't remember it, but I must have seen it.
 14 Q. And presumably it was part of your role under the
 15 contract with the department to read and analyse these
 16 responses?
 17 A. Yes, Mr Greenwood and myself went through all of the
 18 responses.
 19 Q. Right.
 20 Now, two things about this.
 21 Do you agree that it suggests that not only was
 22 there confusion about whether these sorts of sandwich
 23 panels were permissible, but also that there was
 24 a belief held by designers that metal-faced cladding was
 25 non-combustible? Do you see that?

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1 A. It suggests that it may be considered by designers.
 2 Q. Yes.
 3 Now, the inclusion of the word "filler" doesn't
 4 resolve, does it, or didn't resolve, the problem of
 5 manufacturers and designers not understanding what type
 6 of cladding panels were permissible?
 7 A. Well, at the time we thought it was the best guidance we
 8 could give.
 9 Q. But the word "filler" doesn't answer the problem about
 10 "Well, what type of cladding panels can we use?"; do you
 11 accept that?
 12 A. Well, it doesn't give you a list of which forms — which
 13 products you can or can't use.
 14 Q. Well, it doesn't refer to panels at all, does it? The
 15 word "filler" doesn't connote panels, does it?
 16 A. I think at the time we were thinking of products such as
 17 the core of a sandwich panel.
 18 Q. Yes.
 19 Was there a risk here that, in fact as has
 20 eventuated, designers, manufacturers, builders and
 21 others might regard the cladding panel itself as being
 22 judged solely on its outer face and not by reference to
 23 its core?
 24 A. I think that was the risk that we were trying to
 25 address.

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1 Q. Well, why not use the word "core"?
 2 (Pause)
 3 A. I don't know. We sat in a room, decided — came up with
 4 some words that we thought would be correct and used
 5 them. "Core" — today, "core material" is something
 6 that's used fairly regularly, I'm not sure if it was at
 7 the time, and I think we'd seen these responses and
 8 thought that "filler" was a more generic term.
 9 Q. Well, whose idea was it, first of all, to use the word
 10 "filler"?
 11 A. I can't remember.
 12 Q. Where did the word come from? You say it's a more
 13 generic term; can you explain? What do you mean?
 14 A. I mean, arguably they both could mean the same or
 15 something else.
 16 Q. Well, yes, and was that thought you've just articulated
 17 something that went through your head at the time you
 18 decided to pick the word: it could mean that, it could
 19 mean something else?
 20 A. As I say, we were trying to come up with something which
 21 was broader to try and generate that kind of
 22 conversation between the building control body and the
 23 designers so that they thought these things through.
 24 Q. But why would you want to do that? Why would the
 25 department who was responsible for ADB, providing

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1 guidance to the industry, want to provoke conversations?
 2 What's the point of conversations?
 3 A. I suppose it's how a functional system of Building
 4 Regulations work, is the designer and the building
 5 control body decide what they think meets the functional
 6 requirement.
 7 Q. By reference in part to the approved document, which
 8 gives guidance; yes?
 9 A. Yes, in part.
 10 Q. Yes. So why would you want to have a conversation about
 11 the guidance, as opposed to clear guidance which might
 12 provoke a conversation about the functional requirement?
 13 A. I think at the time we didn't think we could come up
 14 with some specific — some text that was as specific as
 15 that, that wouldn't then result in something that was
 16 too narrow, and we'd end up with some other form of
 17 construction that would create the same problems.
 18 Q. What was the risk of coming up with some other kind of
 19 construction which would cause the same problem if you'd
 20 simply picked the word "core" and said, "The core of
 21 an external panel shall be material of limited
 22 combustibility"? That would be crystal clear and you
 23 wouldn't need some conversation.
 24 A. If you were thinking about the — if all you were
 25 thinking about was the core of an external panel, but we

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1 were concerned that there were a lot of different forms
 2 of construction that were emerging, and so we tried to
 3 use something more generic.
 4 Q. What other form of construction were you reaching for
 5 with the word "filler" that would cover not only the
 6 core of a rainscreen panel, but some other element of
 7 the external wall build-up?
 8 A. Could have been some of the sheet materials that are
 9 used that provide stiffness to the steel frame of
 10 an infill —type construction.
 11 Q. Well, you say "Could have been"; was that a thought at
 12 the time, the sheet materials that are used to provide
 13 stiffness to the steel frame?
 14 A. I can't remember exactly what was going through our
 15 minds at the time, but at that time we thought this was
 16 the best we could do.
 17 Q. The Edge fire being the catalyst for this problem, what
 18 else at The Edge led you to think that you needed to go
 19 broader than the polystyrene core of an external wall
 20 panel, such as, for example, some of the sheeting
 21 materials used to provide stiffness in the steel frame
 22 of an infill construction? What was it about The Edge
 23 that pushed you wider?
 24 A. I think we were trying to avoid picking on specific
 25 products, because you tend to find that that makes

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1 people not think about what they're doing.
 2 Q. Well, there are only two specific products — you call
 3 them products; two specific elements of the external
 4 wall construction — apart from cavity barriers, leave
 5 that on one side — that are regulated at all: there's
 6 the insulation and there's the external wall surface;
 7 yes? What became 12.7 —
 8 A. What's regulated is the fire performance of the wall,
 9 and modern walls were becoming progressively more
 10 complex.
 11 Q. Right. So in addition to the insulation, and in
 12 addition to the core of a rainscreen panel, call it
 13 that, what other element of the external wall build-up
 14 were you seeking to cover with the word "filler"?
 15 A. As I say, to some extent we were trying to cover things
 16 that we weren't aware of that we thought — that could
 17 emerge, and, as I say, our experience was that where in
 18 the past people had been very prescriptive in their
 19 guidance, that's where the risk of — people would just
 20 read it pedantically and say, "I've got a material which
 21 isn't one of those three words, therefore it doesn't
 22 apply to me", and at that time we were thinking that it
 23 would be better to try and get the designers and
 24 building control bodies to think about the issue more
 25 broadly. That's how the structure of that section was

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1 designed to work.
 2 Q. As it were, for them to work out for themselves, to fill
 3 in filler; in other words, to take this broad,
 4 portmanteau expression and just work out for themselves
 5 what fell within it. Was that the idea?
 6 A. Yes, I think to some extent that's what we were trying
 7 to do, yes.
 8 Q. Right.
 9 Did you discuss the meaning of the word "filler"
 10 with Anthony Burd before it was inserted into the text?
 11 A. Yes, we — I think there were three or four of us that
 12 sat down and talked this through, tried to decide what
 13 we could do to improve on the text that we'd consulted
 14 on, respond to the comments that we'd received and try
 15 and address the problem as best we could.
 16 Q. Do you recall whether it was you that spotted the word
 17 "filler" in the NHBC response and said, "Let's use that"
 18 and Anthony Burd agreed, or was he Anthony Burd who
 19 spotted the word "filler" and you agreed?
 20 A. I don't remember. It's a word that emerged in the
 21 conversation.
 22 Q. Right.
 23 Anthony Burd recalls it that it was you who
 24 approached him saying that you hadn't suitably covered
 25 off the filler situation from the NHBC and The Edge, and

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1 his recollection — and I use that word in the context
 2 of the evidence he actually gave — is that it was you,
 3 or probably you, who approached him with that word. Can
 4 you recall?
 5 A. I don't remember. It could have been.
 6 Q. Do you remember discussing the word with the BRE and
 7 asking them whether they'd come across it in common
 8 parlance or whether it had a technical overlay or
 9 something like that?
 10 A. Not that I recall.
 11 Q. Is it a word you'd come across in any technical
 12 application yourself before it was inserted?
 13 A. I don't think so, no.
 14 Q. Did you discuss the word "filler" at any stage with
 15 NHBC?
 16 A. No.
 17 Q. Did you discuss it with anybody outside the department?
 18 A. Not while we were drafting it, no.
 19 Q. At all, ever, after you drafted it?
 20 A. Years later, when the question arose.
 21 Q. Oh, indeed.
 22 A. But not between the conversation where we came up with
 23 this draft and the publication of the approved document.
 24 Q. No, thank you.
 25 Do you know when the word came to be inserted into

25

1 the text of Approved Document B?
 2 A. Sometime after the consultation. Again, I think it was
 3 later on, but I'm not sure.
 4 Q. No, you're right, and I just wanted to test your memory
 5 to see if you could remember.
 6 Now, let's go through.
 7 We've seen the BRE's investigation in the FOSI, the
 8 fires of special interest report. We've seen the NHBC
 9 consultation response of November 2005.
 10 Let's jump, then, a year later to {CLG10002082}.
 11 What I'm showing you here is draft version 15 of the new
 12 edition of ADB, and you can see that from the words at
 13 the very top right—hand corner, "DRAFT 22/11/06
 14 (2006/15)"; can you see that?
 15 A. Yes.
 16 Q. Yes, and it says "B", as you can see.
 17 Now, if we go, please, to page 129 in this document
 18 {CLG10002082/129}, we can see that here is the relevant
 19 text of what is now and then became 12.7.
 20 Now, this is the new text. When you look at 12.7,
 21 it's the same, isn't it, apart from the changes to the
 22 references, as the 2005 consultation version?
 23 A. Yes.
 24 Q. Yes. I'll read it aloud. "Insulation Materials",
 25 that's the heading, and the text says:

26

1 "In a building with a storey 18m or more above
 2 ground level any insulation material used in the
 3 external wall construction should be of limited
 4 combustibility (see Appendix A)."
 5 Yes?
 6 A. Yes.
 7 Q. There is no reference there to filler. So that's where
 8 you are in November, and the heading of 12.7 is
 9 "Insulation Materials".
 10 Now, if you look above that to 12.5, you can see
 11 that the final sentence that had referred to diagram 40
 12 has gone, and it now simply ends by saying, "may present
 13 such a risk in tall buildings"; do you see?
 14 A. Yes.
 15 Q. Let's compare that with the consultation version,
 16 {CLG00000022/147}. That's the consultation version we
 17 saw yesterday, and you can see the second sentence at
 18 11.6, which ends:
 19 "... may present such a risk in tall buildings even
 20 though the provisions for external surfaces in
 21 Diagram 40 [now 30] may have been satisfied."
 22 Do you see it was there, but when we go back,
 23 please, to the document we were just looking at,
 24 draft 15, {CLG10002082/129}, you can see that that
 25 second part of the sentence referring to diagram 40 has

27

1 disappeared.
 2 A. Yes.
 3 Q. Yes.
 4 Do you know why that caveat that had been in the
 5 previous version of ADB and the consultation version as
 6 sent out was removed?
 7 A. As I remember it, because we'd restructured the order of
 8 these paragraphs so that it was a section talking about
 9 external wall construction, the intention was that you
 10 would read 12.5, 12.6, 12.7, 12.8 and 12.9 as
 11 a collective discussion about the construction of
 12 an external wall, and therefore that caveat was no
 13 longer necessary because it was saying, "You need to do
 14 all of this stuff to satisfy requirement B4".
 15 Q. So it was a deliberate decision, was it, to remove that
 16 caveat?
 17 A. I think so. I think we decided that the caveat wasn't
 18 necessary because the ... whereas the old guidance
 19 had — it split external surfaces and construction in
 20 a different way. We felt by having a section that
 21 talked about external wall construction, it addressed
 22 all of the issues associated with external wall
 23 construction in one place, so there didn't need to be
 24 that caveat anymore. That's what I remember.
 25 Q. Whose idea was it to remove that caveat? Was it yours,

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1 was it Anthony Burd's? Was it anybody else's?
 2 A. I suspect it was mine. I'm not sure, but I think so.
 3 Q. What consideration did you give to the effect of the
 4 removal of that express warning that the use of
 5 combustible materials might present a risk
 6 notwithstanding compliance with diagram 40?
 7 A. I think I took the view that the second paragraph of
 8 12.5, where it says look at all of the guidance, was
 9 doing the same job.
 10 Q. But it isn't, is it? The one thing it's not doing, to
 11 the extent that it did before, is telling the reader
 12 that even though you can pick up a panel and have it
 13 comply with diagram 40 and 12.6, nonetheless you might
 14 not meet the functional requirement for the given
 15 building, given its height, use and position? It's
 16 gone. Yes?
 17 A. Yes.
 18 Q. Therefore, somebody reading the guidance might think
 19 that if they met the guidance in 12.6 and diagram 40,
 20 they had at least presumptively met the functional
 21 requirement as well. The warning that they might not
 22 have done has gone. Yes? Did you think about that?
 23 A. Not at the time, no.
 24 Q. Why is that?
 25 A. I think at the time we took the view that the

29

1 introduction in 12.5, which says the use of combustible
 2 materials in the cladding system may present a risk, and
 3 that second paragraph that makes it clear that you need
 4 to address external surfaces and the subsequent layers
 5 needed to be considered.
 6 Q. But the first part of 12.5 has two sentences. The first
 7 is a very general warning or piece of guidance: external
 8 envelopes should not provide a medium for fire spread if
 9 it's likely to be a risk to health and safety. That's
 10 a statement of the obvious, isn't it?
 11 A. Yeah, I suppose so, yes.
 12 Q. Yes, it is.
 13 Looking at the second sentence, the use of
 14 combustible materials in the cladding system and
 15 extensive cavities may present such a risk in tall
 16 buildings, well, that's also a statement of the obvious,
 17 isn't it?
 18 A. I suppose.
 19 Q. Yes. What's critically missing here, isn't it, is the
 20 caveat that even though you're using materials or
 21 products which meet the guidance, nonetheless you might
 22 not meet the functional requirement, given this
 23 particular building, its height, use and position?
 24 A. Yes. I think at the time we thought that — whether it
 25 was we or myself, I'm not sure, but came to the

30

1 conclusion that that line wasn't necessary anymore
 2 because of the way that we'd structured the guidance,
 3 referring people to say, "You need to look at all of
 4 it", and therefore it was an unnecessary sentence.
 5 I think in hindsight, I wish we'd left it in.
 6 Q. Did you go to BRAC with that amendment, the decision to
 7 delete the caveat which we see in the second part of the
 8 second sentence of the old 13.7, and in draft in the
 9 consultation 11.6?
 10 A. I don't think we raised it with them specifically. We
 11 may well have circulated a late draft with them, which
 12 would have had the — would have shown where the various
 13 edits had taken place, but it's a very large document,
 14 so they may not have picked it up.
 15 Q. You don't recall them picking it up with you and asking
 16 you what you were doing?
 17 A. No, I don't remember a conversation with BRAC on that
 18 subject.
 19 Q. No.
 20 You don't have to tell me what the content was if
 21 you did, but did you think to take legal advice on that
 22 amendment?
 23 A. A draft approved document is always reviewed by the
 24 department's lawyers, but I don't think we would have
 25 specifically pointed them at this particular change.

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1 Q. At what stage did the department's lawyers review the
 2 final draft before it went to press?
 3 Well, did they? Sorry, there's a prior question.
 4 Did the department's lawyers review the final version of
 5 ADB in draft before it went to press?
 6 A. I don't know for sure, but they have done on every other
 7 draft approved document I've ever worked on, so I assume
 8 they would have done on this.
 9 Q. Right. But did you draw this change specifically to
 10 their attention?
 11 A. I wouldn't have done. That would have been
 12 a conversation between Mr Burd and the department's
 13 lawyers, I think.
 14 Q. Do you know for a fact whether that conversation took
 15 place or are you just speculating?
 16 A. I can't say that for a fact.
 17 Q. Now, let's go then next, please, to {CLG10002070}.
 18 We've looked at various drafts disclosed to us and all
 19 the versions we've identified up to 22 November contain
 20 the same wording.
 21 Now what I'm showing you is a one—page document here
 22 which is the relevant part of section 12, and take this
 23 from me: this was last modified on 22 November 2006, in
 24 other words the same date as version 15 we were just
 25 looking at.

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1 If we look at 12.7 here, we can see a number of
 2 things. First, we can see the introduction of the words
 3 "filler material etc"; do you see?
 4 "... any insulation ... filler material etc. used in
 5 the external wall construction should be of limited
 6 combustibility ..."
 7 A. Yes.
 8 Q. So that's gone in; yes?
 9 We can also see the heading has changed. It's now
 10 "Insulation Materials/Products", whereas before -- the
 11 same day before -- it was "Insulation Materials" with no
 12 "/Products" after it; yes?
 13 A. Yes.
 14 Q. So those are the main changes; in fact, the changes.
 15 The document properties -- take this from me -- show
 16 the author as Martin. I'm assuming that's you.
 17 A. Yes.
 18 Q. Did you draft this document?
 19 A. I must have done.
 20 Q. Right.
 21 Now, how did you come to insert the word "filler"
 22 for the first time on this date?
 23 A. It would have been following the conversation I'd had
 24 with Mr Burd and his colleagues.
 25 Q. Right. And it's not just "filler", it's the phrase,

33

1 "filler material etc". Was that a phrase that you and
 2 Mr Burd had agreed before you typed it in?
 3 A. I believe so, yes.
 4 Q. Right. Again, can we take it that there were no
 5 discussions that you had about that phrase outside the
 6 department, BRE, BRAC, anybody else?
 7 A. That's right. I think the timing was such that this
 8 wasn't given the same extensive consideration as what at
 9 the time we considered to be the big policy changes,
 10 which were those listed in the consultation draft.
 11 Q. Going to the heading, you can see the addition of the
 12 word "/Products" in the heading there. Did you discuss
 13 that with Anthony Burd too?
 14 A. I think we discussed all of it at the same time.
 15 Q. Right. So, again, a bit like "filler material etc", the
 16 "/Products" went in as an agreed form of words that you
 17 had discussed with Anthony Burd before you typed it in;
 18 is that right?
 19 A. Yes.
 20 Q. Right, I see.
 21 What was your purpose in adding the phrase
 22 "/Products" after "Insulation Materials"?
 23 A. As I say, from memory, what we were trying to do was to
 24 get people to think beyond just looking at the term
 25 "insulation", when there could be other combustible

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1 materials being introduced into the wall construction.
 2 Q. What did you think people would understand by the phrase
 3 "Insulation Materials/Products", as opposed to
 4 "Insulation Materials"?
 5 A. I mean, I can't remember exactly what was going through
 6 our minds at the time, other than to say that was the --
 7 our objective was to try and broaden the target that
 8 this paragraph was addressing.
 9 Q. Well, why did you put the phrase "filler material etc"
 10 under the heading "Insulation Materials/Products", if
 11 you were trying to broaden the target that this
 12 paragraph was addressing?
 13 A. I think at the time we thought that putting "/Products"
 14 in there would show that it was going beyond just
 15 insulation materials.
 16 Q. But not further than insulation products?
 17 A. Having spoken to lots of people about how they read this
 18 paragraph at various points over the years, it's clear
 19 that that can be read in two different ways. At the
 20 time, I think we thought it was doing the right thing.
 21 Q. Doesn't that just demonstrate the dangers of not
 22 consulting on even a small change in language in the
 23 guidance?
 24 A. Yes, and I think it's something we would have rather
 25 avoided, but the nature of the timing and how it fitted

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1 with the rest of the project meant that we came to this
 2 issue too late in the day.
 3 Q. If you intended the text of 12.7 to apply to any
 4 materials or products other than insulation, why did you
 5 put it under a paragraph headed "Insulation
 6 Materials/Products"?
 7 A. I wish I could remember what was exactly in our minds at
 8 the time, other than that general statement that we were
 9 trying to be more broader. Looking back at it, I wish
 10 we'd been able to spend more time on it and talk to more
 11 people.
 12 Q. Right.
 13 I mean, did you intend to slip this in under the
 14 radar at the last minute and hope people wouldn't
 15 notice?
 16 A. I think there was a problem for the department, in that
 17 this -- in that the further we extended this, the less
 18 it would have aligned with what had been cleared through
 19 the sort of policy process.
 20 Q. Why did that matter? Why not just have a standalone
 21 paragraph that dealt with the core of an external panel
 22 with a heading to match, send it out unconsulted on, but
 23 with very clear industry information about what
 24 precisely it is intended to apply to, and make up for
 25 the absence of consultation that way?

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1 A. I think at the time we thought this was the right thing
 2 to do within the constraints that Mr Burd and the team
 3 were working in.
 4 Q. I think you accept that this phraseology and heading had
 5 at least the obvious potential to be understood as
 6 applying only to insulation.
 7 A. I didn't think that at the time. It's something
 8 I recognised later on.
 9 Q. And there's nothing in there that would lead a reader to
 10 conclude that this particular wording is to apply to
 11 anything other than insulation, whether it's a material
 12 or a product.
 13 A. I think the final text includes the phrase "not
 14 including gaskets and sealants".
 15 Q. Yes, we will come to that. It does. But just taking it
 16 in stages, before we get to that, do you accept what I'm
 17 saying, that there's nothing in there to lead a reader
 18 to conclude that this particular wording, at this stage
 19 in the drafting, was to apply to anything other than
 20 insulation, whether a material or a product?
 21 A. The fact that it says "any insulation product [comma]
 22 filler material". So it implies that a filler material
 23 isn't an insulation product.
 24 Q. So why put it in under "Insulation Materials/Products"
 25 as a heading?

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1 A. I think because we thought that the "/Products" meant
 2 things that weren't insulation.
 3 Q. How could you possibly have thought that?
 4 A. That's what we thought at the time.
 5 Q. What, so insulation materials and all other products in
 6 the external wall, is that what you meant?
 7 A. I think so, yes. I think we were trying to — as I say,
 8 we were trying to get people to consider all the various
 9 components that they might include in a wall. Modern
 10 walls are quite complex. There are lots of different
 11 components in them.
 12 Q. Well, there are two components, aren't there, which
 13 matter, principally —
 14 A. No, definitely not. There are lots of different
 15 material — components that matter.
 16 Q. Well, just let me finish my question.
 17 A. Sorry.
 18 Q. There are two components that matter which are picked up
 19 specifically here, if you ignore cavity barriers: one is
 20 the external surfaces and the other is the insulation.
 21 So where else in the external wall build-up were you
 22 aiming by tacking the words "/Products" onto the end of
 23 "Insulation Materials"?
 24 A. So those things that could have been included in the
 25 wall that weren't insulation. So, for instance, the

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1 core material of the — of a sandwich panel in the case
 2 of The Edge, vapour barriers that get included in
 3 cavities sometimes, and the sheet material that gets
 4 used to stiffen some types of wall construction. When
 5 you get to a timber-framed building, again, you get
 6 other bits of component in there.
 7 So that's what we were trying to do. It's evident
 8 that it didn't work, so I can see why anyone looking at
 9 me now thinks, "What were you doing?", but at the time,
 10 that's what we were trying to do.
 11 Q. Wasn't the simpler approach simply to have a new
 12 paragraph which was perhaps headed "Core of external
 13 panels", and required those to be of limited
 14 combustibility? What was the problem with doing that?
 15 A. It was something I don't think ... I think there was
 16 a concern that by identifying a specific product in
 17 a very prescriptive way, that might fall foul of having
 18 not consulted specifically on that, and that there's
 19 a risk of manufacturers challenging the department and
 20 you find yourself dealing with a judicial review.
 21 Q. Right. So this was really more about keeping it sotto
 22 voce, keeping it under the radar, making a change but
 23 sufficiently quietly that people wouldn't make a fuss
 24 about it?
 25 A. I wouldn't say that's more of it, but I think there was

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1 a component of that in the thinking, yes. Our main
 2 thinking was trying to come up with something that was
 3 broad in its impact.
 4 Q. Some might say vague.
 5 A. Some might say vague, but what we were thinking was
 6 broad.
 7 Q. Can we then go to {CLG10002196}. You referred to
 8 "gaskets, sealants and similar" a moment ago, and I just
 9 want to have a look at that, please, next.
 10 Now, this is an email run in December 2006, and if
 11 you go down, please, to the email on page 2 — well,
 12 I think it's the foot of page 1 is where we want to go,
 13 right at the foot. There is an email from
 14 Steve Burgner, who Anthony Burd described as the
 15 intelligent client. I think he was responsible for
 16 taking this to press, but you tell me if that's wrong.
 17 A. That sounds right.
 18 Q. Right.
 19 It goes to tempo.gdl and John Saunders, copied to
 20 Anthony Burd and others, not you, and the subject is,
 21 "Read first thing on Mon 18th please — AD B".
 22 "Hi", and then if we turn the page, please, to
 23 page 2 {CLG10002196/2}, in the second paragraph he says
 24 this:
 25 "The changes made to this document on Friday were

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1 minimal so this should be straightforward. The client,
 2 however wants a last check. (Rather more changes were
 3 made to Volume 1, we have received this safely –
 4 thanks)."
 5 Now, did you make any last—minute changes to ADB,
 6 section 12, on the eve of it going to press at this
 7 time?
 8 A. It's possible. I don't remember.
 9 Q. Right.
 10 Now, the version approved by Anthony Burd for
 11 publication on 18 December 2006 we can find at
 12 {CLG10002200/96}, please. We can see the formulation of
 13 12.7 which we're now, I think, familiar with, and it
 14 says:
 15 "Insulation Materials/Products
 16 "12.7. In a building with a storey 18m or more
 17 above ground level any insulation product, filler
 18 material (not including gaskets, sealants and similar)
 19 etc. used in the external wall construction should be of
 20 limited combustibility (see Appendix A)."
 21 Now, was the phrase in brackets, "(not including
 22 gaskets, sealants and similar) etc", added by you on the
 23 Friday before publication?
 24 A. I don't know.
 25 Q. How else did it get in there?

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1 A. Mr Burd might have added it, or one of his team.
 2 Q. Can you be sure, or as sure as you can, that you didn't
 3 add it?
 4 A. I can't be sure.
 5 Q. Did any discussions take place between you and
 6 Anthony Burd, after 22 November 2006 but before
 7 18 December 2006, about further modifications to the
 8 draft paragraph that you sent, which didn't include the
 9 words in brackets?
 10 A. I would have thought that if Mr Burd or someone in his
 11 team had suggested a change at that stage, we would have
 12 discussed it as a group.
 13 Q. Right. You don't recall very last—minute additions of
 14 this qualifier yourself?
 15 A. Not this particular paragraph, no.
 16 Q. The difficulty we have is that we have absolutely no
 17 documentary record from the department on this, so we
 18 are entirely reliant on your and Mr Burd's recollection,
 19 you'll appreciate.
 20 A. I understand that.
 21 Q. Do you remember thinking or having thoughts or
 22 discussions about the need to reduce the scope of the
 23 expression "filler material etc"?
 24 A. I don't remember.
 25 Q. Do you remember thinking about gaskets?

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1 A. I don't remember thinking. I can see why you would
 2 include — on the grounds that you're thinking this is
 3 applying in a much broader way, you'd be concerned that
 4 you wouldn't want to prohibit the use of rubber gaskets
 5 and silicone sealants and so on, because there isn't
 6 really a material — there isn't an alternative that's
 7 a material of limited combustibility, so I can see why
 8 someone would have said perhaps we need to put this
 9 additional information in there so that we don't
 10 prohibit people using sort of waterproofing products.
 11 Q. Did you yourself think or have any discussion about the
 12 relationship between the concept of filler material and
 13 the concept of gaskets or sealants or what was similar
 14 to those things?
 15 A. I don't remember.
 16 Q. Did you think that by expressly excluding gaskets,
 17 sealants and similar, that might have an impact on how
 18 people read the words "filler material"?
 19 A. I don't remember. I mean, I think you don't have
 20 gaskets and sealants in insulation products, so I think
 21 it confirms that this is intended to apply beyond
 22 insulation.
 23 Q. Nor do you have gaskets, sealants and similar in the
 24 core of an external rainscreen panel.
 25 A. You would have them round the perimeter of them

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1 sometimes.
 2 Q. Well, yes, maybe, but not in them. So The Edge problem,
 3 the polystyrene filler in the sandwich, so to speak,
 4 wouldn't be addressed or clarified by excluding gaskets
 5 and sealants, would it?
 6 A. I think I'm guessing, but you could well have a sandwich
 7 panel system which is sealed at its joints with gaskets,
 8 and whilst you'd want the designers to address the core
 9 material of the panel and the surfaces of the panel,
 10 you'd have to accept that there might be a rubber or
 11 silicone gasket.
 12 Q. Let me try this slightly differently. It may be my
 13 fault for not putting the question with greater
 14 precision.
 15 Do you accept or did you think at the time that by
 16 specifically excluding gaskets, sealants and similar,
 17 people who read the phrase "filler material" might
 18 think: well, whatever else it applies to, it doesn't
 19 apply to the core of a composite external rainscreen
 20 panel because they don't have gaskets, sealants and
 21 similar in them?
 22 A. I certainly didn't think of it at the time and I'm not
 23 sure I accept it now.
 24 Q. Did you discuss with Anthony Burd, coming back to the
 25 word "filler", what that word might mean to industry?

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1 A. We would have discussed it when we came up with that
2 form of words.
3 Q. Did you, when coming up with that form of words, think
4 that there was an accepted and settled industry
5 understanding of the term " filler " or the phrase " filler
6 material"?
7 A. I can't remember the detail of the conversation there.
8 Q. Did you suggest to Anthony Burd or did Anthony Burd
9 suggest to you that the department should ask industry
10 whether that term would readily be understood as
11 applying to the core of a composite metal panel?
12 A. That's not something we thought of at the time.
13 I think — and to put this in context, this is one
14 paragraph in a large document. We'd changed nearly
15 every paragraph, so this was a big project, and whilst
16 clearly now it's a fundamental issue, at the time it was
17 one of hundreds of paragraphs that we'd amended.
18 Q. I mean, did you ever consider that the word " filler "
19 might in fact suggest some kind of product used to fill
20 or block existing gaps or voids such as expanding foam
21 filler ? We have some here: Polyfilla. (Indicated).
22 Did anyone think: well, filler could be thought of as
23 that?
24 A. I don't think we thought that at the time, no.
25 Q. As Mr Burd said, a filler is there to fill a void, as it

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1 does, as we can see (Indicated). Did anybody think at
2 the time that, in fact, an external wall panel doesn't
3 have a void; it's a composite product made by bonding
4 a piece of polyethylene or polystyrene, as the case may
5 be, to two sheets of metal, aluminium or other?
6 A. At the time we thought it was a good generic term to
7 describe those things that you inserted inside
8 a construction.
9 Q. But that's the point, isn't it? If you're aiming at
10 The Edge, the polystyrene doesn't get inserted, does it?
11 It gets made at the same time. It's a composite product
12 which is made by bonding a piece of polystyrene, in that
13 case — ACM PE, PE — to two sheets of metal. That's
14 why it's a composite product.
15 A. At the time we thought that that was the right term.
16 Q. Did you take any steps to make sure — you being you and
17 the department — that the word "filler" was generally
18 understood in the sense in which you intended it before
19 you introduced it into the final text?
20 A. No.
21 Q. Is that because you wanted to get this through without
22 making a fuss or without provoking a JR challenge
23 because it hadn't been consulted on?
24 A. I think it was because we had limited time available at
25 that point.

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1 Q. Do you know why the word "filler" wasn't defined in the
2 approved document when it was introduced?
3 A. I think because we were trying to use generic text, we
4 didn't want — the problem with producing definitions of
5 terms is that you then find everybody argues about what
6 the words in the definition mean. So if you're trying
7 to get people to think broadly, then a definition can be
8 counterproductive.
9 Q. Taking it in stages, appendix E was available to you as
10 a definition section, wasn't it?
11 A. Yes.
12 Q. And it had plenty of definitions in there, didn't it?
13 A. Yes.
14 Q. Did you deliberately not define the word " filler "? Was
15 that a deliberate decision?
16 A. I'm not sure it was. I think we wanted to use the term
17 in a — in its sort of natural sense, so we didn't — at
18 that time, we didn't conclude that a definition was
19 necessary.
20 Q. Right. Now, let's just break that up.
21 Was your thinking that the word "filler" was so
22 clear to everybody and everybody would understand it
23 your way that there was no need to define it, or was it
24 your thinking that you didn't want it defined because
25 you wanted people to have a conversation about what it

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1 might mean?
2 A. I don't think we considered it quite as precisely as
3 that, but the latter is close to what was in our minds
4 at the time.
5 Q. Right. And it never occurred to you that the absence of
6 a definition might make the term unclear or ambiguous,
7 at least in the absence of any clear evidence of
8 a settled industry understanding?
9 A. Not at the time, no.
10 Q. I think you accept that none of this was put before BRAC
11 and not consulted on before it was sent out?
12 A. That's correct.
13 Q. Now, let's go to your statement, please,
14 {CLG00019469/6}, paragraph 18. You say there:
15 "Given the need to consult BRAC and other
16 representative persons on substantive changes to the
17 Regulations it would be highly unusual to make 'quick'
18 changes to either the Approved Documents or the
19 Regulations. Any substantive change would have to be
20 assessed against government regulatory policy of the
21 day, discussed with the main BRAC group and potentially
22 a BRAC Working Group established specifically to
23 consider the proposed change, subjected to public
24 consultation and then scrutinised by Ministers and
25 sometimes by Parliament."

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1 Now, can we agree, Mr Martin, that in relation to
 2 the specific wording added to paragraph 12.7 on and
 3 after 22 November 2006, but before going to press on
 4 18 December 2006, not one of those steps was taken?
 5 A. I think what we were doing was reacting, to some extent,
 6 to a response we got to the public consultation. It's
 7 the nature — if you put out a consultation draft,
 8 people respond to it, you amend the text accordingly.
 9 So in that respect we were responding to comments that
 10 had been made to the consultation.
 11 Q. But that can't be right, with great respect, because you
 12 didn't actually ask people or put before them The Edge
 13 problem and ask them how they thought it should be
 14 solved. So it wasn't a consultation, was it? There was
 15 a single word and a single response from the NHBC as
 16 a result of they having picked up on the incident.
 17 A. Yeah, we were responding to the comment that they had
 18 made.
 19 Q. It was a comment that they had made voluntarily, but not
 20 something you had asked the entire consultation body
 21 about. That's my point.
 22 A. That's right, which I think is probably why we were
 23 constrained about how far we could go in response to it.
 24 Q. And the NHBC were certainly not suggesting to you how
 25 you should encapsulate the problem in the wording of the

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1 approved document, were they?
 2 A. No.
 3 Q. No. And given that you didn't ask the NHBC about what
 4 they meant by "filler" but just adopted it, it's not
 5 right to say, is it, that the consultation response or
 6 the consultation itself covered this issue? It didn't,
 7 for the reasons you have given.
 8 A. Well, the consultation asked people to comment on the
 9 entire draft. That was one of the responses we got from
 10 the NHBC.
 11 Q. Can we agree that the only scrutiny — your word —
 12 which the particular changes to 12.7 received was yours
 13 and Anthony Burd's, and perhaps your colleagues in the
 14 department?
 15 A. Yes.
 16 Q. Was there any discussion between you and Anthony Burd at
 17 the time about all the steps in the normal process and,
 18 specifically, the fact that none of them had been taken
 19 in relation to this change?
 20 A. I think across the board it's the nature of the way
 21 these documents are drafted. You'd produce your draft
 22 for consultation over, in this case, several years of
 23 work. As the document finally comes together, there's
 24 a process of refinement, and so small changes like this
 25 would have been made across the entire draft.

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1 Q. Now, I'm going to ask you a question which you may have
 2 answered already a number of times, but I just want to
 3 be clear, if I can.
 4 When 12.7 went to press, what did you intend the
 5 wording in that final version to mean, by reference to
 6 "Products" and the reference to "filler material (not
 7 including ...) etc"?
 8 A. The intention as I understood it was that it was
 9 intended to be a broad comment about certainly
 10 insulation materials, but also other materials that
 11 might be found inside a wall construction that could
 12 have a potential to result in external fire spread that
 13 requirement B4 was trying to prevent.
 14 Q. Right. Were you seeking to exclude all elements of
 15 an external wall arrangement?
 16 A. No.
 17 Q. So you weren't, just to be clear, seeking to require all
 18 elements of the external wall build-up to be material of
 19 limited combustibility?
 20 A. That's correct.
 21 Q. Other than gaskets, sealants and similar, what were you
 22 seeking to exclude from the requirement of materials of
 23 limited combustibility?
 24 A. The structural frame, so a timber-frame building, for
 25 instance.

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1 Q. Right. So was it your intention that everything in the
 2 external wall build-up other than the frame should be of
 3 limited combustibility?
 4 A. In general terms, yes, but it's quite difficult to
 5 define where those things start and finish, which is the
 6 problem that we had.
 7 Q. Why not at least say so? Why not at least say,
 8 "Everything except the frame in an external wall
 9 build-up must be of limited combustibility"? That would
 10 have solved it, if that's what you were seeking to
 11 achieve. No?
 12 A. Only that it's quite difficult to define where the
 13 structural frame starts and finishes.
 14 Q. Why is that?
 15 A. It depends on the form of construction used. Sometimes
 16 it's not quite obvious where they do start and finish.
 17 Q. Was that the problem with the breadth of the draft that
 18 you had originally attached to your 18 January 2005
 19 email?
 20 A. Yes.
 21 Q. What was the problem in excluding frame and defining
 22 frame? What's the problem with frame that you had come
 23 across that meant that identifying a clear exclusion
 24 from the general rule that everything in the external
 25 wall build-up would be of limited combustibility was

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1 difficult ?
 2 A. There are so many different ways of constructing
 3 a building. Trying to define those different elements
 4 in a prescriptive way just creates a similar problem to
 5 the one that we envisaged with The Edge, which is that
 6 whilst most people would recognise polystyrene as
 7 an insulation material, in that particular form of
 8 construction it wasn't an insulation material. So that
 9 kind of very prescriptive approach to describing all the
 10 different components of the building we didn't think
 11 would work.
 12 Q. Was that a thought process you had at the time?
 13 A. I think so, yes.
 14 Q. Did you intend and understand the scope of the new
 15 language, with its new breadth, of 12.7 to extend to the
 16 external surfaces of cladding panels, as well as to the
 17 core of those panels?
 18 A. That was not the way I read it.
 19 Q. Right. So in answer to my question a moment ago,
 20 whether you were intending, leaving aside frames, that
 21 all elements of the external wall build-up should be of
 22 limited combustibility, you missed one out, I think.
 23 A. Yes, I think that's fair.
 24 Q. Well, why didn't you mention it just a minute ago?
 25 A. I'm sitting here with no notes answering questions that

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1 I don't — I'm not expecting, so —
 2 Q. All right.
 3 A. — I may not always answer your questions precisely.
 4 Q. I just want to see if we can identify with some
 5 precision your thinking at the time.
 6 You have all elements to be material of limited
 7 combustibility, but not the frame, but also not the
 8 external surface; yes?
 9 A. I think that's fair, yes.
 10 Q. It may be fair, but was it your thinking at the time?
 11 I want to get into your head in the back part of 2006?
 12 A. That's what I believe I was thinking at the time, yes.
 13 Q. Right. You thought it didn't extend to that. I see.
 14 Did it occur to you that if the insertion of the
 15 words "filler material etc" in 12.7 was to tell the
 16 reader that all elements of the external wall build-up
 17 were to be of limited combustibility, then you needed to
 18 amend diagram 40, perhaps to delete it altogether?
 19 Presumably —
 20 A. If that's what we were setting out to do, we would have
 21 done, but that's not what we were setting out to do.
 22 Q. So was the idea, therefore, that because you weren't
 23 intending to extend the requirement of materials of
 24 limited combustibility to the external surface, you
 25 preserved diagram 40 and 12.6?

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1 A. I think that's what we were thinking at the time, yes.
 2 Q. Right.
 3 Did you at some later point come to the view that
 4 the external surfaces of the cladding panels rather than
 5 only the core of a cladding panel were caught by 12.7
 6 and should be of limited combustibility?
 7 A. That's not something I've ever considered, I don't
 8 think.
 9 MR MILLETT: It's not something you've ever considered.
 10 Right.
 11 Mr Chairman, is that a convenient moment?
 12 SIR MARTIN MOORE-BICK: Yes, I think it is. Thank you very
 13 much, Mr Millett.
 14 Right. Well, Mr Martin, it's time we had a break
 15 for the morning. We'll stop now. We'll resume, please,
 16 at 11.35, and as before, please don't talk to anyone
 17 about your evidence or anything relating to it while
 18 you're out of the room. All right?
 19 THE WITNESS: Yes, sir.
 20 SIR MARTIN MOORE-BICK: Thank you very much. Would you go
 21 with the usher, please.
 22 (Pause)
 23 Thank you very much, Mr Millett. 11.35, then,
 24 please.
 25 MR MILLETT: Thank you, Mr Chairman.

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1 (11.17 am)
 2 (A short break)
 3 (11.35 am)
 4 SIR MARTIN MOORE-BICK: Hello again, Mr Martin. You're
 5 ready to carry on, I hope?
 6 THE WITNESS: Yes, sir.
 7 SIR MARTIN MOORE-BICK: Thank you very much.
 8 Yes, Mr Millett.
 9 MR MILLETT: Yes.
 10 Mr Martin, can we now go, please, much, much further
 11 forward in time to the summer of 2013. I want to take
 12 a trip there, if we can, {CLG00019219}.
 13 Now, what I'm going to show you is a series of
 14 emails from that time between you and a gentleman called
 15 Daniel Turner, who I think was a building control
 16 officer at Ipswich Borough Council.
 17 You can see here the first two emails in the chain,
 18 or the last two emails in the chain. I'm not going to
 19 go through every single one of these emails.
 20 Can we please go to the one he sends you, second
 21 down, on 14 June there at 10.25 in the morning. Yes?
 22 The subject is, "External Walls in high rise buildings",
 23 and he says:
 24 "Martin [which I think he thinks is your first name,
 25 perhaps, I don't know]

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1 "I trust your[sic] keeping well?
 2 "You may remember several months ago you provided
 3 some guidance on the use of combustible insulation (via
 4 SIPS panels) within the external wall of a building over
 5 18m high (in respect of paragraph 12.7 of ADB volume 2).
 6 Following our discussion and some further research the
 7 architect amended their design to include a metal
 8 framing system and also incorporated an insulation board
 9 which had been tested in accordance with BS8414—1:2002."
 10 Then he goes on to explain the changes made to the
 11 specification .
 12 If we go on to the third paragraph down, he says
 13 this:
 14 "My query is the guidance given within
 15 paragraph 12.7 refers specifically to the insulation
 16 material being of limited combustibility but does not
 17 refer to the substrate that it is fixed to etc. If the
 18 sheathing boards were a sheet of ply would this meet with
 19 the spirit of regulations intention or should these be
 20 of limited combustibility also? If ply were acceptable
 21 the cavity would obviously need to be subdivide[d] at
 22 a maximum of 10m centres to limit the [spread] of a fire
 23 within this void, but as noted above we are unsure as to
 24 whether a ply sheet is acceptable in the first place in
 25 this instance.

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1 "Are you able to offer any guidance on the intention
 2 of this paragraph of the Approved Document."
 3 Now, by June 2013, you were an official full —time at
 4 the department with responsibility for Approved
 5 Document B, weren't you?
 6 A. Amongst other things, yes.
 7 Q. Yes, amongst other things. So do you accept that you
 8 were the right person for Mr Turner to go to for
 9 guidance on the intention underlying this provision of
 10 ADB?
 11 A. Yes.
 12 Q. Yes.
 13 Now, moving up the chain to the top email, you
 14 respond the same day, a little bit later, and you say
 15 this:
 16 "Hi Daniel
 17 "The AD doesn't preclude the use of timber sheathing
 18 as this would effectively outlaw timber frame
 19 construction and the evidence didn't support this.
 20 However, the cavity barriers would be needed in line
 21 with all compartment floors, and walls in order to meet
 22 the guidance in the AD.
 23 "BRE report BR135 may help with some of the issues."
 24 Now, first, your response to Mr Turner was, would
 25 you accept this, clear and unequivocal advice; yes?

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1 A. Yes.
 2 Q. Yes.
 3 Now, when you say "the evidence didn't support this"
 4 at the end of the first sentence, what evidence were you
 5 referring there to?
 6 A. I'm not sure I remember what particularly I'm thinking
 7 of there, but certainly the department hadn't chosen to
 8 prohibit the use of high—rise timber—framed
 9 construction.
 10 Q. What evidence did you have in 2005 or 2006, before the
 11 amendment to ADB, which might have supported or not
 12 supported a restriction on the use of timber above
 13 18 metres?
 14 A. It's probably the work that went into the Timber Frame
 15 2000 project that I mentioned yesterday.
 16 Q. I see. So when you used the expression "the evidence
 17 didn't support this", were you referring to evidence
 18 that you had or the absence of any evidence to the
 19 contrary?
 20 A. Probably evidence that I was aware of from the Timber
 21 Frame 2000 project.
 22 Q. To be precise, what was precluded by that evidence?
 23 A. Well, as I say, the Timber Frame 2000 project was about
 24 working how you — coming up with design advice on how
 25 to construct high—rise timber—framed buildings, so it

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1 didn't — it's quite a complex document, lots of
 2 different issues in there.
 3 Q. Right.
 4 Here we have a reference to timber sheathing.
 5 Clearly you're saying that that was permitted and not
 6 precluded by 12.7.
 7 What's the difference between timber sheathing and
 8 timber—frame construction? How does timber sheathing
 9 relate to timber—frame construction?
 10 A. So for the most common form of timber—frame
 11 construction, a framework is constructed with timber —
 12 vertical and horizontal timber members and, to provide
 13 stiffness to the frame, usually a timber sheathing board
 14 is fixed to that structure.
 15 Q. Right. So timber sheathing you understood to be part of
 16 timber—frame construction on the basis of this report
 17 that you had in mind at the time?
 18 A. I think so, yes.
 19 Q. Right. We'll come back to Mr Turner at a later stage.
 20 Can we go, please, to {CLG10000038}. This is, as
 21 you can see from page 1, a circular issued by the
 22 department, and you can see from the top right—hand
 23 corner that it's dated 18 December 2006. The subject is
 24 the amendments to part B and other things; yes?
 25 A. Yes.

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1 Q. Did you play any part in drafting this document?
 2 A. I think I did, yes.
 3 Q. You think you did. And what part did you play?
 4 A. I would have been one of a number of people that worked
 5 on the text.
 6 Q. I see. Did you understand that the purpose of
 7 the circular was to notify as wide an audience as
 8 possible of the impending changes to, among other things
 9 here, the amendments to part B?
 10 A. I think it's primarily aimed at building control bodies.
 11 Q. Why do you say that?
 12 A. I think that's the nature of what the circulars were
 13 for.
 14 Q. Right.
 15 How were they circularised? What was the mechanics
 16 by which they were circularised?
 17 A. I think at that time, I think the department had
 18 arrangements with — it was either the sort of
 19 replacement to Her Majesty's Stationery Office, which
 20 used to provide a range of publication and printing and
 21 distribution services, so it was either that
 22 organisation, which I think became at least part
 23 privatised at some point, or it may have been a contract
 24 with an entirely separate contractor. But I think at
 25 that time these were — these would have been posted

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1 en masse to a standard list.
 2 Q. Right, a standard list, and would the standard list only
 3 include building control bodies or groups such as the
 4 BCA or NHBC, or did it include others, other
 5 representatives of the industry, such as, for example,
 6 the CWCT?
 7 A. I think this probably would have been circulated only to
 8 all the local authorities and registered approved
 9 inspectors.
 10 Q. Right.
 11 A. Might have been all the chief fire officers as well,
 12 they used — the list over time changed, and I don't
 13 know for sure which one this would have been circulated
 14 to.
 15 Q. Right. So very much building control orientated. Was
 16 there any reason why it wasn't also sent to
 17 architectural organisations or surveyors, such as the
 18 RICS, the RIBA, designers and other construction
 19 industry bodies?
 20 A. I think this was a formal process that had been
 21 established for some time, and that was how it was done.
 22 The documents would be placed on the department's
 23 website as well.
 24 Q. Right.
 25 Let's then go to page 2 {CLG10000038/2}, where it

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1 says in the first bullet point that the purpose is to:
 2 "Draw attention to these amendments and explain the
 3 changes they make to the Building Regulations 2000 (the
 4 'Building Regulations') and the Building (Approved
 5 Inspectors etc.) Regulations 2000 ('the AI
 6 Regulations')." Then third bullet point:
 7 "Announce the approval and publication of two new
 8 Approved Documents ..."
 9 Then if you scroll slowly down through to page 10
 10 {CLG10000038/10}, and take this from me, the circular
 11 gives fairly detailed information about the changes to
 12 that guidance. As an author, I think you would accept
 13 that. That's what it does, doesn't it?
 14 A. Yes.
 15 Q. Yes.
 16 So we can see just some examples at page 9
 17 {CLG10000038/9}, if we go back a page. If you look at
 18 C.15, there is new guidance there on the need to ensure
 19 that management regimes relevant to the building design
 20 are realistic. On page 9 at C.17, at the foot of the
 21 page, if we scroll down to that, please, you can see
 22 that there's something about the provision of
 23 self-closing devices within individual flats.
 24 At C.18 on page 10 {CLG10000038/10}, provisions for
 25

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1 smoke control have been changed and required
 2 fire resistance levels for car parks.
 3 C.19, for example, a number of clarifications of
 4 existing guidance, including in relation to the use of
 5 locks and child-resistant safety stays on escape
 6 windows.
 7 You see all that?
 8 A. Yes.
 9 Q. Now, we've scoured this document from end to end,
 10 Mr Martin, and we can't find anything in it by way of
 11 any reference to any change to the provisions in B4,
 12 external fire spread. So take that from me.
 13 The question is: why? Why is there nothing in this
 14 document about external fire spread?
 15 A. Probably because those changes were made very late on,
 16 and this document had probably been drafted well in
 17 advance.
 18 Q. Well in advance of what?
 19 A. Its publication.
 20 Q. The changes —
 21 A. Yeah, and the changes. They would have been drafted
 22 simultaneously.
 23 Q. But it would have been quite easy, wouldn't it, to add
 24 another paragraph in here, a matter of moments, just to
 25 add another C here saying, "We have also broadened the

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1 requirement of limited combustibility in the external
 2 wall construction to include everything except frames
 3 and surfaces"?
 4 A. Yeah, I think if it had come to mind, we could have done
 5 that, but clearly we didn't.
 6 Q. No, I know you didn't, and you accept that you could
 7 have done. My question is: why? Why didn't you?
 8 A. I don't recall a conscious decision not to. I think —
 9 my guess is because those amendments were late on, they
 10 didn't find their way into this document.
 11 Q. But wouldn't it have been obvious that if you were going
 12 to make late amendments not having consulted on them,
 13 nonetheless at least to alert all the building control
 14 bodies at whom this document was directed that they were
 15 there for all?
 16 A. I think we should have done, but clearly at the time we
 17 didn't think of it.
 18 Q. You didn't think of it. I mean, why didn't you think of
 19 it, given that you were actually making these amendments
 20 themselves on the eve of publication? Why not simply
 21 read across, swivel across to another screen, open
 22 another screen and add a paragraph?
 23 A. I don't know. As I say, this was a — the changes we
 24 made in relation to B4 were one of hundreds of changes
 25 that we were making.

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1 Q. Was the reason, again, to keep this as low key as
 2 possible and not to alert industry to the fact of the
 3 changes in order to avoid a risk of challenge on the
 4 basis that it had not been the subject of consultation
 5 in the first place?
 6 A. I don't remember that being something we talked about.
 7 Q. Now, going back up to page 8 of this document
 8 {CLG10000038/8}, paragraph C.8, we can see there it
 9 says, under the broad heading "The new approved
 10 documents":
 11 "A summary of the main changes to the guidance
 12 contained in both of the Approved Documents can be found
 13 inside their front covers."
 14 Now, let's go to that. Can we please go to
 15 {CLG10000007}. This is volume 2 of the 2006 edition as
 16 published. You can see that from the bottom right-hand
 17 corner.
 18 If we go to page 2 {CLG10000007/2}, please, you can
 19 see at the top of the page, on the left-hand side,
 20 "Volume 2. Main changes in the 2006 edition"; do you
 21 see that?
 22 A. Yes.
 23 Q. If we look over page 2, you can see changes listed to
 24 the introductory sections. You can see that, can't you?
 25 If you scroll down, you can see in the left-hand column,

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1 "B1": fire alarms in flats, fire alarms, means of
 2 escape. Then if we go back up to the top of the screen,
 3 it goes straight down to B3, there is no B2, you see
 4 that. And if you go to the bottom of the right-hand
 5 column in the small bold print there, it says:
 6 "Main changes are continued on the inside back
 7 cover."
 8 If we go to the inside back cover, that's at
 9 page 169 {CLG10000007/169}, we can see the remainder of
 10 the changes are covered, and here we do have, the second
 11 half of the screen, "B4", and you've got p and q:
 12 notional boundaries, space separation, and roof
 13 coverings, in order to incorporate a new European system
 14 of classification in 13501 relating to roof coverings
 15 there. You see those two changes?
 16 A. Yes.
 17 Q. But nothing at all there about 12.7 or filler or the
 18 exclusions from filler, gaskets, sealants and similar.
 19 Why is that?
 20 A. It wasn't one of those — we listed those things that we
 21 thought were most needed to be given prominence. That
 22 one didn't come on the list, and I think partially
 23 that's because some of those changes were probably late
 24 in the process.
 25 Q. You see, given that you had made amendments to 12.7 by

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1 expanding the title and adding the words "filler
 2 material (not including gaskets, sealants and similar)
 3 etc", it would have been easy, wouldn't it, to flip to
 4 page 169 or whatever it was in the draft and just add
 5 a sentence or two there, wouldn't it?
 6 A. It could have been. We didn't decide to do that. We
 7 probably changed every paragraph in the document.
 8 Q. Was there a deliberate decision at the time not to alert
 9 the reader to that change?
 10 A. No.
 11 Q. So, again, you would say, would you, it just got missed,
 12 and there's no other explanation?
 13 A. Well, as I say, there are hundreds of changes. This
 14 lists some that we'd identified as —
 15 Q. Right.
 16 A. — might be worth bringing them to the reader's
 17 attention.
 18 Q. But why wasn't 12.7 one worth bringing to the reader's
 19 attention, given that it had to do with the
 20 combustibility of the external wall? Quite an important
 21 one.
 22 A. They're all important.
 23 Q. Well, they may all be important, I see why you say that,
 24 but given that it was a recent one and therefore at the
 25 forefront of your mind at the time, why not just pop it

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1 in under B4?
 2 A. Clearly we didn't think of that at the time.
 3 Q. Well, it isn't clear whether you didn't think of it at
 4 the time or whether it was a deliberate decision not to
 5 put it in.
 6 A. Well, my evidence is that it wasn't a deliberate
 7 decision. I don't recall ever discussing that with
 8 Mr Burd or anyone else.
 9 Q. I understand.
 10 Now, after the publication of the approved document,
 11 I think it's right, isn't it, that you were, along with
 12 Anthony Burd, involved with what he called
 13 a dissemination exercise. Do you remember that?
 14 A. Yes.
 15 Q. Yes. He says that in his statement at paragraph 32
 16 {CLG00019461/13}.
 17 Is it right that your own work on the dissemination
 18 exercise in fact formed part of the project to revise
 19 Approved Document B?
 20 A. Yeah, part of the contract, yes.
 21 Q. Yes. Yes, thank you. Exactly. Just for our record,
 22 that's task 3d at page 13 of the contract,
 23 {BRE00001953/13}.
 24 You may remember — we can look at it if you like —
 25 it envisaged that there would be six seminars or

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1 roadshows between April and September 2006. Do you
 2 remember that?
 3 A. I certainly remember doing a series of roadshows, yes.
 4 Q. You do, right. Did you attend them? You went to those
 5 roadshows, did you?
 6 A. Most of them Mr Burd and I spoke at them. It was quite
 7 a long presentation. I think between the two of us it
 8 ran on for a good few hours.
 9 Q. Did you attend all of them?
 10 A. I don't think I did. I'm pretty sure that Mr Greenwood
 11 may have covered some of them. We made a point of
 12 getting a number of colleagues to attend the first
 13 event, so that they could follow how we'd presented the
 14 information, so that there would be a degree of
 15 consistency in the way we presented it.
 16 Q. Now, if we go to your statement at {CLG00019469/35},
 17 please, paragraph 106 you say this:
 18 "The Department continued to be aware of the issues
 19 concerning external cladding systems throughout the
 20 review of ADB that led to the 2006 Edition being
 21 published. As may be seen from slide 55 of the
 22 PowerPoint presentation [which you exhibit or refer to]
 23 that I jointly delivered with Anthony Burd (I was still
 24 at BRE, he was at the Department) entitled, 'Changes to
 25 Part B (fire safety) of the Building Regulations and

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1 Approved Document B', the fabric of external wall
 2 construction had been an aspect of the review and one
 3 which had resulted in changes from the previous version.
 4 The slide sets out two ways in which the industry may
 5 achieve the functional requirements of Requirement B4:
 6 using materials of limited combustibility or meeting the
 7 performance criteria in BR135 from test data obtained by
 8 conducting a BS 8414—1:2002 or a BS 8414—2:2005 test.
 9 The presentation was delivered as part of the
 10 post-review drive to educate the industry about the
 11 changes that had been made to ADB."
 12 Now, can we flip back, please, to the page before
 13 and the first sentence of that paragraph. This is where
 14 you say:
 15 "The Department continued to be aware of the issues
 16 concerning external cladding systems throughout the
 17 review of ADB that led to the 2006 Edition being
 18 published."
 19 Now, first, when you say "The Department", who are
 20 you talking about there?
 21 A. That would have been the people at the department that
 22 I was dealing with, so it's Mr Burd and his colleagues.
 23 Q. Mr Burd and his colleagues. Again, which colleagues do
 24 you say were aware of the issues concerning external
 25 cladding systems?

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1 A. From memory, I'm pretty sure Tracey Cull was involved in
 2 the whole project. I can't remember when Darren Hobbs
 3 joined the team. I think he was there.
 4 Q. Okay.
 5 Now, when you say "the issues concerning external
 6 cladding systems", what were the issues you're referring
 7 to there?
 8 A. I think I'm referring generally to the discussions we
 9 would have had, for instance, regarding The Edge.
 10 Q. Right.
 11 Can we go to the slideshow, then, that you refer to,
 12 which I think is what you say was part of the
 13 department's drive to educate the industry about the
 14 recent changes. This is at {CLG00019451/2}. That's the
 15 first page. You can see it's on CLG heading:
 16 "■ Background.
 17 "■ Procedural changes.
 18 "■ Volumes 1 — Dwellinghouses.
 19 "■ Volume 2 — Buildings other than Dwellinghouses."
 20 If you go, please, to the first slide ...
 21 (Pause)
 22 I'm not sure it's there, in fact, but do you
 23 remember that you were one of the authors of this
 24 document with Anthony Burd?
 25 A. Yes.

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1 Q. You were. Did you prepare the slides together?
 2 A. Yes.
 3 Q. Did you jointly deliver all of these presentations, or
 4 when he wasn't there did you do it and when you weren't
 5 there did he do it, or perhaps —
 6 A. Because it was very long, there was always two people
 7 presenting, one from the department, one from BRE.
 8 Q. Right, I see. I see. And you're right, it's 59 pages
 9 long.
 10 If we go to page 55 {CLG00019451/55}, we can see
 11 that this is a slide dealing with external wall
 12 construction. If we have that just expanded. It says
 13 in blue:
 14 "External wall construction.
 15 "Insulation Materials/Products."
 16 Then there is a direct quotation from 12.7, isn't
 17 there?
 18 A. Yes.
 19 Q. Yes, or at least the first part of it. And then:
 20 "Cavity barriers — Section 9.
 21 "External surfaces — Diagram 40.
 22 "Or
 23 "Meet the performance criteria given in BR—135 ..."
 24 So, just looking at it, you've chosen to quote there
 25 the new 12.7, and then just cross—refer to the other

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1 elements: cavity barriers, section 9; external surfaces,
 2 diagram 40. Yes?
 3 A. Yes.
 4 Q. Yes.
 5 Now, if we go to your witness statement that I've
 6 just read out to you, let's go back to that, please,
 7 paragraph 106 {CLG00019469/35}, you say there, and this
 8 is four lines up from the bottom:
 9 "The slide sets out two ways in which the industry
 10 may achieve the functional requirements of
 11 Requirement B4 ..."
 12 Do you see that?
 13 A. Yes.
 14 Q. Then you go on:
 15 "... using materials of limited combustibility or
 16 meeting the performance criteria in BR135 ..."
 17 Why do you say that? We probably need to go back to
 18 the slide at page 55 {CLG00019451/55}, if we can. But
 19 why do you say it sets out the two ways in which
 20 industry can comply?
 21 A. I'm trying to explain what's become known as the linear
 22 route or the large—scale test route.
 23 Q. But in your statement you say "using materials of
 24 limited combustibility or meeting the performance
 25 criteria in BR135". The reason I ask the question is

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1 because if " filler " was intended not to apply to the
 2 whole of the external wall build—up, but only parts of
 3 it, retaining diagram 40, it's right, isn't it, that the
 4 alternatives weren't materials of limited combustibility
 5 or a full—scale test, were they?
 6 A. I see your point.
 7 Q. Yes. So why do you say in paragraph 106 that the slide
 8 sets out two ways to comply with the functional
 9 requirement, when in fact there are, if you ignore
 10 cavity barriers, three, two of which run in tandem,
 11 insulation and external surfaces?
 12 A. That's not the way I'd look at it. I think the linear
 13 route is a combination of a number of different
 14 provisions.
 15 Q. One of which does not require limited combustibility as
 16 the standard.
 17 A. Yes.
 18 Q. Namely diagram 40; yes?
 19 A. I accept your point.
 20 Q. Yes. Was there an element when you wrote your statement
 21 of some confusion there between diagram 40 and limited
 22 combustibility?
 23 A. No, I think I was just trying to point out that we were
 24 explaining both options.
 25 Q. Yes, but both options aren't the options, are they?

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1 It's linear or full—scale test, not limited
 2 combustibility or full—scale test.
 3 A. I accept that.
 4 Q. Yes. I'm just trying to understand how you came to make
 5 that mistake when doing your statement. Can you
 6 explain?
 7 A. I don't think there was any ulterior motive in that,
 8 I was just trying to explain the two options. Now you
 9 mention it, I probably could have described it more
 10 accurately.
 11 Q. Again, just to be clear, I think you would accept
 12 there's no suggestion, looking at the slide, that the
 13 requirement of limited combustibility applied to all
 14 elements of the external wall construction over
 15 18 metres, is there?
 16 A. That's correct.
 17 Q. No, and that's because — is this right? — you didn't
 18 in fact intend that the changes to ADB should have that
 19 effect?
 20 A. Well, we didn't intend, yes, that was the conclusion
 21 that we came to as a team.
 22 Q. The "we" being what, both you, the BRE, as the
 23 contractor, and the department?
 24 A. Yes.
 25 Q. Yes.

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1 Now, the separation of these three matters would
 2 tend to suggest, wouldn't it, or to confirm to those
 3 looking at the slide, that the word "Products" in the
 4 title of paragraph 12.7 was not a reference to all
 5 products, but insulation products; yes?
 6 A. Well, no, if we said just "Insulation Products", we
 7 wouldn't have needed the phrase "filler material (not
 8 including gaskets, sealants and similar) etc".
 9 Q. Right. Well, would you accept that there is no
 10 suggestion here by way of explanation that the phrase as
 11 you can see set out, " filler material ... etc", was
 12 intended to refer to the core of composite cladding
 13 panels?
 14 A. There's not an explanation on the slide. The slide is
 15 just quoting the text. But we would have — we wouldn't
 16 have just put the slide up and let people read it, we
 17 would have talked about it.
 18 Q. Well, I was going to ask you: did you address that
 19 orally in your explanation?
 20 A. We addressed all of the slides orally, yes.
 21 Q. Right. I know it's difficult and there is no script,
 22 but can you remember the gist of what you told the
 23 attendees at these roadshows about what "filler material
 24 (not including gaskets, sealants and similar) etc"
 25 meant?

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1 A. I can't remember exactly what we said.
 2 Q. Did you explain to these people that the word " filler "
 3 might apply to unspecified components in the external
 4 wall construction which you hadn't been able to think
 5 of?
 6 A. I think I would have done, but I can't say for certain.
 7 Q. Right.
 8 Do you agree that this presentation, at least
 9 looking at the slide, doesn't tell industry that the
 10 phrase " filler material etc" was intended to apply to
 11 something other than insulation?
 12 A. If you only look at the slide, yes.
 13 Q. Yes.
 14 Did you ask for feedback from your audiences about
 15 their understanding of the new text of paragraph 12.7?
 16 A. No, I don't remember doing that.
 17 Q. Now, given that it hadn't been listed as a matter for
 18 consultation, hadn't been consulted on, it hadn't been
 19 put before BRAC, it hadn't been mentioned in the
 20 18 December 2006 circular, and it hadn't been listed as
 21 a significant change on the front or back covers of the
 22 new edition, given all those matters, why didn't you
 23 seek feedback from your audiences to see what they
 24 thought?
 25 A. Well, we would have presented this and explained what

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1 the text was — what the changes were intended to try
 2 and achieve. We were of — the audience were quite able
 3 to raise issues with us if they'd wanted to. There
 4 would have been a question and answer session at the
 5 end. But we didn't specifically ask them about this.
 6 As you say, it's a very long presentation, so there
 7 would have been a range of questions about all of the
 8 slides, I imagine.
 9 Q. Right. So is this right: you left it to the vagaries of
 10 a Q&A, rather than formally asking them at the end for
 11 their feedback on whether or not the changes were clear
 12 and understood?
 13 A. We would have needed to do that for the whole document.
 14 I don't think that would have been a practical option.
 15 Q. Well, the difference between the whole document and this
 16 part of the document is that this was one part of the
 17 document which had not been the subject of any
 18 consultation or any publication, whereas much of the
 19 rest of the document, if not all of the rest of the
 20 document, had; no?
 21 A. Well, I think there would have been textual changes to,
 22 again, most of the document following the consultation,
 23 so the fact that the text in the final document wasn't
 24 the same as the consultation is normal.
 25 Q. Right.

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1 Now, I want to turn to different years: 2008 and
 2 2009.
 3 Can we start, please, by looking at {CLG10003572}.
 4 If we go to the bottom email in the chain, please, this
 5 is an email from Philip Reid to you on 14 February 2008.
 6 He says this:
 7 "Dear Brian,
 8 "Thank you for your time this afternoon. Following
 9 on from our conversation, please find below and attached
 10 a bit of further information surrounding the issue of
 11 concern for the companies Euroclad and Eurobond who
 12 I represent.
 13 "Eurobond and Euroclad have over 25 years experience
 14 supplying metal external envelope solutions for roofs
 15 and walls using non—combustible insulation. They offer
 16 built up systems and composite panels, construction
 17 systems that are used on a wide range of buildings
 18 including schools and hospitals.
 19 "We have serious concerns about the fire safety
 20 surrounding certain types of composite panels and feel
 21 that the current standards and regulations need to be
 22 reviewed to ensure people's lives are not put at risk
 23 unnecessarily. There is a belief that there are
 24 loopholes in the existing framework that allow some
 25 manufacturers to offer products that are misleading in

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1 their sales documentation and are a genuine fire risk to
2 the public. I have attached a very basic briefing paper
3 which covers some of the issues in more detail."

4 You can see the rest of it. There is a reference to
5 LPS 1181.

6 He goes on to say in the next paragraph, towards the
7 end:

8 "We are very interested to find out the position on
9 this issue from the relevant divisions within the DCLG.

10 If possible it would also be useful to meet with the
11 right people to see how this can be pursued."

12 Now, we can see from that email that you had had
13 a conversation with Philip Reid that day. Do you
14 remember the conversation?

15 A. No.

16 Q. You don't.

17 Now, if we go up the chain, we can see that you
18 responded to his email that very day, 15 minutes later,
19 and you say this:

20 "Philip

21 "Many thanks for your email. As I explained today,
22 if you are concerned that a manufacturer is deliberately
23 misleading people with its literature then this is
24 something that should be taken up with the relevant
25 trading standards authority.

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1 "I understand that Eurobond have already made such
2 a complaint to the Advertising Standards Authority and
3 this has, in part, been upheld.

4 "Regards

5 "Brian Martin."

6 If we look at the top of the email chain, we can see
7 that you forwarded both emails — both his to you and
8 yours in response — to Anthony Burd four days later on
9 18 February 2008; yes?

10 A. Yes.

11 Q. Now, leaving aside for the moment, if we can, Mr Martin,
12 the Advertising Standards Authority and any specific
13 misleading claims being made by specific manufacturers,
14 when you responded to Philip Reid on 14 February, you
15 didn't respond at all, did you, to his wider point that
16 there were loopholes in the existing framework allowing
17 such claims to be made, did you?

18 A. I think when you look at his briefing paper, it related
19 to the LPS 1181 testing regime and the application of
20 different types of sandwich panels to low-rise
21 industrial buildings.

22 Q. Well, maybe, but my question is about your response. He
23 has identified loopholes in the existing framework which
24 he said allowed such claims to be made. You didn't
25 respond. I'm just asking you to accept that, on the

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1 face of it, you're not responding to that, are you?

2 A. I may have done in the conversation we had on the
3 telephone.

4 Q. Right, but you don't recall the conversation?

5 A. No.

6 Q. So you don't recall whether you did or didn't respond to
7 that concern? Or did you?

8 A. I can't imagine we would have had a conversation without
9 addressing it.

10 Q. Right. All right. And what did you tell him? I mean,
11 I know that you can't remember the conversation and
12 you're probably speculating, but do you accept this:
13 loopholes in the existing framework, if there were any,
14 would be properly a matter for the department?

15 A. If there were any. If you look at the briefing paper
16 that's attached, it's referring to an insurance industry
17 standard, LPS 1181, and the concerns — well, the point
18 that — I mean, Mr Reid works for Political
19 Intelligence, which is a political lobbying company, so
20 he's been employed by — his clients are manufacturers
21 of rock fibre-filled sandwich panels, and they weren't
22 happy that some manufacturers were selling other
23 products that weren't theirs.

24 Q. Right.

25 Did you, before you responded to him 15 minutes

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1 after his email, or perhaps during the period between
2 the conversation in the afternoon and receiving his
3 email at 4.18 that same afternoon, do any research into
4 the loophole he was referring to and satisfy yourself
5 that there was no such loophole?

6 A. I would have read his briefing paper and considered
7 that.

8 Q. Having considered that, were you satisfied that there
9 was no loophole?

10 A. In respect of what he was raising, I believe so, yes.

11 Q. Did you explain to him that he was wrong in his belief
12 that there were loopholes?

13 A. I think I would have explained to him that LPS 1181
14 isn't relevant to the Building Regulations, it's
15 an insurance industry standard.

16 Q. Yes, and he wanted to receive your views on those
17 standards, which he says come from the insurance sector,
18 and that they're being misused and wanted to know what
19 your position was. What did you tell him?

20 A. I can't remember the exact conversation, but, as I say,
21 it's — these are standards that aren't relevant to
22 Building Regulations, so that would have been the answer
23 I gave him.

24 Q. Right.

25 Let's go to {CLG10003645}, please. This is a chain

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1 of emails from March the same year, 2008. It's a long
 2 chain, so we don't need to go to all of it.
 3 But can we look, please, at page 3 {CLG100033645/3},
 4 at the foot of that page. This is an email sent by
 5 Bill Parlor on 7 March 2008 to Jeannette Henderson.
 6 Now, Bill Parlor was, at the time, from the
 7 Association for Specialist Fire Protection, the ASFP,
 8 wasn't he?
 9 A. Yes.
 10 Q. You may remember that. Just to give you a little bit of
 11 context, Jeannette Henderson was at the department,
 12 wasn't she?
 13 A. Yes.
 14 Q. This email, I think, and his previous, which was sent on
 15 the day before, which we don't need to look at, related
 16 to the Code for Sustainable Homes. Again, for context,
 17 he had raised concerns that that code made no reference
 18 to fire safety or compliance with the provisions of
 19 Approved Document B.
 20 But what I want to focus on, having given you that
 21 context, is this. If we look at page 3, he says this:
 22 "Jeannette, thank you for your note.
 23 "I can easily agree and note that AD/B will still
 24 apply, but we have had a very large dependency on the
 25 Class 0 contrivance for building products since the

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1 1960s.
 2 "This was originally introduced to permit paper
 3 faced plasterboard.
 4 "Previously, the weaknesses of the Class 0 approach
 5 has largely been compensated by relatively robust and
 6 traditional building techniques.
 7 "However now, with modern methods and
 8 'sustainability' as a buzz word, designers have taken
 9 their eyes off the ball.
 10 "The consequence is that we see massive increase in
 11 fire load introduced into the building fabric, often
 12 protected by little more than a thin film of aluminium
 13 foil.
 14 "If the foil or alternative covering remains intact
 15 Class 0 can be maintained. If not, then flashover can
 16 be reached in seconds — yes seconds not minutes — with
 17 combustible lining products.
 18 "Vulnerable points will occur wherever building
 19 services penetrate the combustible materials. It's not
 20 just about damaged systems.
 21 "The prefabricated modular system has similar
 22 worries associated with the basic use in innovative
 23 design.
 24 "Regrettably, we are sailing ever closer to a great
 25 calamity, unless sense and better understanding

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1 [underlined] prevails.
 2 "In recent times the weakness of over reliance of
 3 the Class 0 approach was demonstrated in the sandwich
 4 panel market, where steel sheet covering was used (much
 5 more robust than aluminium foil).
 6 "The large spate of fires, deaths and near deaths
 7 that followed caused Appendix F to be added to AD/B, as
 8 guidance but not as a requirement.
 9 "Unfortunately, designers have not linked the two
 10 issues at all. Viz — hazardous panels and modern
 11 methods of construction.
 12 "Insurers are not increasingly concerned — they are
 13 already concerned and contemplating removal of
 14 insurability for such buildings."
 15 I don't think I need the rest. He says he's happy
 16 to pop in for a chat.
 17 Now, this email wasn't copied to you, but it was
 18 forwarded to you by Jeannette Henderson on 1 April, and
 19 we can see that much higher up the chain, if we go to
 20 the foot of page 1 {CLG10003645/1}. It comes through
 21 Tracey Cull, by a slightly circuitous route, to you, and
 22 you respond to it at the top of your screen on 3 April.
 23 Do you see that?
 24 A. Yes.
 25 Q. So can we take it that you read Bill Parlor's email at

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1 the time?
 2 A. Yeah, I must have done, yes.
 3 Q. Yes, thank you.
 4 Now, if we can go back to page 4 of the email run
 5 {CLG10003645/4}, and go back again to Bill Parlor's
 6 email, first paragraph, we can see there that he refers
 7 to appendix F.
 8 Can we take it that, at the time — this is 2008 —
 9 you were aware of appendix F?
 10 A. Yes.
 11 Q. Now, am I right in thinking that appendix F had been
 12 introduced into the 2000 edition of Approved Document B?
 13 A. I think so, yes.
 14 Q. And that came into force in July 2000.
 15 A. Yes.
 16 Q. Yes. Yes, we think that's right, because it doesn't,
 17 I think, appear in the 1992 version.
 18 Now, the guidance in appendix F, let's go to that,
 19 it's at {CLG10000012/132}. It's entitled "Insulating
 20 core panels", and then underneath that "Appendix F", and
 21 then underneath that, "Fire behaviour of insulating core
 22 panels used for internal structures".
 23 Now, then it says:
 24 "Introduction
 25 "1. Insulating core panel systems are used for

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1 external cladding as well as for internal structures."

2 Can you just explain to us what insulating core

3 panels are in the context of external cladding?

4 A. Insulating core panels is another way of saying sandwich

5 panel. So they're typically two layers of metal with

6 a core of either an insulating foam or an insulating

7 rock fibre.

8 Q. Right. How would they be used in external cladding?

9 A. In the way they were used on The Edge, as the external

10 face of the building.

11 Q. Ah, okay. So you would call that, would you,

12 an insulating core panel, that panel that was used at

13 The Edge?

14 A. I think in terms of this, yes.

15 Q. Right.

16 A. Although appendix F is focused on their use internally.

17 Q. When you were searching for a way to deal with The Edge

18 problem, as we can see you were after the consultation,

19 did you think to turn up appendix F and use the words or

20 phrase "insulating core panel", which is a signifier for

21 The Edge, and apply the material of limited

22 combustibility requirement to that?

23 A. I think the problem would have been is it's got the word

24 "insulating" in it, so you would assume it would only

25 apply to things that were there for their thermal

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1 performance.

2 Q. Yes, all right. I see that. But what about the word

3 "core"? Did you not think to look at appendix F and see

4 that The Edge panel was a panel with a core and use the

5 language in appendix F and transpose that to --

6 A. I see your point. No, that's not what we thought at the

7 time.

8 Q. I can see that too, but why was that the case?

9 A. I couldn't say.

10 Q. Going back to Bill Parlor's email {CLG10003645/4}, he

11 refers to the "large spate of fires, deaths and near

12 deaths", as you can see. I've read that to you. Yes?

13 A. Yes.

14 Q. It's pretty much the middle of your screen, do you see?

15 Where he says:

16 "The large spate of fires ..."

17 A. Yes, found it, yes.

18 Q. "... deaths and near deaths that followed caused

19 Appendix F to be added to AD/B, as guidance but not as

20 a requirement."

21 Were you aware of the large spate of fires, deaths

22 and near deaths to which he's referring?

23 A. It's not uncommon for people to use hyperbole in this

24 kind of correspondence. There definitely were deaths

25 associated with the use of insulated panels inside

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1 a building. There were some firefighters that died

2 tragically. I think it was a chicken frying works,

3 where they were cooking chicken on an industrial scale,

4 and there were some foam-filled panels that formed the

5 partitions around the cooking area, and used in that

6 environment, you get a sudden change in the nature of

7 the fire, which the firefighters wouldn't have been able

8 to recognise until it was too late, and so those

9 firefighters were killed, and that's one of the main

10 drivers for why these changes were made.

11 There were some other industrial fires where there

12 were, like, financial losses which had been attributed

13 to the use of this kind of insulated or sandwich panel.

14 Q. If we look back, then, at appendix F, if we can just go

15 back to that, please -- actually, let's go to appendix F

16 in the 2006 edition, I think is probably better, so we

17 can place it in time, {CLG10000740/138}. Here is

18 appendix F again, and if you look at the right-hand side

19 of the text and the third and fourth paragraph in that

20 right-hand column, it says:

21 "The insulting nature of these panels, together with

22 their sealed joints, means that fire can spread behind

23 the panels, hidden from the occupants of occupied

24 rooms/spaces.

25 "This can prove to be a particular problem to fire

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1 fighters as, due to the insulating properties of the

2 cores, it may not be possible to track the spread of

3 fire, even using infra red detection equipment. This

4 difficulty, together with that of controlling the

5 fire spread within and behind the panels, is likely to

6 have a detrimental effect on the performance of the

7 fixing systems, potentially leading to their complete

8 and unexpected collapse, together with any associated

9 equipment."

10 Now, when considering the fire at The Edge in 2005

11 and 2006 and making amendments to section 12 of the

12 approved document to address The Edge problem, did you

13 give any consideration to making amendments to the first

14 part of appendix F, the content of which indicates,

15 doesn't it, that such panels only present a particular

16 problem for fire spread internally?

17 A. That's not the approach we took. We took the view that

18 appendix F was specifically about internal structures.

19 It was a particular issue that had arisen at the time

20 the department had produced this appendix. We were

21 trying to produce something that was more generic and

22 not focused on a single product.

23 Q. Well, yes. I mean, you say you took the view that

24 appendix F was specifically about internal structures,

25 but it's clear that it isn't, is it, because, as it says

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1 in paragraph 1, and as you've confirmed, they are used
 2 in cladding systems, and indeed cladding on high-rise
 3 buildings as in the case of The Edge; yes? So it wasn't
 4 limited to internal panels.
 5 A. Yeah, but this section is talking about the issues they
 6 present when used internally.
 7 Q. Yes, but in fact those issues could also apply
 8 externally?
 9 A. They're different.
 10 Q. Well, maybe, but they're common, aren't they? They're
 11 common. They may be different, they may behave
 12 differently, but the problems with sandwich panels with
 13 a combustible core when used for cladding would be
 14 similar to or the same as or at least common with the
 15 problems identified in what I've just read to you: you
 16 can't track the spread of the fire.
 17 A. It's quite a different situation.
 18 Q. Right.
 19 Did you consider the language of appendix F when
 20 looking at 12.7 at all?
 21 A. I don't think we did. I think it's a good point and, in
 22 hindsight, I think we could have used the word "core" as
 23 well as a more generic text.
 24 Q. Then let's go back to Bill Parlor's email,
 25 {CLG10003645/3}. He refers there in the third line of

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1 his email to "dependency on the Class 0 contrivance for
 2 building products since the 1960s"; do you see that?
 3 A. Yes.
 4 Q. What did you understand him to mean when you read this
 5 email?
 6 A. I think he's talking about the way that class 0 evolved
 7 in the 1960s.
 8 Q. Well, he calls it a contrivance; what did you understand
 9 him to mean by that?
 10 A. I think he's referring to the way that, at the time,
 11 they were trying to come up with a classification that
 12 allowed certain products and didn't allow certain other
 13 products, and I think at that time they were focused on
 14 quite specific products that they knew they did or
 15 didn't want to be used, and that's how they developed
 16 the test. So I can see why you would call it
 17 a contrivance.
 18 Q. Yes. I mean, the message that he's giving to
 19 Jeannette Henderson and thereby up the chain to you is,
 20 isn't it, that class 0 is no longer a robust standard,
 21 given its original purpose and given the arrival of more
 22 modern methods of construction and sustainability?
 23 A. I think that's the argument he's making, yes.
 24 Q. Yes. Was that not a very clear warning about the
 25 dangers inherent in retaining a reference to class 0 in

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1 Approved Document B, at least in the context of external
 2 fire spread?
 3 A. That's a view I'd heard other people make.
 4 Q. Yes. At the time?
 5 A. Yes.
 6 Q. And which other people?
 7 A. I can't remember. It's a topic that's come up from time
 8 to time in the past, about the criticism of class 0 in
 9 its generality. Not particularly focused on external
 10 wall construction, but just generally.
 11 Q. Well, indeed it had, and indeed we've seen, because we
 12 saw it last week, the recommendation of the select
 13 committee to abandon class 0 in favour of a much tougher
 14 combustibility standard, with an alternative being the
 15 full system test; yes?
 16 A. Yes.
 17 Q. Yes. Did you not read this at the time as indicating
 18 that that argument, the inadequacy of class 0 as
 19 a classification standard, was still persisting?
 20 A. It showed there was a — there were some people that
 21 took that view, but decisions had already been made by
 22 then and the approved document was in place.
 23 Q. What were your views in the spring of 2008 or
 24 thereabouts on the adequacy or otherwise of national
 25 class 0 as a standard to be retained by diagram 40 and

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1 B4(1) relating to the surfaces of external walls above
 2 18 metres?
 3 A. Not relating to this email, just generally external wall
 4 construction?
 5 Q. Well, and relating it to the email only in terms of its
 6 timing, 2008.
 7 (Pause)
 8 A. I think I just generally thought this was something we'd
 9 need to look at in the future.
 10 Q. When would you need to look at it next?
 11 A. Next time we reviewed Approved Document B.
 12 Q. Which was going to be, at this point, when?
 13 A. I'm not — up until the 2006 edition, they were reviewed
 14 about — I think the space between reviews varied from
 15 about six to nine years, I think.
 16 Q. Yes. In fact, historically, we know that was put on
 17 a more regular cycle and the next review was in 2010,
 18 wasn't it?
 19 A. I think at that — so this is after the Future of
 20 Building Control report, so yeah. I mean, I'm of the
 21 view the approved document should be revised every five
 22 to six years.
 23 Q. Right. At any rate, can we take it that, on your radar,
 24 a review of the adequacy of class 0 in the context of
 25 external fire spread needed to be undertaken the next

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1 time there was a review of ADB?
 2 A. I think the whole fire classification system was
 3 something we'd need to look at, because we'd implemented
 4 the European system and the question about at which
 5 point you either removed or derogated in some way the
 6 BS 476 system was clearly going to be one of the things
 7 that we'd need to consider at some point.
 8 Q. I see. So I think the answer to my question is: yes, it
 9 was on your radar for reconsideration the next time
 10 there was a consideration of the standards?
 11 A. Yes.
 12 Q. Yes, thank you.
 13 Now, I'd like to show you what Dr Crowder told
 14 the Inquiry. This is at {Day229/53:18}, please. If we
 15 look together at line 18, he's asked the question:
 16 "Question: Do you consider that national class 0
 17 has been at any time an appropriate measure of the fire
 18 performance of external cladding?
 19 "Answer: I ... when it was — when the issue, if
 20 you like, was first conceived, then I can understand the
 21 argument for using an existing test and trying to make
 22 best use of it, albeit in a slightly different
 23 application, using these sorts of principles. But
 24 I would say that, you know, certainly by the time of ADB
 25 2006, when, you know, we were several years into

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1 European harmonisation, for instance, I really struggle
 2 to see why class 0 was retained. I mean, I think I —
 3 well, I don't think, I did, I gave evidence on the
 4 appropriateness or otherwise of class 0 as opposed to
 5 the European tests during the evidence I gave in
 6 Singapore in the Supreme Court back in 2015."
 7 Then he goes on, if you go, please, to line 21, to
 8 say this:
 9 " ... yeah, I don't support class 0 as a test.
 10 I understand that there are political motivations as to
 11 why it was retained, but those are political, they're
 12 not technical."
 13 Now, first of all, do you agree with that?
 14 A. What, all of it?
 15 Q. Well, do you agree with his evidence that there were
 16 political motivations behind class 0's retention and not
 17 technical motivations? Did you agree with that?
 18 A. I think it's a very broad — I think I'd need to qualify
 19 that. There wasn't a specific political driver to
 20 retain class 0 or otherwise, in the truest sense of the
 21 word. At the time of drafting ADB 2006, there was
 22 a recognition that you needed to consider more than the
 23 surface. That's why the guidance was structured the way
 24 it was.
 25 Q. If we go on to page 56 at line 19 {Day229/56:19}:

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1 "Question: So is your evidence that, despite
 2 remaining concerned about it, you never raised it
 3 [class 0] with Brian Martin, what, because you knew the
 4 answer would be no?
 5 "Answer: I wouldn't say I never raised ... we
 6 knew — there was a shared understanding that class 0 is
 7 what it is and it's not ideal. Yeah. Then — and that
 8 ultimately it would come to an end, but that end got
 9 extended and extended and extended. And, I mean, it's
 10 in some of my evidence, you know, government — and I'm
 11 not talking about Brian Martin, I'm talking about people
 12 he reported to — they weren't in listening mode at this
 13 point. Fire safety was very much in decline at that
 14 stage, I would suggest."
 15 Now, I've put all of that to you.
 16 Is there anything that Dr Crowder told the Inquiry
 17 that I've just read to you there that you disagree with?
 18 A. In generality, I suppose it's a fair observation from
 19 his point of view.
 20 Q. Did you share Dr Crowder's understanding that class 0,
 21 as he put it, is what it is and it's not ideal? Did you
 22 share that understanding with him?
 23 A. Specifically for external wall construction or generally
 24 its use?
 25 Q. Well, the context here is specifically for external wall

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1 construction.
 2 A. I think at the time we — at the time of drafting
 3 ADB 2006, we'd come to the view that you couldn't use it
 4 in isolation. That was the point of the way we'd
 5 structured the guidance. And in more general terms, we
 6 knew that the BS 476 series of tests would eventually be
 7 withdrawn.
 8 Q. Now, that's not the first time you've used the
 9 expression "in isolation" or "couldn't be used in
 10 isolation". What do you mean? In isolation from what?
 11 A. So class 0 is fine for assessing the fire properties of
 12 a product at its surface, but won't necessarily tell you
 13 what's going on beneath the surface, which may be
 14 relevant in some circumstances, which is why ADB 2006
 15 talks about external wall construction generally first,
 16 talks about the risks of using combustible materials
 17 within a cladding system, and then points you to
 18 consider both the surface following diagram 40 and to
 19 consider insulation, fillers, et cetera, inside the
 20 construction.
 21 Q. Now, let's go, then, to {CLG00019508}. This is
 22 March 2008.
 23 Can I just ask you, before I take you to that, do
 24 you remember having a discussion with David Crowder at
 25 around this time, March 2008, or any time in 2008 or so,

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1 about the inadequacies or otherwise of class 0?
 2 A. No.
 3 Q. Looking at this email, if we go to the second email down
 4 in the chain, we can see that, on 20 March 2018,
 5 Larry Cody sends an email to Anthony Burd, and just to
 6 orientate you in the email run, if you go up to the top
 7 of page 1, you can see that Anthony Burd sends it on
 8 five days later, 25 March, to Tracey Cull and you; yes?
 9 A. Yes.
 10 Q. "Please deal", he says, and I'll come back to that in
 11 a moment. I'm showing you that just to remind you that
 12 the saw the longer email from Larry Cody sent to
 13 Anthony Burd.
 14 If we go back to page 1 at the foot, he says this,
 15 and you need to look, please, at the second paragraph
 16 down, halfway down that paragraph, where he says:
 17 "Having witnessed the speed and extent of damage
 18 resulting from fires in buildings during recent years,
 19 we share the concern that traditional methods of
 20 evaluating the risk ... may not be sufficiently adequate
 21 in their current form to be applied directly to
 22 alternative construction methods and products. Indeed,
 23 we believe that in certain circumstances, new and
 24 possibly larger scale tests may be necessary to
 25 adequately assess the performance of a construction

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1 system, such as the relatively new BS 8414 tests for
 2 spread of fire on facades."
 3 Now, when you saw this email, did you understand by
 4 the reference to the term "traditional methods of
 5 evaluating risk" that Mr Cody was expressing a concern
 6 that class 0 was inadequate?
 7 A. I don't remember this email, so I don't remember
 8 thinking about it.
 9 Q. We know that, as I've shown you, Anthony Burd forwards
 10 the chain to you and says:
 11 "Please deal. If only to say that any work we do
 12 let (and it is not all for us to support/pay for) will
 13 be guided by the necessary steering group.
 14 "Thanks.
 15 "Ant."
 16 Now, that suggested response is something of
 17 a burn-off, isn't it?
 18 A. The difficulty you have in situations like this is you
 19 can't set out what you think as an official, because
 20 that would be perceived as being the department's
 21 opinion, and the department essentially wouldn't have
 22 had an opinion at that point, other than to say,
 23 "There's some research that is looking at it".
 24 Q. Well --
 25 A. So you can't go back to him and say, "Yes, I agree",

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1 because the department hasn't made a decision, which
 2 eventually gets, you know, the government seal of
 3 approval. So you're always having to be very cautious
 4 about agreeing or disagreeing with a point that
 5 somebody's making if it's pointing out to what we should
 6 do in the future, because that's a decision that's yet
 7 to be made.
 8 Q. Right, but he doesn't suggest that you tell him just
 9 what you've told us. He says:
 10 "Please deal. If only to say that any work we do
 11 ... will be guided by the necessary steering group."
 12 I'm suggesting to you that the right
 13 characterisation of the suggested response is brush-off.
 14 You're not actually going to deal with the nub of
 15 Mr Cody's concerns.
 16 A. Well, I disagree. That's the best answer that you could
 17 give within the constraints as an official.
 18 Q. Right.
 19 We can't find any written response to Larry Cody.
 20 Do you remember whether there was one?
 21 A. No.
 22 Q. You don't. What consideration did you give to the broad
 23 concern that Mr Cody has raised here about the adequacy
 24 of class 0 or traditional methods of construction?
 25 A. I think it's a general and ongoing debate about how

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1 standards need to be developed to try and interact with
 2 changes in construction technology.
 3 Q. Right.
 4 Now, I'm going to turn to a different topic next,
 5 and I'm going to look at the period from 2012 and ask
 6 you about a number of major fires involving external
 7 fire spread on high-rise buildings internationally in
 8 the period 2012 to 2014.
 9 Can we start, Mr Martin, with your statement,
 10 please, page 36 {CLG00019469/36}, paragraph 109, and
 11 here you say this:
 12 "On 17 and 18 May 2012 I was sent links to a tower
 13 fire that had taken place in France. In reading about
 14 the fire and responding I remarked that, '... this
 15 wouldn't be in accordance with Building Regs
 16 (probably)'. By this comment I intended the same as
 17 that which I think David Crowder of BRE implied by his
 18 comment in the other, contemporaneous, email chain,
 19 'Maybe post them a copy of BR135?' My understanding at
 20 the time was, and remains, that if the functional
 21 requirement of the Regulations and the guidance in ADB,
 22 is adhered to, high-rise blocks should not be clad in
 23 such a way that leads to a fire like that which had
 24 occurred in France. I used the word 'probably' as I did
 25 not have anywhere near enough data to assert

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1 definitively whether the French block would have been
 2 compliant with Requirement B4 or not."
 3 Now, I think it's right, isn't it, that the fire
 4 that you're referring to here was at Mermoz Tower in
 5 Roubaix in France on 14 May 2012?
 6 A. I believe so.
 7 Q. If we look at one of the emails that you're referring
 8 to, I think we see this. It's {CLG00019179}. There's
 9 an email below it, "Hello, French was quite rusty", with
 10 some embedded photos and videos, and then you, on
 11 18 May 2012, send an email to Louise Upton, Peter Wise,
 12 Ken Knight, copied to Anthony Burd and Steven Kelly.
 13 The subject is "fire in France this week", and you say
 14 this:
 15 "For info — the video on the second link is pretty
 16 alarming — this wouldn't be in accordance with Building
 17 Regs (probably)."
 18 That's the bit you quote in your statement.
 19 Now, why did you need any data in order to make any
 20 analysis? Was the image of the external fire spread not
 21 enough to tell you that the external wall at Roubaix did
 22 not adequately resist the spread of fire over the
 23 surface of the walls?
 24 A. Yeah, I think when I'm saying didn't comply — wasn't
 25 being in accordance with Building Regulations, I'm

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1 referring to the guidance in the approved document
 2 alongside the functional — clearly it doesn't meet the
 3 functional requirement.
 4 Q. No, but you wouldn't need data for that, you would just
 5 look at the video and see that, wouldn't you?
 6 A. Yeah, but what you — what I would have liked to have
 7 known is had a better understanding of the form of
 8 construction.
 9 Q. Did you later find out any more information about the
 10 form of construction or what had caused the fire?
 11 A. I don't think so. I think this was the best information
 12 we managed to get.
 13 Q. Did you ever find out what kind of cladding products
 14 were involved or whether the external wall arrangement
 15 in fact as built would have complied with the provisions
 16 of Approved Document B?
 17 A. No, I think we often struggled to get useful information
 18 from fires in other countries.
 19 Q. Did the department, you in particular, make any effort
 20 to do that?
 21 A. I can't remember at the time. We would have asked BRE
 22 if they had any contacts over there. It's often
 23 quite — immediately after an incident, it's often quite
 24 difficult to get reliable information. The information
 25 that's in the press is invariably inaccurate, and the

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1 authorities in different states will often be very
 2 cautious about sharing information because there's
 3 a potential there may be some sort of prosecution or
 4 something. So it's quite difficult to get useful
 5 information on this kind of thing.
 6 Q. Right. Did anybody think of making
 7 a government—to-government request?
 8 A. I don't think so, no.
 9 Q. Why is that?
 10 A. That's not something we'd have — that I was — would
 11 regard as a regular thing to do.
 12 Q. No. No, maybe not, but nonetheless, an alarming fire,
 13 external cladding implicated, was, I take it, not
 14 something that crossed your mind?
 15 (Pause)
 16 A. I was probably working on other things at the time, so
 17 I would have had a limited amount of time to look at
 18 this.
 19 Q. Did you become aware at some later stage about what the
 20 panels on that tower were, whether they were ACM panels
 21 with a PE core?
 22 A. I think I know now that they were ACM, but I don't think
 23 I knew — we knew that at the time for sure.
 24 Q. When did you discover that they were ACM?
 25 A. Probably in the last four years.

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1 Q. I see.
 2 Now, did you consider, as David Crowder had said,
 3 that posting them — whoever "them" was — a copy of
 4 BR 135 would have been helpful?
 5 A. No, I think they would have found that incredibly rude.
 6 I think that's just him making a quip.
 7 Q. Yes, I was going to say, it was just a bit of flippant
 8 banter, wasn't it?
 9 A. Yes, yeah, I don't think he would have considered that
 10 appropriate.
 11 Q. Right.
 12 Before this fire, had you become aware of any other
 13 major cladding fire outside the UK?
 14 A. I can't remember the chronology. There's been some in
 15 a number of different sites around the world.
 16 Q. Let's go to {CLG00019192}. If we go to the bottom email
 17 in that email chain, please. If we go to the foot of
 18 the chain, you can see this is an email from AI — I'm
 19 assuming that's AI and not A1 — at Rushbrook
 20 Consultants in Strathaven in Scotland. The email is
 21 forwarded by Sam Greenwood to you and Anthony Burd on
 22 5 December 2012 under the heading "Meeting in December &
 23 Tamweel Fire 'Report'", and the email itself says this:
 24 "Hi Iain,
 25 "Currently in Abu Dhabi and saw the initial reports

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1 of the police fire 'investigation' into this tower
 2 fire ..."
 3 Then there is a webpage there.
 4 "'Once ignited the fire quickly spread up the
 5 highly-flammable building cladding — which contained
 6 aluminium and fibreglass to the roof.' !!!
 7 "I'm back on 12th so how about a meeting for a beer
 8 & pizza on Monday 17th or Tuesday 18th December for
 9 anyone who is interested?"
 10 If you go up that chain, you can see that the email
 11 is forwarded to you on 5 December:
 12 "F.Y.I. — sounds like the Edge fire in Manchester
 13 that signalled the end of 'rainscreen cladding' ..."
 14 At the top of the chain, you respond to
 15 Sam Greenwood the same day and say:
 16 "Yes — have you seen the video? It's awesome."
 17 Now, I think as we can tell from the title of the
 18 email chain, this was the fire at Tamweel Tower which
 19 occurred on 8 November 2012; yes?
 20 A. Yes.
 21 Q. Yes. Now, what did you know or come to learn about the
 22 cladding panels which were involved in the Tamweel Tower
 23 fire?
 24 A. I'm not sure when I found out but I'm pretty sure it was
 25 ACM.

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1 Q. If we look at your statement, you say at page 37
 2 {CLG00019469/37}, paragraph 110, we don't need to look
 3 at it all, but you describe the exchange you're having
 4 here with Sam Greenwood, and you say there in the third
 5 line:
 6 "I responded, remarking upon the awesome power of
 7 the fire. It remains my view that such a situation
 8 should not occur in England providing ADB was applied
 9 correctly."
 10 Then you go on to say what I read to you earlier
 11 about The Edge being taken into account.
 12 A. Yes.
 13 Q. You will recall this is a paragraph we saw earlier this
 14 morning.
 15 The "awesome power of the fire" is what you refer
 16 to, and you say, as I've shown you, that it was your
 17 view that such fires should not occur in this country
 18 providing ADB was applied correctly, and that the
 19 lessons had been taken into account in the 2006 edition.
 20 Was that your view at the time, in other words at
 21 the time of the Tamweel Tower fire, that that kind of
 22 fire couldn't happen here because you had added the
 23 words "filler material etc" to paragraph 12.6 of
 24 Approved Document B, and added the word "/Products" to
 25 the title?

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1 A. Well, it's a little more than that, it's the entirety of
 2 that section, so 12.5 onwards. But, yes, that was my
 3 view at the time.
 4 Q. I see. So, just to be clear, your view at the time was
 5 that Tamweel couldn't happen here because of the
 6 revisions to 12.7 I've referred to, taken together with
 7 the two sentences at the beginning of 12.5 that we read
 8 earlier?
 9 A. Yeah. Well, it shouldn't happen, assuming people had
 10 followed the guidance as we'd intended.
 11 Q. Yes.
 12 Now, were you aware at the time, therefore, that the
 13 fire at Tamweel involved PE-cored panels, or at least
 14 composite panels with a combustible core, in order to be
 15 able to make the link with the word "filler"?
 16 A. I'm not sure when I found that out, but it seems likely.
 17 Q. Right. I mean, my question really is a slightly more
 18 precise one than perhaps I've put.
 19 Was the reason why you thought that the
 20 Tamweel Tower fire shouldn't happen here because of the
 21 general words in 12.5, or because of the specific
 22 introduction of the words "filler material etc" into
 23 12.7?
 24 A. I think it's the combination of the two.
 25 Q. A combination of the two?

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1 A. Yes.
 2 Q. How did they combine to indicate that the core of
 3 a rainscreen panel should be non-combustible or limited
 4 combustibility?
 5 A. It goes back to the point I was making when we drafted
 6 that text, is we were trying to get people to think
 7 beyond just insulation.
 8 Q. Right. I mean, one can understand saying that if the
 9 functional requirement had been met then it shouldn't
 10 happen, but my question is: how would following Approved
 11 Document B mean that it shouldn't happen?
 12 A. You'd read the general warnings about using combustible
 13 materials, you'd look at the provisions that talk about
 14 insulation, fillers, et cetera, and say: I wouldn't
 15 include a layer of polyethylene in the formation of my
 16 construction.
 17 Q. Given the seriousness of the fire at Roubaix and now at
 18 Tamweel, did it occur to you at the time that heavy
 19 reliance would have to be placed on a particular
 20 phrase — just three words, in reality, "filler material
 21 etc" — in order for it not to happen in England?
 22 (Pause)
 23 A. My view at the time is what I said. I thought that
 24 was — I thought that guidance was adequate.
 25 Q. Right. In coming to the conclusion that it shouldn't

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1 happen here because of ADB, did you think it was
 2 sufficiently well understood that that was the case,
 3 universally across the piece, across industry, even
 4 though that phrase had never been subjected to any of
 5 the ordinary processes for change for guidance, no
 6 public consultation —
 7 A. At the time I thought it was okay, yes.
 8 Q. Right. Notwithstanding the absence of a definition,
 9 absence of public consultation, absence of BRAC
 10 scrutiny, absence of clear identification in
 11 the circular of the nature of the change?
 12 A. Yeah, that's — the answer's the same: at the time
 13 I thought it was okay.
 14 Q. Now, you say in the last sentence here:
 15 "I am unsure why Mr Greenwood stated that the fire
 16 had 'signalled the end of rainscreen cladding';
 17 rainscreen cladding continues to be used to this day."
 18 Did it surprise you at the time that he'd said what
 19 he'd said?
 20 A. I don't remember thinking about it at the time.
 21 Q. Right. Do you remember whether you asked him what he
 22 meant?
 23 A. No, I mean, he was — I didn't. I mean, we didn't work
 24 together anymore, so he'd just dropped me a line with
 25 some information he thought might be useful.

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1 Q. Yes. I mean, it's a striking thing to say, isn't it,
 2 that the fire signalled the end of rainscreen cladding?
 3 Did you not want to know what he meant or why he thought
 4 what he thought?
 5 A. I don't remember thinking that at the time.
 6 Q. Were you aware in the period between 2012 and 2014 of
 7 any other major fires internationally involving
 8 significant external fire spread?
 9 A. As I said, there were a few. I can't remember the
 10 chronology. There's a handful of fires that occurred in
 11 various places around the world. There's one in
 12 Australia, I can't remember what year it was.
 13 Q. Yes. That was, I think, late in 2014, the Lacrosse
 14 Building, November.
 15 A. Yes.
 16 Q. But I can give you a chronology: the Al Baker Tower in
 17 Sharjah, January 2012; Al Tayer Tower, Sharjah,
 18 April 2012; Polat Tower in Istanbul, July 2012; the
 19 Saif Belhasa Building in Dubai, October 2012; Al Hafeet,
 20 Sharjah, April 2013; Shangri-La Hotel in Ulunbataar in
 21 September 2014; and the Lacrosse Building in Melbourne
 22 in November 2014. That's the chronology in those
 23 two years.
 24 Were you aware of all of those fires or only some of
 25 them, do you think?

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1 A. I think only some of them.
 2 Q. Right. Do you remember which in particular from the
 3 long list I've read to you?
 4 A. I couldn't say.
 5 Q. Right. But were they principally those in the UAE, do
 6 you think?
 7 A. I certainly remember the conversation being that there
 8 seemed to be an issue in the UAE with a particular
 9 material.
 10 Q. And you remember, I think, the Lacrosse fire, as you
 11 referred to that.
 12 A. Yeah, I only had limited information about that as well.
 13 Again, it's very difficult to work out what I knew then
 14 and what I know now. As you might imagine, over the
 15 last four years we've looked into this subject — we've
 16 been able to look into this subject in more detail and,
 17 as a department, we rejoined an international group that
 18 the department had withdrawn from some years before,
 19 which meant that we have better connections with other
 20 nations outside Europe.
 21 Q. You say you rejoined it; did that mean that you were
 22 part of an international group but had come away from
 23 it?
 24 A. Yes. I'm trying to remember when it was. It was very
 25 early when I — after I'd joined the department.

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1 There's — I've forgotten — it's got a very long title,
 2 but there's a group of countries, mostly that use
 3 a functional or performance-based approach to building
 4 regulations, and that includes countries like Australia,
 5 but also Scotland and England. It's spread — and
 6 New Zealand. I think there's about eight or nine
 7 different member states, and I think at some point
 8 shortly after I joined the department, it was decided
 9 that the cost of being involved in the organisation was
 10 too high and so it was decided to withdraw.
 11 Q. So was that in or after 2008? You say, "After I joined
 12 the department" —
 13 A. I think it was after I joined the department.
 14 Q. Do you mean joined the department full-time?
 15 A. Yes.
 16 Q. Who made the decision to give up membership of this
 17 group?
 18 A. I think it was whoever was deputy director at the time.
 19 I couldn't say for certain.
 20 Q. How much did it cost to be a member of this group?
 21 A. Most of the costs involved is delegates attending
 22 meetings. Because of its nature, sometimes those
 23 meetings are a long way off.
 24 Q. Right. Do you remember whether there was intel,
 25 circulars, publications, that came from the group to

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1 keep the British government aware of other fires in —
 2 A. It's a — I think it's very constructive. One of the
 3 problems you have as a — working in the job of the
 4 official — the lead official, if you like, for building
 5 regulations on a particular subject is there's no one
 6 else in the country doing the same job as you, so having
 7 links to people doing that job in other countries is
 8 useful, and certainly after the Grenfell Tower fire —
 9 I think actually it was one of the recommendations that
 10 Dame Judith's report included — the department rejoined
 11 and, until I left and moved to another post, I found
 12 that connection useful.
 13 Q. Yes. I mean, finding it useful after the fire is one
 14 thing; why didn't you find it useful to rejoin after the
 15 intelligence about the UAE fires had started to filter
 16 through the department in 2012?
 17 A. I think, you know, budgets were extremely limited then,
 18 so asking to rejoin at that time would have been —
 19 would have fallen on stony ground.
 20 Q. Right.
 21 Do you remember discussing these fires in the
 22 department at the time or seeing any evidence about
 23 them, photographs, videos, reports?
 24 A. Just a few brief conversations, really.
 25 Q. Right. What about conversations with BRE colleagues or,

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1 as it was then, former BRE colleagues?
 2 A. I think certainly for some of them, we did ask the team
 3 that was working on Investigation of Real Fires to see
 4 if they could use any of their international contacts to
 5 get more information. But, again, that contract was
 6 quite limited in the amount of resource it had.
 7 Q. Sarah Colwell told us that she did discuss these
 8 international fires with you at a meeting on
 9 30 January 2014, and that had come up in conversation.
 10 Do you remember that?
 11 A. I don't, but it seems likely.
 12 Q. Right.
 13 Were you aware that some of these fires had been
 14 reported to the department specifically in reports
 15 submitted to you by the BRE under the Investigation of
 16 Real Fires contract?
 17 A. Yes.
 18 Q. I think the Polat fire and the Tamweel Tower fire are
 19 two examples of that. Did you read the reports where
 20 they had been identified?
 21 A. I would have done, yes.
 22 Q. Right. Did you make the link between those fires and
 23 the use of ACM PE products in this country?
 24 A. Not at that time, no.
 25 Q. Did you at any time during that period make any link

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1 between those fires and the full-scale test carried out
 2 at the BRE in 2001 under cc1924 on the aluminium
 3 PE-cored system?
 4 A. As I said yesterday, I only had sort of second-hand
 5 information about those tests, and I remember Dr Colwell
 6 explaining the mechanism by which what I now know to be
 7 ACM behaves and assumed it was that material being used
 8 in other countries.
 9 Q. Well, you say you had second-hand information about
 10 those tests; in fact, you had access to the reports,
 11 didn't you, because you were both at the BRE and at the
 12 department in September 2002 and had access, at least,
 13 to the analysis report and the closing report which
 14 spelt out what —
 15 A. I suppose I had access to a library of information but
 16 I didn't read all of it.
 17 Q. And you also had access to it when drafting BR 135 in
 18 its second edition. So you had the means to knowledge,
 19 didn't you?
 20 A. I could have done. Certainly when I was working on
 21 BR 135, I was working — listening to what Dr Colwell
 22 was telling me and working with her to try and develop
 23 the text, so I guess at the time I didn't feel the need
 24 to look at that data because she'd produced it.
 25 MR MILLETT: Mr Chairman, just two more questions before

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1 I can finish the line, if I may.
 2 SIR MARTIN MOORE-BICK: Yes, very well.
 3 MR MILLETT: Thank you.
 4 Given that ACM panels with a PE core achieving
 5 class 0 had been subjected to the full-scale test in
 6 2001 on the basis they were at that time in use in the
 7 UK built environment, when you learnt of this spate of
 8 cladding fires in the UAE, or internationally, perhaps,
 9 including France, did you consider that there might be
 10 buildings here in the UK which had been clad in ACM with
 11 a PE core before the words "filler material etc" and the
 12 other amendments had been introduced into Approved
 13 Document B in 2006?
 14 A. I think the view I had at the time was the test that
 15 Dr Colwell had carried out was on an innovative product.
 16 I wasn't aware that it was in use in the industry, in
 17 wide use at the time, and that, as a result of the test,
 18 it probably wouldn't continue to be in use.
 19 Q. Right. But you —
 20 A. I had no evidence of that, but that's what I had in my
 21 mind at the time.
 22 Q. Right. Did you not think, though, that if the problem
 23 of combustible-cored rainscreen panels was the problem
 24 or one of the problems that the amendments to ADB by
 25 12.7 was seeking to achieve, there might very well be

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1 some high-rise buildings in the United Kingdom on which
 2 rainscreen panels with a combustible core had been
 3 applied above 18 metres before the amendment to ADB in
 4 2006?
 5 A. I don't think I gave that direct consideration, but
 6 it's ... whenever you change the guidance to the
 7 Building Regulations, there would be buildings that were
 8 built before that that might not reach that same
 9 standard. That's kind of the nature of progressively
 10 trying to improve standards.
 11 Q. Yes, but did the fact of these fires, their awesome
 12 power, the rapidity of external fire spread, not lead
 13 you to think that there might well be a population of
 14 such buildings in the United Kingdom which pre-dated
 15 your amendments to Approved Document B in 2006 so that
 16 it could happen here?
 17 A. I don't remember thinking that.
 18 Q. I'm assuming, therefore, on that answer, that that
 19 wasn't a subject that came up for discussion with the
 20 other officials in the department at the time, 2012
 21 onwards?
 22 A. No. Something I've asked myself several times is
 23 whether we should have looked harder at that time.
 24 MR MILLETT: Mr Chairman, I'm sorry to go on to 1.05, but
 25 that's a convenient moment, if that's suitable.

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1 SIR MARTIN MOORE-BICK: That's all right, Mr Millett. We'll
 2 stop there.
 3 Mr Martin, we'll break now so we can all have some
 4 lunch. We will resume, please, at 2.05. As before,
 5 I have to ask you not to talk to anyone about your
 6 evidence or anything relating to it while you're out of
 7 the room. All right?
 8 THE WITNESS: Yes, sir. I understand.
 9 SIR MARTIN MOORE-BICK: Thank you very much. Would you go
 10 with the usher, then, please.
 11 (Pause)
 12 Thank you all very much. 2.05, then, please.
 13 Thank you.
 14 (1.06 pm)
 15 (The short adjournment)
 16 (2.05 pm)
 17 SIR MARTIN MOORE-BICK: Good afternoon, Mr Martin.
 18 THE WITNESS: Good afternoon, sir.
 19 SIR MARTIN MOORE-BICK: You're ready to carry on, I hope,
 20 are you?
 21 THE WITNESS: Yes.
 22 SIR MARTIN MOORE-BICK: Thank you very much.
 23 Yes, Mr Millett, when you're ready.
 24 MR MILLETT: Mr Chairman, thank you very much.
 25 Mr Martin, I would like to turn next, please, to the

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1 review of Approved Document B which took place after
 2 2011 as part of the wider review of Building Regulations
 3 and guidance, which I think led to certain amendments to
 4 ADB in a new edition in April 2013.
 5 Now, can we start, please, with Bob Ledsome's
 6 witness statement, {CLG00019465/10}, paragraph 33. He
 7 says this, underneath the heading "Coalition Government:
 8 Building Regulations Deregulation Review (2011–2013)":
 9 "33. In December 2010, the then Building Regulations
 10 Minister Andrew Stunell announced plans for a programme
 11 of work on the Building Regulations. This followed
 12 an invitation for ideas issued on 29 July 2010. His
 13 statement said that the programme 'will have
 14 a particular focus on deregulation and streamlining of
 15 the technical and procedural aspects of the
 16 regulations.'
 17 "34. This led to the 2011–13 review of
 18 Building Regulations. The review was a comprehensive
 19 exercise in terms of coverage but did not involve
 20 an in-depth review of all of the technical standards.
 21 The aim was to identify 'quick wins' for deregulation,
 22 and system improvement."
 23 Then he goes on to identify the outcome.
 24 Now, just that last paragraph there, paragraph 34,
 25 do you agree with what he says there?

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1 A. Yes.
 2 Q. Do you agree in particular that the aim was to identify
 3 what he calls "quick wins" for deregulation?
 4 A. Yes. The government came in following the financial
 5 crisis that started in I think it was 2008, and their
 6 focus was on trying to stimulate the economy by reducing
 7 the impact of regulation.
 8 Q. Yes.
 9 You can see the words "invitation for ideas"; do you
 10 remember whether that referred to or covered all parts
 11 of the Building Regulations and approved documents,
 12 including part B?
 13 A. Yes, part B was involved, yes.
 14 Q. Yes.
 15 Now, the invitation, I think, was open to the
 16 public, wasn't it, anyone could submit ideas or
 17 comments?
 18 A. Yes.
 19 Q. Yes, and as Andrew Stunell I think explained at the
 20 time, there was a particular focus on streamlining and
 21 deregulation. Is that how you recall it?
 22 A. Absolutely. As I say, the objective was to reduce the
 23 economic burden of regulation on industry as a way of
 24 stimulating the economy following the financial crisis.
 25 Q. Can we go to {CLG00019136}, please. This is a run of

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1 emails in October 2010, and if we go to the top email
 2 sent by you on 25 October 2010 to Ken Knight. We don't
 3 need to go through the entire background. We can see
 4 from the email below it that — if you just scroll down
 5 to the second one first — he has sent you something and
 6 asked a question, "Has the NICEIC proposal [got] 'legs'?"
 7 This is obviously a follow up", et cetera. That I think
 8 is about the National Inspection Council for Electrical
 9 Installation Contracting, isn't it?
 10 A. Yes.
 11 Q. It's about part P, electrical safety.
 12 A. Yes.
 13 Q. Now, your response is as follows, and we need to look at
 14 that, if we can scroll to the top of the screen:
 15 "Thanks Ken — It's complicated (as with all things
 16 related to building regs).
 17 "On the one side, there is a desire to reduce
 18 regulatory burden. In the 'your freedom' exercise there
 19 were a high number of submissions from ordinary citizens
 20 (probably electricians) calling for revocation of Part P
 21 (electrical safety) of the building regs. On the other
 22 side we have NIC EIC and other electrical safety
 23 campaigners calling for Part P to be made more onerous
 24 (the CFA event was part of an ongoing campaign)!
 25 I think giving industry (ie the NIC EIC)

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1 responsibility for the future development of the
 2 technical requirements contained in approved documents P
 3 would be a bit like letting Ronnie King write ADB! It
 4 would save the Department the costs of drafting the AD
 5 but that isn't necessarily in the best interests of
 6 UK plc!
 7 "Given the number of responses on YF [Your Freedom],
 8 it's likely that we will do something to Part P although
 9 what we do is by no means clear ..."
 10 Now, just breaking that up, is it right that the
 11 invitation for ideas launched in July of 2010 was part
 12 of the then government's Your Freedom exercise, in other
 13 words a crowdsourcing exercise aimed at stripping away
 14 excessive regulation?
 15 A. Yes, I think they were asking anybody to list any bits
 16 of regulation that they thought were unnecessary to
 17 bring them to the attention of government so that we
 18 could look to see whether we could remove them or not.
 19 Q. If we go to your statement, please, page 76
 20 {CLG00019469/76}, paragraph 199, at the end of the
 21 second—to—last line you say this:
 22 "In my email to Sir Ken Knight I note that all
 23 things to do with building regulations are complicated,
 24 by which I meant that where you are trying to balance
 25 deregulatory policy with calls for increased regulation

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1 that creates an inherent policy challenge."
 2 Was the inherent policy challenge a matter that you
 3 raised at this stage or any other with officials senior
 4 to you or with ministers?
 5 A. I don't think I would have done. I mean, it's
 6 a fundamental principle. There are two directions in
 7 which the policy gets pulled, and that's the nature of
 8 policy work.
 9 Q. One direction being industry and the other direction
 10 being safety, or —
 11 A. In the case of safety regulation, I guess that's
 12 a summary. It's probably more complex than that, but
 13 that's the principle, is: do you regulate more and
 14 achieve higher standards of safety but, in so doing, do
 15 you make industry inefficient and non-competitive?
 16 Q. To what extent did the ideas received by the department
 17 through the call for ideas process influence decisions
 18 on amendments to any of the regulations or approved
 19 documents specifically in relation to fire safety?
 20 (Pause)
 21 A. I don't think there were many responses in relation to
 22 fire safety, as I recall.
 23 Q. Right.
 24 A. As my email to Sir Ken suggests, there was a lot in
 25 relation to electrical safety, and I subsequently was

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1 heavily involved in a piece of work looking at the
 2 electrical safety requirement in the regulations.
 3 Q. Can we go to your statement, please, page 77
 4 {CLG00019469/77}, paragraph 202, a little bit lower down
 5 the screen. You say:
 6 "In December 2010 the Department produced a report
 7 on 'Future Changes to the Building Regulations — Next
 8 Steps', which detailed plans to take forward a programme
 9 of work to examine a number of areas to develop detailed
 10 proposals for consultation. The programme was to have
 11 a particular focus on deregulation and streamlining of
 12 the technical and procedural aspects of the regulations.
 13 In relation to Part B the report noted that responses
 14 had focused on sprinklers and egress from a building for
 15 people with disabilities in the case of fire."
 16 And it goes on after that.
 17 As a result, I think you go on to explain that the
 18 provisions on means of escape for disabled people were
 19 kept under review; yes? Is that right?
 20 A. Yes. I don't think we did any work on that at the time.
 21 Q. Right. So what do you mean by, "don't think we did any
 22 work on it"? When they were kept under review, did that
 23 mean you didn't do any work on them?
 24 A. Yeah, no, there wasn't an active piece of work in
 25 relation to that, as I recall.

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1 Q. So what does kept under review mean? I think we may
 2 need to turn the page to the top of page 78
 3 {CLG00019469/78}, to be fair to you.
 4 A. If you don't mind.
 5 Q. Yes, sorry, let's look at that. The last sentence there
 6 says:
 7 "In relation to the egress issue the report stated
 8 that the issue would be kept under review."
 9 Does that mean just parked on the desk and not
 10 looked at or does it mean constantly monitored?
 11 A. I think it means it's something that we'd look at in the
 12 future and there wasn't any specific plans to do any
 13 particular work on it at that time.
 14 Q. Right. Now, that doesn't therefore seem to have
 15 presented much in terms of challenge, does it? It just
 16 was parked.
 17 A. I guess that's probably a fair response, at that time.
 18 Q. Is it the case that, as I think you say, nothing was
 19 done on sprinklers because the call for ideas
 20 essentially had not produced a cost-benefit analysis
 21 which contradicted the analysis the department already
 22 had?
 23 A. Yeah, I think those people that had responded in
 24 relation to sprinklers had argued that if — whereas the
 25 approved document at the time required sprinklers in

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1 different buildings in different situations, or
 2 recommended in the guidance that sprinklers were
 3 provided in certain sorts of buildings in certain sorts
 4 of situations, some people had argued that the
 5 regulations would be simpler if it said all buildings
 6 must be sprinklered, and you could say yes, the rules
 7 would be simpler, but the cost to the economy would be
 8 greater.
 9 Q. Again, it doesn't seem to have been hugely challenging,
 10 in that those responses on sprinklers were simply noted
 11 but not acted on; is that a fair way of looking at it?
 12 A. Yeah. As Mr Ledsome said, what we were tasked with
 13 looking for were things that were quick wins, that could
 14 be done easily, that didn't require a lot of additional
 15 work and would ultimately result in a reduction in the
 16 cost of regulation.
 17 Q. Were any ideas received as a result of this call for
 18 ideas in relation to any of the provisions on external
 19 fire spread?
 20 A. I don't remember so. I'd be very much surprised.
 21 Q. Now, before we move on, we can see that, in your email
 22 to Ken Knight — if we just go back to that,
 23 {CLG00019136} — you said that giving the NICEIC
 24 responsibility for Approved Document P would be a bit
 25 like letting Ronnie King write ADB, explaining that it

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1 would save the department the costs of drafting, but
 2 that it would not necessarily be in the best interests
 3 of UK Plc. What did you mean by UK Plc?
 4 A. That's a phrase people often use to describe the success
 5 or otherwise of the national economy.
 6 Q. Industry, in other words?
 7 A. Well, in its broadest sense, the success of the economy
 8 affects all of us.
 9 Q. So, just to be clear, is this right: the interests of
 10 the, as you put it, national economy would not be served
 11 by Ronnie King as draftsman because he would have public
 12 safety, perhaps in particular sprinklers, in mind as
 13 a priority, rather than the interests of UK Plc?
 14 A. Yeah, I mean, the nature of developing any policy and
 15 safety policy is no different. You're balancing the
 16 costs and benefits of the different options. If you
 17 ignore one of those two balances, you don't have
 18 a balanced policy, you have something which one might
 19 argue is too expensive.
 20 Q. Yes. I mean, looking at it, was the point you were
 21 making in the way you were making it really just saying
 22 that it would be undesirable to let somebody who had the
 23 absolute priority of fire safety be responsible for
 24 writing the approved document on fire safety?
 25 A. If it was absolute and they never considered cost, yes.

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1 Q. Yes, I see. Would that be the right way round? I mean,
 2 given that the provisions of part B and Approved
 3 Document B are specifically and entirely directed to the
 4 protection of life safety and not to the protection of
 5 industry or any other economic or commercial interest,
 6 what would be wrong with letting somebody — I'm not
 7 saying necessarily Ronnie King, but somebody who had
 8 life safety as their absolute priority craft the
 9 regulation or craft the approved document?
 10 A. The country would be bankrupt.
 11 Q. Would it?
 12 A. We'd all starve to death, ultimately, I suppose, if you
 13 took it to its extreme. I'm not sure that would happen
 14 in practice. But that's the policy conundrum that
 15 governments are faced with, is you need to balance the
 16 cost of regulation with its benefits.
 17 Q. So death by fire or death by starvation, and that's for
 18 the government to choose between; is that, in its most
 19 extreme form —
 20 A. In its most — I mean, I don't think anyone talked about
 21 it in those terms, but that's the principle, and
 22 ensuring that — finding the right balance is what
 23 governments have to try and do.
 24 Q. Yes. And the balance point, would you accept this, the
 25 pivot point, isn't exactly halfway between the two; it

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1 would be somewhere between the two as a matter of
 2 judgement based on the best information available?
 3 A. Yes, and there's a political element to that as well,
 4 I guess.
 5 Q. Which is what?
 6 A. Well, in the case of this particular period of time, the
 7 government of the day was concerned about the damage to
 8 the economy that had occurred as a result of the
 9 financial crisis, and so it was focusing on trying to
 10 shift that balance so that industry was freer to improve
 11 the economy.
 12 Q. And possibly adopt slightly lower, slightly weaker
 13 standards of fire safety?
 14 A. If you follow that through, yes.
 15 Q. Did the review of the approved document leading to the
 16 2013 amendments involve any — any — review of the
 17 technical standards?
 18 A. No, that wasn't the terms of reference of the work that
 19 we were doing.
 20 Q. Right. Can we agree, therefore, that the review didn't
 21 lead to any substantive changes to any aspect of the
 22 provisions relating to external fire spread, in
 23 particular section 12?
 24 A. That's correct.
 25 Q. Yes. Was any consideration given at all to any

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1 amendment to any part of section 12 during that review?
 2 A. No, I don't think so.
 3 Q. If we go to {CLG10009114}, here we can see that in the
 4 wake of the Grenfell Tower fire, on 15 June 2017, the
 5 day after, here is an email, second email down, from
 6 Bob Ledsome to you at 15.15 that afternoon, subject,
 7 "RE: Urgent Grenfell Fire — One IN 3 Out Rule (obviously
 8 now 2 Out) line for media handling — by 12.15":
 9 "Brian,
 10 "Can you remind what was done in 2012 review.
 11 "Bob."
 12 Do you see that?
 13 A. Yes.
 14 Q. Your response is at the top of the chain:
 15 "■ We updated a few standard references.
 16 "■ gave new guidance on wallcoverings to avoid
 17 unintended consequences of the EU classification system.
 18 "■ Gave new guidance on thermoplastic lighting
 19 diffusers and rooflights — which provided a significant
 20 reduction in regulatory costs."
 21 Now, given the date, can we assume, fairly perhaps
 22 to you, that this was written in some haste?
 23 A. Yes.
 24 Q. But it does about sum it up, doesn't it?
 25 A. Yes.

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1 Q. The changes you refer to in the second and third bullet
 2 points related, I think, to internal fire spread, don't
 3 they?
 4 A. Yes, they do.
 5 Q. Yes. And those were, am I right, deregulatory changes?
 6 A. Absolutely, yes.
 7 Q. In 2012, help with me this, while the approved documents
 8 were under review, although at this time through
 9 a deregulatory lens, would it have been particularly
 10 difficult or time-consuming to have drafted a definition
 11 for the term or phrase "filler material etc" in 12.7 and
 12 included it in the 2013 edition?
 13 (Pause)
 14 A. It wouldn't really have been in the terms of reference
 15 of what we were being asked to do. I guess we could
 16 have done it.
 17 Q. I mean, given the history we covered yesterday and today
 18 of the drafting and the consultation of 12.7, or rather
 19 the absence of it, did anybody think, now that we'd come
 20 round to another round of amendments to ADB, that it
 21 might be good and useful to consult on what you didn't
 22 consult on last time and at least ask industry what they
 23 thought 12.7 meant, whether they understood "filler" in
 24 the sense you intended it, and in any event, perhaps, as
 25 a belt and braces exercise, to include a definition in

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1 appendix E? Did anybody think to do that?
 2 A. No, it would have been outside what we were being asked
 3 to do at the time.
 4 Q. You say you were being asked to do; you were the
 5 government.
 6 A. No, I was a civil servant.
 7 Q. All right. I'm not sure that's a distinction I'm making
 8 here. You were part of the executive arm of government
 9 responsible for the review of ADB; yes?
 10 A. We were responsible for — we had the — we weren't
 11 reviewing ADB at the time. We were looking for quick
 12 wins to reduce regulatory burden in the Building
 13 Regulations. That's what ministers asked us to do so
 14 that's what we did.
 15 Q. Did nobody think to go to ministers and say, "Well,
 16 look, here is this quite important change we made in
 17 2006, to be honest it was all a bit late, the timing
 18 didn't work, we put some changes in, we think they might
 19 need to be clarified, we just want to put an amendment
 20 in by way of clarification or a definition, can we do
 21 that?" Was that not something that you or perhaps your
 22 seniors could have had?
 23 A. No, I mean, that wouldn't have made sense at the time.
 24 I mean ... there's only so many of us working on a range
 25 of different things, so we were focusing on what we were

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1 being asked to do at the time.
 2 Q. An additional definition in the glossary in appendix E
 3 wouldn't have fallen foul, would it, of any of the
 4 deregulatory measures or criteria then in place,
 5 would it?
 6 A. We'd have needed to demonstrate that it didn't add any
 7 additional cost, and we would probably have only got it
 8 into the process if we could demonstrate that it was
 9 reducing cost.
 10 Q. But it wouldn't have added any additional cost, or would
 11 it, if all you were doing was spelling out what you had
 12 always intended from 2006?
 13 A. We'd need to be able to — we'd need an evidence base to
 14 demonstrate that one way or another. So that would have
 15 been a year's work, and so that wasn't really within the
 16 scope of what we were being asked to do.
 17 Q. Oh. Were you not sure? Were you not sure that people
 18 at the time were reading 12.7 the way you were, so that
 19 there was a risk they might have been reading it
 20 differently and, therefore, a risk that it would be
 21 expensive to revert to what you meant rather than
 22 what —
 23 A. No, it wasn't something that we gave any consideration
 24 to at all. We were asked to find quick wins to reduce
 25 regulatory burden and we identified those things that we

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1 knew we'd be able to do quickly and easily that had
 2 a measurable reduction in regulatory burden, as it's
 3 described.
 4 Q. Did you or anybody else at this time, given what you
 5 told us about going back to class 0 at the next
 6 opportunity, give any thought now, at this point,
 7 2012/2013, to removing class 0 from diagram 40?
 8 A. If we'd have been thinking about class 0, we'd have been
 9 considering it in the round, in the way its used
 10 throughout Approved Document B, and we'd be thinking
 11 about the entire classification system. I don't think
 12 we'd have just focused on external wall construction.
 13 So, again, that would have been a significant piece of
 14 work, whereas what we were tasked with doing was finding
 15 those things that we could address quickly.
 16 Q. So I think the answer, perhaps put a different way, is:
 17 you could have done but it didn't fit the instruction?
 18 A. Yes. That's the nature of working in the civil service,
 19 is you get instructed to do something, you get on and do
 20 it.
 21 Q. Did you or anyone else, as far as you were aware, give
 22 any consideration during the 2012 review to bringing to
 23 an end the parallel operation of the national reaction
 24 to fire regime and the European fire classifications
 25 within the approved documents?

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1 A. No, I think that's what I just said, is that would have
 2 been outwith what we were being asked to do at the time.
 3 That's a significant piece of work.
 4 Q. Yes, but what was wrong with suggesting that as
 5 a significant piece of work to run alongside the 2013
 6 amendments, given that class B, the Euroclass, had been
 7 in for coming on for 11 years?
 8 A. In response to this brief, that wasn't something that
 9 would have been appropriate and I imagine would have
 10 been rejected.
 11 Q. Now, as at April 2013, when the new edition of ADB was
 12 published, do you remember, what were the department's
 13 plans in respect of bringing to an end the transposition
 14 period?
 15 A. I don't think there were any specific plans at that
 16 point. I think it was something that we were aware was
 17 an issue that we needed to consider.
 18 It's quite a complex issue, because the way the
 19 European classification system worked, you needed a lot
 20 of different standards in place for each product, and so
 21 the transposition into the new European system was
 22 taking a lot longer than I think anyone expected when it
 23 was first introduced, and so there wasn't an obvious
 24 driver to do that quickly.
 25 And, as I say, pretty much the plans that had been

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1 put together prior to the financial crisis had been put
 2 to one side, and the new government had come in and its
 3 focus was: revitalise the economy, and one of those —
 4 one way to do that was to reduce regulation.
 5 Q. You say in that last answer that this was an issue you
 6 needed to consider; as at April 2013, when was that
 7 issue going to be considered?
 8 A. I don't think we had a programme of — a planned
 9 programme of when that would be happened. Clearly it
 10 would be looked at next time we looked at Approved
 11 Document B insofar as the European fire tests were
 12 concerned.
 13 Q. You say, "Clearly it would be looked at next time we
 14 looked at Approved Document B". Standing as you were in
 15 April 2013, when would that have been?
 16 A. I think, honestly, we didn't know. As I say, I think
 17 the plan that — the future of building control report
 18 and the response to it that had been produced had
 19 something along — what you might describe as a work
 20 plan for the division, as to how it would approach
 21 Building Regulations in the future. That had been
 22 either put to one side or perhaps thrown away
 23 altogether, I'm not quite sure which, and so going
 24 forward from that point, we didn't have a plan about how
 25 we were going to approach things.

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1 Q. Right. So was the position in government, so far as you
2 could observe it, that the transition period was
3 an eternally enduring state of affairs?

4 A. Erm ...

5 Q. Or, to use Dr Crowder's words, extended and extended and
6 extended?

7 A. I don't think there was a decision one way or the other
8 to delay or move it forwards or backwards. It wasn't
9 a question that arose.

10 Q. Now, perhaps moving to a different area of some
11 questions I have for you later, but we know that in 2012
12 you commissioned — and this was before the Lakanal
13 inquest — the seven workstreams project.

14 A. Yes.

15 Q. Not one of those seven workstreams included anything on
16 external fire spread, did it?

17 A. No.

18 Q. Why? Why is that?

19 A. So that particular contract, at that time, and I was
20 working on — when was it? Was it 2013? So I'd have
21 been working on part P at the time, and I was conscious
22 that a review — we were expecting at that time I'd
23 start a full review, a technical review of Approved
24 Document B in — fairly soon after that, you know,
25 within the next couple of years. So the idea I had was

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1 to try and commission some research that would address
2 some of the more complex issues that could be considered
3 by a contractor that didn't need much intervention from
4 me. So it was — what I was trying to do was get ahead
5 of the game, so that when I got to doing the next review
6 of Approved Document B, we already had some work in
7 hand.

8 Q. But given what you told us this morning about class 0
9 being reviewed next time round, why wasn't that on the
10 list of seven workstreams, perhaps an eighth workstream?

11 A. I didn't think at the time it was something I needed to
12 do that kind of research on.

13 Q. But, I mean, why not, given all the history we've been
14 through about class 0, the contrivance as it's been
15 called, we've covered that this morning and yesterday,
16 given the views about class 0 espoused by the BRE and
17 its unreliability for predicting external fire spread,
18 why not make it the subject of research and
19 recommendation ahead of the next ADB at this point,
20 2012, as part of the seven workstreams project?

21 A. I think at that time the work that I was commissioning
22 was mostly about trying to get some technical work done.
23 There was some economic work done as well.

24 I think if we were looking at the — retiring the
25 BS 476 standards, that wasn't the kind of work that

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1 I was looking to do at that stage, it was more this kind
2 of deeper thinking.

3 I think, as I say, it was a list of things that
4 I came up with which I thought would get us ahead of the
5 game for the next review, so they were questions that
6 myself and — I think Steve Kelly was working with me at
7 the time, we came up with.

8 My expectation would be that once we got to do
9 a full technical review of Approved Document B, we would
10 commission further research then.

11 Q. Well, why would you do it that way round? You've got
12 seven workstreams running as research for the next round
13 of ADB that you're expecting to have to do at some
14 point. You knew class 0 needed to be looked at at that
15 point. Why not just add it to the list?

16 A. I don't know if I didn't think of it at the time or if
17 I did think of it and I didn't think it was a good idea,
18 but it wasn't something that crossed my mind at the time
19 as being the kind of work that I could commission that
20 would run with little intervention from me.

21 Q. You see, it doesn't require, does it, the retiring of
22 BS 476? All it requires, isn't it, is to bring to
23 an end the transition period so that diagram 40 would
24 simply refer to class B—s3, d2?

25 A. If all I was thinking — if my only job was worrying

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1 about diagram 40, that's what I would do, but I was
2 responsible for several approved documents and all of
3 part B.

4 Q. Well, that I understand, and I'm not suggesting that
5 your only job was the guardianship or otherwise of
6 class 0, but we've seen quite a lot of the history of
7 class 0 in the decade or so before this time and what it
8 shows, and as part of a preparation for a review of ADB,
9 I just want to understand why it was that, coming back
10 to it, given that you knew it was something that had to
11 be addressed, it wasn't something within the seven
12 workstreams, but I —

13 A. I didn't think it was necessary at the time — you do
14 have a tendency to conflate the two issues, which is
15 retiring the 476 series, which is class 0, class 1
16 through to 4 and the other classifications associated
17 with 476, and diagram 40, and those classifications are
18 used throughout the approved document. So it's a bigger
19 question than just external wall construction.

20 Q. Yes, I'm not suggesting retirement. I'm simply
21 suggesting amendment of diagram 40 and its concomitant
22 12.6?

23 A. I think at that time we didn't think that was — that
24 wasn't something that was on our minds as something that
25 needed work.

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1 Q. Very well.
 2 Now, can we look back at your witness statement,
 3 please, page 14 {CLG00019469/14}, paragraph 39. Now,
 4 here we can see that you're referring to the period
 5 leading up to the formulation of the department's
 6 response to the coroner's recommendations in May 2013,
 7 and if you look at paragraph 39, last sentence, you say:
 8 " ... this [a full technical review of ADB] would
 9 have to be set against the Government's priorities of
 10 the day, which were deregulation and promoting house
 11 building."
 12 Now, the two deregulatory policies in operation
 13 between 2011 and 2013 I think were the one in, one out
 14 policy, which became one in, two out and then one in,
 15 three out, and the Red Tape Challenge, including
 16 a construction Red Tape Challenge from 2012; is that
 17 right?
 18 A. I know there was a commitment to reducing regulation on
 19 house-building as well, but I can't remember when that
 20 arrived.
 21 Q. Right.
 22 Now, looking at the one in, one out, that was — is
 23 this right? — an administrative policy, as you
 24 understood it, that operated across government, whereby,
 25 in theory, no new regulation could be introduced without

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1 a compensating reduction in regulation also being made.
 2 A. That's right.
 3 Q. What counted as one regulation for this purpose, as you
 4 understood it at the time?
 5 A. So the way the system works is you monetised the annual
 6 cost to business of a provision, so you would work out
 7 for a year how much industry had to pay to comply with
 8 a particular requirement, and that would be balanced
 9 against — so you'd do that for both provisions and
 10 they'd need to balance out, so you ended up with a net
 11 reduction or a net zero.
 12 Q. Was it your understanding throughout that the one in,
 13 one out and one in, two out policies applied to guidance
 14 under the regulations, including the approved documents?
 15 A. Yes.
 16 Q. What was the basis on which you understood that to be
 17 the case?
 18 A. I'm sure it's something we discussed at various points,
 19 but it's pretty — it would be a fairly pointless policy
 20 if it didn't impact on the technical guidance supporting
 21 the Building Regulations.
 22 Q. Well, that's an argument, but were you ever told it
 23 applies or did you ever read a document or
 24 an instruction or a protocol or policy that told you
 25 that ADB or any of the approved documents were subject

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1 to these policies?
 2 A. We had a fairly regular interaction with colleagues in
 3 the business — the Department for Business, I can't
 4 remember what it was called at the time, and there's
 5 a better regulation executive there. It's a team of
 6 officials that deal with regulatory policy.
 7 Q. Right.
 8 A. So we would have talked to them about it.
 9 Q. Now, "regulation" was defined — I don't know if you
 10 ever looked at the definition of "regulation" in the
 11 guidance? Did you ever do that?
 12 A. I must have done.
 13 Q. Right. Let's look at it, {INQ00015131/4}. Now, there's
 14 a heading halfway down your screen, "What is in scope of
 15 OIOO [one in, one out]?", and the answer is this at
 16 paragraph 13:
 17 " ... regulation is defined as:
 18 "a rule or guidance with which failure to comply
 19 would result in the regulated entity or person coming
 20 into conflict with the law or being ineligible for
 21 continued funding, grants and other applied for
 22 schemes."
 23 Did you read that or were you familiar with that
 24 language at the time?
 25 A. I think I was, and that to me includes approved

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1 documents.
 2 Q. "To me", you say, "includes approved documents".
 3 How did you understand that that applied to the
 4 guidance in Approved Document B?
 5 A. Well, approved documents have a statutory basis, which
 6 is set out in I think it's section 7 of the
 7 Building Act. So they're often described as de facto
 8 regulation, in that whilst it's not a — written in
 9 a statutory instrument, what you write in an approved
 10 document has an impact on the way the industry behaves
 11 and what it needs to do, which it clearly does.
 12 Q. Right. As you tell us, I think, in your statement, of
 13 course, the approved documents aren't mandatory, are
 14 they?
 15 A. No, their status is set out in section 7 of the
 16 Building Act. Compliance with an approved document is
 17 evidence tending to negative liability.
 18 Q. Yes.
 19 A. And the alternative is true if you don't follow them.
 20 So, in practice, the approved document has an impact on
 21 the industry.
 22 Q. I see.
 23 A. It has a regulatory impact.
 24 Q. So did it come to this: that you understood the
 25 expression "failure to comply would result in the

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1 regulated entity or person coming into conflict with the
 2 law" as including becoming subject to a negative
 3 presumption of compliance?
 4 A. Yes. I mean, this isn't a new thing. We'd been working
 5 with better regulation policy all the time I'd been
 6 working in the department, and we'd always — and the
 7 content of the approved documents was always included in
 8 that.
 9 Q. Can I take it that you, at least, and, to your
 10 knowledge, the department, never took any legal advice
 11 about whether Approved Document B was subject to the one
 12 in, one out regulation or policy?
 13 A. You wouldn't take legal advice because it's not
 14 statutory, is it? This is government policy. So you'd
 15 discuss it with the policy team, and the policy team
 16 would have confirmed that they expected the approved
 17 documents to be covered.
 18 Q. And did you have such a discussion with the policy team?
 19 A. I don't remember for sure, but I thought we probably
 20 did.
 21 Q. Could we look at your statement, please, at page 87
 22 {CLG00019469/87} and, within that page, paragraph 235.
 23 You say this:
 24 "On 16 July 2013 Secretary of State Eric Pickles
 25 wrote to Nick Clegg MP and Vince Cable MP seeking

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1 clearance from the Home Affairs Committee and the
 2 Economic Affairs (Reducing Regulation) Sub-Committee to
 3 consult publicly on the results of the recent review of
 4 Building Regulations and housing standards. The
 5 pro forma for the request was included. I note that the
 6 Secretary of State includes a line in his letter that,
 7 '... housing standards are not within the scope of the
 8 "one in, two out" system.' I am not able to say what
 9 the Secretary of State meant by 'housing standards',
 10 but, as I have set out above, it was my understanding
 11 that Building Regulations were within the scope of the
 12 one in, two out system."
 13 Let's go to the letter that you refer to there.
 14 It's at {CLG00019227}. You can see you refer to it
 15 there. If you go to that, we can see the date on
 16 page 1, 16 July 2013. It's to Vince Cable and
 17 Nick Clegg, not in that order.
 18 If you go down, please, to page 3 {CLG00019227/3},
 19 the third paragraph up from the bottom of the page, you
 20 can see that Eric Pickles says this:
 21 "This is a Red Tape Challenge measure and I am
 22 advised that housing standards are not within scope of
 23 the 'one in, two out' system. But despite that my
 24 Department has prepared an Impact Assessment, which
 25 I attach and intend to publish."

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1 Now, bearing in mind that this letter sought
 2 clearance for a public consultation on the recent review
 3 of the Building Regulations and housing standards, do
 4 you know which officials would have drafted this letter
 5 or advised on whether or not housing standards did fall
 6 within the one in, one out measures?
 7 A. Probably Richard Harral. Might have been somebody in
 8 the planning directorate as well.
 9 Q. Right. What about you?
 10 A. No.
 11 Q. The subject of the letter, which I'm afraid I omitted to
 12 show you at page 1 but I can tell you, is
 13 "Rationalisation of the framework of Building
 14 Regulations". You wouldn't have had a hand in this
 15 letter?
 16 A. I don't think so. I mean, I was involved in the housing
 17 standards review, but not in its sort of leadership, if
 18 you like.
 19 Q. Did you see this letter at the time, do you think?
 20 A. I might have done.
 21 Q. Was there a question mark in your mind about what was
 22 meant by housing standards?
 23 A. Thinking about the context of this letter, it's probably
 24 talking about those standards that local authority
 25 imposed on housebuilders through the planning system,

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1 and a big part of the housing standards review was to
 2 try and reduce the impact of those wherever possible,
 3 and I think they weren't included in the one in, two out
 4 system because of the way the planning system worked.
 5 Q. Right.
 6 Did anybody in your department seek advice about
 7 whether or not the Building Regulations, which of course
 8 are the subject of this letter, as well as housing
 9 standards were within the scope of the one in, one out
 10 policy?
 11 A. I think it was very clear to us that it was included in
 12 the one in, two out policy.
 13 Q. Clear to you from what?
 14 A. From its inception.
 15 Q. No, but from what evidence, from what advice?
 16 A. I can't recall at the time, but it was fundamental to
 17 the work we were doing.
 18 Q. Did you or anyone else in the department, to the best of
 19 your recollection, consider applying for an exemption
 20 for the Building Regulations from the one in, one out
 21 and later one in, two out and three out policies?
 22 A. I don't think we'd have been able to justify that.
 23 Q. Why is that?
 24 A. It's an important piece of regulation. Government was
 25 trying to reduce regulation.

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1 Q. Right. So you basically wove the white flag before
2 entering the battlefield?
3 A. It's not a civil servant's job to confront government
4 policy, it's their job to implement it.
5 Q. Is it not also a civil servant's job to advise
6 government on what's safe?
7 A. Where appropriate, yes.
8 Q. Was this not an example?
9 A. I don't think so. I mean, it was clear the government
10 was trying to reduce regulatory burden. We didn't set
11 out — none of the things we did, in my view, reduced
12 the level of safety, but they reduced the cost of
13 regulation.
14 Q. Now, the Red Tape Challenge, that was — just correct me
15 if I'm wrong, Mr Martin — a cross-government policy
16 designed to crowdsource views from industry, businesses,
17 organisations and the public about which existing
18 regulations in the stock of existing regulations should
19 be improved, kept or scrapped; yes?
20 A. Yes.
21 Q. And after that, the government and Cabinet Office would
22 identify areas of work to deregulate?
23 A. Yeah, it was an enormous cross-government project.
24 Q. Yes. That was in operation between 2011 and 2014 or
25 2015, perhaps; is that right?

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1 A. That sounds about right. I can't remember.
2 Q. Were you aware that the RRO, the Regulatory Reform (Fire
3 Safety) Order 2005, was expressly excluded from that
4 process by ministers in 2012?
5 A. Yes, it was exempted from the Red Tape Challenge.
6 I think one of the arguments had is that they'd only
7 recently completed a review of its — the enforcement
8 processes, and so the point they were making is there
9 was nothing left to achieve from reviewing it again.
10 Q. Right. Did you understand it to be exempt on the basis
11 that it was an essential life safety measure or because
12 it was part of some earlier deregulatory drive?
13 A. I think the main argument was that it had already been
14 subjected to an exercise, and things like one in, one
15 out and so on would only really arise if there were
16 proposals to change the provisions in some way, which
17 there weren't.
18 Q. That is, with great respect, circular. It was exempted
19 from the Red Tape Challenge, which meant that if there
20 were changes which were needed, they could happen.
21 A. No.
22 Q. Is that wrong?
23 A. No, I think they're two separate things.
24 Q. Right. I see.
25 Did you or anyone else in the department consider

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1 applying for an exemption for the Building Regulations
2 from the Red Tape Challenge process?
3 A. No.
4 Q. And why not?
5 A. I don't think it would have been — we didn't really
6 have a strong argument for doing so.
7 Q. Well, how about life safety being a strong argument for
8 doing so?
9 A. Well, Building Regulations covers a wide range of
10 different things. In terms of the Red Tape Challenge,
11 it was looking to reduce unnecessary — what I think the
12 government would have considered unnecessary burden.
13 So, arguably, if we — if there was a provision which
14 was going to be reduced which would have a negative
15 impact on safety, then I think the Government wouldn't
16 have supported that.
17 Q. We're going to turn to something different now, but
18 we're going to stay more or less where we are in the
19 chronology, and we are in the chronology in 2013.
20 I want to come back to the topic we were on before,
21 which is 12.6 and 12.7 of ADB, and this is a topic we
22 are now going to be on, covering a number of years, for
23 the next few days of your evidence, if that's all right
24 with you, Mr Martin.
25 In your statement, if we can go to that, please, at

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1 page 54 {CLG00019469/54}, you say this at paragraph 155:
2 "There were certainly concerns raised about the
3 testing of cladding products (including ACM panels and
4 insulation materials) during the period 2009 to
5 14 June 2017, and I was aware, as were senior officials
6 within the Department, of the issues regarding the
7 testing of such products. However, within the context
8 of the system of Building Regulations in England, it was
9 my view that relevant industry bodies were taking
10 appropriate steps to produce guidance and ensure that
11 the functional requirements of the Regulations,
12 particular [ly] Requirement B4, were being met. Where
13 I was able to, I tried to assist the industry during the
14 period in question, drawing on my knowledge from both my
15 time in the Department and at BRE previously."
16 Now, looking at what you say in line 1 of that
17 paragraph, what were the concerns specifically that were
18 raised about the testing — the testing — of cladding
19 products in that period?
20 A. I think I've picked that particular period because
21 that's the question that the Inquiry had asked me.
22 I think following the 2006 amendments, it probably
23 wasn't until I'd been contacted by — it wasn't until
24 something like 2013, 2014, before questions were being
25 raised with me about how that guidance should be

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1 applied.
 2 Q. Well, what were the concerns that you say were certainly
 3 raised about the testing of cladding products in that
 4 period, including testing of ACM panels and insulation
 5 materials?
 6 A. In preparing for giving evidence I've looked back over
 7 various documents, and I think it was either 2013 or
 8 2014 that BRE contacted me and had a question about how
 9 to apply the — whether something was a filler or not in
 10 terms of —
 11 Q. We'll come to that. Yes, we'll come to that. That's
 12 November 2013, Tony Baker at the BRE and his question —
 13 A. Yes.
 14 Q. — which we'll come to. But I'm just interested in the
 15 period 2009 to the date of the Grenfell Tower fire, that
 16 eight-year period. You say there were certainly
 17 concerns raised about the testing of cladding products,
 18 including ACM panels and insulation materials, and
 19 I just wanted to know what those were. What were those
 20 concerns about the testing?
 21 A. I'm using testing in a very general way in this point
 22 here, and I think, as I say, the first one I'm aware of
 23 is the email from Tony Baker.
 24 Q. Well, okay. That doesn't exactly jump from the line,
 25 does it, because that starts in 2013?

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1 What happened, then, during the period 2009 to
 2 November 2013 by way of concern about the testing of
 3 cladding products?
 4 A. As I recall, very little. It wasn't an issue that came
 5 across my desk particularly. During that period I was
 6 focused on other reviews. I think when I joined the
 7 department I was working on a review of part J of the
 8 regulations, and, as we were just discussing, I then
 9 moved on to doing some work on the part P and the
 10 housing standards review and the Red Tape Challenge. So
 11 that was — that swallowed up quite a lot of that time,
 12 and up until about 2013, I didn't really get — come
 13 across the issue of the application of section 12 of the
 14 approved document as being an issue.
 15 Q. You go on to say:
 16 " ... and I was aware, as were senior officials
 17 within the Department, of the issues regarding the
 18 testing of such products."
 19 Well, what issues were senior officials in the
 20 department aware of during the period 2009 to
 21 14 June 2017 on that topic?
 22 A. I mean, this paragraph is a summary of other things that
 23 are in my statement, and I think what I'm referring to
 24 here is when, following a meeting in 2014, I'd contacted
 25 the NHBC, they'd reported that there had been — they'd

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1 been approving buildings on the basis of an agrément
 2 certificate which they — which had subsequently
 3 changed, and they were concerned that that meant that
 4 decisions they'd made in the past might not be right,
 5 and I brought that to the attention of Richard Harral
 6 and Bob Ledsome.
 7 Q. I see. These are all matters that occurred which we
 8 will look at in detail after November 2013, aren't they?
 9 A. Yes. So prior to that, I didn't — the question of
 10 external wall construction was not something that was
 11 prominent in my work.
 12 Q. Now, when you refer there to relevant industry bodies
 13 taking appropriate steps to produce guidance, what are
 14 you referring to there?
 15 A. NHBC, the Building Control Alliance and CWCT.
 16 Q. And do you count all those pieces of guidance as
 17 appropriate steps? You count those, do you, as amongst
 18 the appropriate steps relevant to B4?
 19 A. Yes.
 20 Q. Now, you may know that NHBC regarded the BCA guidance as
 21 guidance only for their customers, or only for Building
 22 Control Alliance customers. Did you see it the same
 23 way, that the BCA readership was limited to the members?
 24 A. The Building Control Alliance is all approved inspectors
 25 and all local authorities, so that's all regulated

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1 building work, isn't it?
 2 Q. It's building control, yes. Not designers, though.
 3 A. You just said BCA customers. I mean, the customers
 4 would, I think — well, certainly NHBC would regard
 5 their customers as being the builders.
 6 Q. Oh, I see. All right.
 7 Now, as far as you're aware, before issue 0, which
 8 is the first issue, of BCA Technical Guidance Note 18 in
 9 June 2014, other than the two pieces of CWCT guidance,
 10 that's the 2008 standard and Technical Note 73 from
 11 March 2011, was there any other industry guidance on
 12 complying with the functional requirements of B4 issued
 13 by industry bodies?
 14 A. I know that there were changes to British Standard 9999
 15 and 9991. I think they would have been post-2015
 16 though.
 17 Q. They were in 2015. Leaving that on one side, was there
 18 any industry guidance before BCA Technical Guidance
 19 Note 18 issue 0 in June 2014, other than the two CWCT
 20 documents?
 21 A. Not that I'm aware of.
 22 Q. Right. In your statement here on the screen
 23 {CLG00019469/54} you say that it was your view that
 24 "relevant industry bodies were taking appropriate steps
 25 to produce guidance", and then you say, "and ensure that

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1 the functional requirements of the Regulations,
 2 particular [ly] Requirement B4, were being met".
 3 What were those steps? What were the steps that
 4 they were taking?
 5 A. I guess I'm principally thinking about the guidance, but
 6 certainly I recall NHBC carrying out a review of the
 7 projects that they'd dealt with to ensure that they were
 8 getting it right.
 9 Q. Did you, during the period 2009 to the date of the
 10 Grenfell Tower fire, think that it was the
 11 responsibility of industry bodies such as the NHBC or
 12 the BCA or the CWCT to take steps to ensure that the
 13 functional requirements of B4 were being understood and
 14 met?
 15 A. I think that partnership between the department and
 16 industry bodies has been something that's long
 17 established. The department relied on that.
 18 Q. What was the basis for your thinking that responsibility
 19 fell to industry organisations?
 20 A. Most of those industry organisations, that's one of
 21 their sort of reasons they're established, is to promote
 22 good practice in their sector.
 23 Q. Did it occur to you that if industry bodies had to
 24 produce their own guidance, or guidance about the
 25 guidance, there was something wrong with ADB, which was

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1 of course itself the official government guidance?
 2 A. No, I think that's something that was quite common right
 3 across the Building Regulations.
 4 Q. What did you think was the point of guidance about
 5 guidance?
 6 A. Construction is a very complex subject, and the approved
 7 documents tended to set out high-level guidance, but
 8 different sectors of industry would produce standards or
 9 trade body guidance to try and help their members
 10 address the issues that were specific to their
 11 particular activity. If you grouped that all into
 12 a single document, it would be enormous.
 13 Q. Well, the particular activity, taking building control,
 14 being a pretty broad activity, did you not think that if
 15 industry had to interpret or explain your guidance,
 16 industry for example being building control, there might
 17 be something wrong with it?
 18 A. No. I mean, that's something that had been happening
 19 all the time I'd worked in building control. There'd
 20 always been — right back from when I first started
 21 working as a building control officer, there were
 22 documents produced by what was then the District
 23 Surveyors' Association, which helped building control
 24 officers interpret the Building Regulations.
 25 Q. But wasn't it — help me with this — the government's

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1 responsibility — indeed, in the end, your
 2 responsibility, Mr Martin — to make sure that the
 3 public, picking up ADB for whatever reason, understood
 4 exactly what was required in order to follow the
 5 government's official statutory guidance, rather than
 6 leaving it to industry or particular sections of it to
 7 interpret and articulate the government's intention by
 8 producing guidance about the guidance?
 9 A. I can see why somebody might desire that, but that was
 10 never the case all the time I've ever worked in
 11 Building Regulations. There's always been industry
 12 guidance that supplemented the Building Regulations
 13 guidance.
 14 Q. Well, you say there always has been; in fact, isn't it
 15 right that until issue 0 of Technical Guidance Note 18
 16 in June 2014, the BCA and NHBC had got on perfectly well
 17 without it?
 18 A. I'm talking generically. As I say, since I joined
 19 building control, there's always been industry guides
 20 that we've used to supplement the Building Regulations
 21 on a wide range of subjects. So the idea that a trade
 22 body is producing some more guidance isn't in and of
 23 itself a problem.
 24 Q. Did you consider that it was government's job to ensure
 25 that those using the guidance in ADB understood what the

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1 government intended by its provisions?
 2 A. My view is that we needed — and something that I'd been
 3 working on at various points during that period, we
 4 needed to try and improve the quality of the approved
 5 documents. That was something that I think was
 6 an opinion that Mr Harral and I certainly shared, is
 7 that — which is why we progressively developed the new
 8 house style for approved documents, to try and improve
 9 the quality of the guidance we gave, and the work we did
 10 on — with plain English editors and so on was intended
 11 to try and improve the quality of that. But I think
 12 whatever we'd have done, there'd have always been
 13 supplemental guidance produced by trade bodies.
 14 Q. Did the department in any way rely on the guidance
 15 produced by industry itself during that period?
 16 A. I'm not sure if I understand the question. Can you
 17 rephrase it?
 18 Q. Yes. I mean, you referred earlier to a partnership
 19 between the department and these industry bodies. To
 20 what extent did the department rely on these industry
 21 bodies to produce guidance which clarified or
 22 supplemented or answered questions which had been left
 23 behind by the guidance that your department produced?
 24 A. I think that was kind of a bread and butter part of the
 25 work that we did.

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1 Q. Why would it need to be? Why would the statutory
2 guidance be so unclear or imperfect or incomplete that
3 you had to rely on industry bodies' guidance about the
4 guidance to fill in the gaps?
5 A. I guess there's a number of factors to do with that.
6 One is that we didn't review the approved documents as
7 often as perhaps I think we should have done, but that
8 was a matter of available resource and the way that the
9 system was structured, and it's nigh on impossible to
10 try and write a book that tells you everything you need
11 to know about constructing a building properly. It's
12 an incredibly complex subject matter.
13 Q. Did you consider that guidance produced by industry in
14 some way discharged the department's obligation or
15 responsibility to update and amend the guidance in the
16 approved document, particularly when it became clear
17 that it was unclear in any respect?
18 A. If you're talking specifically about the
19 Building Control Alliance guidance in relation to
20 external wall construction, then I think to some extent
21 I saw that as a short-term solution to a problem that
22 had arisen.
23 Q. Well, we're going to come back to that, but I'm not
24 talking about that, I'm talking in broad terms.
25 Did you consider that guidance produced by industry

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1 at any time in some way discharged the department's
2 responsibility to update and amend the guidance in any
3 approved document?
4 A. I'm not sure I ever thought about it in those terms.
5 I think it was something — it was a normal part of our
6 work as policy leads to try and work with the different
7 industry bodies to help them help their members achieve,
8 you know, the outcomes that the regulations were
9 designed to achieve.
10 Q. I mean, to what extent did you rely in your own mind
11 upon these organisations, as it were, coming to the
12 department's rescue, so that where you perceived that
13 there might be a gap or a lack of clarity in
14 a particular provision, you could rely on those industry
15 bodies to put it right?
16 A. I suppose the way of approaching that question is to say
17 what would have happened if none of them did, and
18 I think there would have been a really big problem,
19 bigger than the one we're dealing with now.
20 So I guess the answer to your question is: yes, the
21 department did rely on industry bodies to help in
22 achieving the objectives of the regulations.
23 Q. Would it be fair to say that you, in the period 2008,
24 from when you became full-time at the department, until
25 the date of the Grenfell Tower fire, considered that the

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1 organisations producing guidance — so CWCT, NHBC, the
2 BCA, Booth Muir — were reputable, reliable and
3 reputable organisations?
4 A. Certainly the trade bodies I worked with, yes.
5 Q. Would you expect or would you have expected that the
6 guidance issued by those organisations would have been
7 written by knowledgeable and experienced professionals?
8 A. Yes, often I'd expect most of them to be more
9 knowledgeable about that specific subject than I was.
10 Q. As the government's principal construction professional
11 from 2008 with responsibility for Approved Document B,
12 did you ensure that you read or reviewed all such
13 guidance?
14 A. I don't think that would have been possible. I reviewed
15 the guidance if it was brought to my attention. Very
16 often the various trade bodies would contact us and talk
17 about work that they were planning to do and we'd
18 discuss — you know, try to influence them in a way so
19 that it would be effective in delivering the objectives
20 of the regulations.
21 Q. But that would depend upon them sending it to you and
22 asking for your views. Was there no system within the
23 department to make sure that you kept tabs on what
24 publications they were intending to put out which gave
25 guidance about the guidance?

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1 A. No.
2 Q. Why is that?
3 A. Well, there wasn't — I mean, I was not responsible for
4 setting up systems for the management of the entire
5 regulatory system, but I don't think it would have been
6 practical to do so anyway. It would have been very
7 resource-hungry.
8 Q. Well, it depends. I mean, how many of these trade
9 bodies are there that would produce guidance? We've
10 counted NHBC, BCA, CWCT. Are there any others?
11 A. For each functional requirement, there's probably
12 dozens.
13 Q. Right. I'm thinking about fire safety particularly.
14 A. Yeah, well, I didn't have that luxury. I was working on
15 anything up to four or five different parts of the
16 regulations at different points in my time.
17 Q. Did you consider that there was any role for you or for
18 the department in general in checking industry guidance,
19 checking it was accurate?
20 A. I think we'd always have to be careful, in that we very
21 often couldn't actually endorse a particular piece of
22 guidance, so we didn't have a — we would try and
23 contribute helpfully, but the position would be that
24 each body would be responsible for the guidance that it
25 produced for its members. So we would try and help and

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1 contribute, sometimes facilitate where — I certainly
 2 remember in the past where a body would say, "We're
 3 thinking about looking at this subject", and I might say
 4 to them, "Actually, so is AN Other organisation, you
 5 might want to talk to each other", so we try and
 6 facilitate that, but we didn't have the time or
 7 resources to be directly involved in all of it.
 8 Q. You say you couldn't endorse a particular piece of
 9 guidance; what about the opposite, what about condemning
 10 a piece of guidance?
 11 A. I don't recall that issue ever arising. We wouldn't
 12 have had a mechanism to do that, so that would have been
 13 quite difficult to do.
 14 Q. What if, for example, a trade organisation produced
 15 a piece of guidance that not only plainly misunderstood
 16 a provision in Approved Document B to do with
 17 fire safety, but proposed a way of complying with
 18 Approved Document B that was plainly and obviously
 19 downright dangerous, what would have happened? Would
 20 the department have just let it lie or would you have
 21 intervened?
 22 A. I think we'd have tried to intervene in some way, but we
 23 wouldn't have had any direct statutory power to do so.
 24 Q. Did you during this period, 2008 to 14 June 2017,
 25 understand guidance issued by industry to have the same

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1 status and authority as the guidance issued by the
 2 department in the approved documents?
 3 A. No, it wouldn't have the same status as an approved
 4 document, that's set out in the Building Act.
 5 Q. Right. So they had a lower status, did they?
 6 A. I guess so. I mean, I think when courts look at these
 7 things, they often look at what's best practice in the
 8 industry at the time, and so they would look at that
 9 kind of thing, so it would have some legal status,
 10 I suppose. That's not an area of law I'm an expert in.
 11 Q. Did you at the time understand the guidance issued by
 12 these various industry bodies to have the same breadth,
 13 the same reach in terms of audience or readership, as
 14 the guidance issued by government?
 15 A. I think a lot of it would do, certainly where — I mean,
 16 some of it would be targeted at people that worked in
 17 a particular sector, and to some extent might have had
 18 a better reach because it would have been drafted in
 19 terms that they were more familiar with, and would have
 20 been drafted with that particular sector in mind.
 21 Q. Looking at the last sentence of paragraph 155 of your
 22 statement {CLG00019469/54}, you say there, "Where I was
 23 able to, I tried to assist the industry". In what
 24 circumstances were you not able to assist the industry?
 25 A. There was only one of me. I couldn't be at all of the

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1 meetings all of the time. Certainly there were times
 2 when — certainly I think the drafting of BS 9991,
 3 I missed a lot of the meetings because they clashed with
 4 whatever else I was working on at the time, so I didn't
 5 go to as many of those meetings as I'd have preferred.
 6 Q. Now, let's go to January 2013 and Mr Turner again,
 7 Ipswich Borough Council.
 8 Can we please go to {CLG00019193}. We looked at
 9 some correspondence that you had with him in the June of
 10 2013. This is earlier in the year, January 2013.
 11 If you go to page 2 {CLG00019193/2}, we can see
 12 an email from Daniel Turner to you at 3.11 in the
 13 afternoon on 21 January 2013. It's not in very big
 14 print, but we can I think — yes:
 15 "Dear Brian."
 16 Do you see that?
 17 A. Yes.
 18 Q. "My E mail system is advising me that your e mail
 19 address is no longer valid ..."
 20 That's how it starts, and then it goes on:
 21 "We're currently working on a multi block multi
 22 storey housing development ranging from 6—10 storey
 23 concrete and timber frame blocks. The Architect and
 24 contractor are proposing to utilise Kingspan's SIP's
 25 which are effectively a section of PIR insulation

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1 sandwiched between two sheets of OSB. We have assessed
 2 all of the unprotected areas etc. with the architect and
 3 due to the high degree of compartmentation they can
 4 effectively have 100% unprotected areas. The SIPs
 5 panels are to be clad internally with plasterboard and
 6 externally with different cladding materials such as
 7 brick, rain screen cladding and possibly render.
 8 However a query has been raised by Kingspan in that they
 9 are unable to prove that their SIP's panels meet with
 10 the provisions of paragraphs [12.5]—12.7 of ADB volume 2
 11 & BS 8414—1:2002 or BS 8414—2:2005 as they are not
 12 formed from materials of limited combustibility.
 13 "This is the first time we have utilised these
 14 panels on developments over 18m and we are unsure as to
 15 whether this paragraph is applicable to this type of
 16 construction or if it was intended for an alternative
 17 system such where a thin coat render is placed directly
 18 onto insulation which is fixed to the frame? Presumably
 19 if this paragraph is applicable to SIP's panels then
 20 this would prohibit their use in this instance unless a
 21 manufacturer can produce one which is of limited
 22 combustibility."
 23 If we go up to page 1 {CLG00019193/1} — I've read
 24 all that to you because it contains quite a lot — we
 25 can see your response at 15.31 on the same day, so

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1 exactly 20 minutes later, and you write as follows:
 2 "Hi Daniel, I'm still here. Or at least I think
 3 I am!
 4 "I'll get back to you on this. Are the panels just
 5 infill or are they structural?"
 6 Why did you ask him that question?
 7 A. I think he's talking about SIPs, which are often used as
 8 a structural panel as well as an infill, so I think I
 9 was just trying to get a better understanding of the
 10 construction he was --
 11 Q. And SIP stands for what?
 12 A. I think it's structural insulated panels, but they're
 13 not always used structurally.
 14 Q. Right. What difference would the answer to the question
 15 have made as to whether or not the panels would comply
 16 with the guidance in Approved Document B, particularly
 17 the paragraphs he's referring to?
 18 A. I'm not sure it's relevant to the paragraphs he's
 19 referring to, but perhaps I was trying to get a better
 20 understanding of the building.
 21 Q. Right. Why did you need to, as you put it, get back to
 22 him? Was the answer to his question not immediately
 23 obvious to you?
 24 A. I was probably busy doing something else.
 25 Q. Right, I see.

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1 Now, in January 2013, were insulating panels with
 2 a PIR, polyisocyanurate, core permitted for use over
 3 18 metres by the provisions of ADB or were they not?
 4 A. It's an insulation that's not a material of limited
 5 combustibility, so I think the answer's no.
 6 Q. The answer is no, isn't it?
 7 A. Yes.
 8 Q. Yes. Was that not the obvious answer to the question by
 9 reference to 12.7 which he had actually raised?
 10 A. Yes, I think so.
 11 Q. Why didn't you simply tell him that?
 12 A. As I say, I was probably busy doing something else. It
 13 looks like I've responded quite quickly. I might even
 14 have been using a mobile telephone or something.
 15 I might have been out of the office.
 16 Q. Let's move up the chain.
 17 He comes back to you a little bit later that
 18 afternoon, ten minutes later:
 19 "Hi Brian,
 20 "Glad to see you still with us.
 21 "The panels are only for infill between the concrete
 22 frame and I believe the same is going to occur on the
 23 timber frame. They will provide support to the external
 24 cladding system i.e. brick ties or angle sections to
 25 support the rain screen in conjunction with the

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1 structural frame.
 2 "Look forward to your response, it's causing us
 3 a few headaches at the moment."
 4 Do you see that?
 5 A. Yes.
 6 Q. Again, how is the information that he provided to you
 7 relevant to any answer that you might provide to the
 8 question he'd asked?
 9 A. I'm not sure it is. Looking at it, I can't see why
 10 I needed to know whether they were structural or not,
 11 but I obviously had something in my mind at the time.
 12 Q. If we go to the next email up in the chain, we can see
 13 that you forward it to Steven Kelly about 12 minutes
 14 later, the same afternoon, with one word:
 15 "Thoughts?"
 16 Now, in January 2013, I think -- is this right? --
 17 Steve Kelly was your junior assistant.
 18 A. I was his line manager. We had a broad work programme.
 19 He was responsible for some things directly. So
 20 "assistant" is probably a strong term.
 21 Q. All right. But you were his boss?
 22 A. Yes.
 23 Q. Yes. Does that tell us that he was younger than you?
 24 A. I think he was, but he was newer in the job, yes.
 25 Q. Newer in the job will do.

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1 Why were you asking Steve Kelly for his thoughts?
 2 A. I was probably getting him to draft a reply, I guess.
 3 Q. Well, you don't say that, you say, "Thoughts?", which is
 4 you're asking him for what he thinks; no? Not, "Can you
 5 please draft a reply, I haven't got time".
 6 A. That might be what I meant. It's a single-word message,
 7 so, again, it might well be that I was using a mobile
 8 telephone.
 9 Q. Were you not able to answer this question without asking
 10 Steve Kelly for his thoughts?
 11 A. I would have been able to answer it. I probably wanted
 12 Steve to do it so that I could do something else.
 13 Q. If we look up the chain, because it continues, he comes
 14 back to you a few minutes later and says:
 15 "I'll have a little look and chat tomorrow afternoon
 16 or something?"
 17 Then you at the top of the chain, a few minutes
 18 after that, say:
 19 "Cool beans. The Ad needs to be read two or three
 20 times to work out what it means."
 21 What did you mean by that?
 22 A. I think, as with all of this guidance, you need to read
 23 it carefully.
 24 Q. Well, you had, a few minutes ago, given me an answer,
 25 which is that 12.7 basically required the insulation to

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1 be of limited combustibility so it couldn't be used.
 2 Why was it necessary to read the approved document two
 3 or three times to know that?
 4 A. I think it's fair to say over the last four years I've
 5 been looking at that paragraph almost every day. At
 6 that time, we'd have been working on a wide range of
 7 different things.
 8 Q. Does that tell us that, at the time, if you had simply
 9 got ADB off the shelf and looked at it, you would not
 10 easily have been able to work out a clear and simple
 11 answer, as this email, I would suggest to you, suggests?
 12 A. I think you'd want to read it just to make — because
 13 a building control officer's asking you a question, so
 14 they've clearly read it, and you'd want to give
 15 a considered reply.
 16 Q. Yes. I mean, you appear, in January 2013, to think that
 17 paragraphs 12.5 to 12.7 of the approved document needed
 18 to be read two or three times for their meaning to
 19 become apparent, even though you'd written them.
 20 A. Well, I'm saying that to Mr Kelly because it's good
 21 practice to be careful when you're reading and writing
 22 these things.
 23 Q. Why is it that these provisions had to be read two or
 24 three times to answer what appears, with great respect,
 25 to be a straightforward question about whether or not

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1 combustible sandwich panels with a PIR core could be
 2 used in an external wall construction over 18 metres?
 3 A. I honestly can't remember what was going through my mind
 4 at the time. We'd get quite a lot of queries like this
 5 on a wide range of subjects and it's probably just
 6 a throwaway comment.
 7 Q. Did it not alarm you that a provision that you had
 8 drafted, and had taken care over drafting, as we've
 9 seen, late though it was in the day back in 2006, now
 10 had to be read two or three times to produce a clear
 11 answer, a clear answer, moreover, to a question raised
 12 by an area building control surveyor in a local
 13 authority?
 14 A. I think that tended to apply to nearly every aspect of
 15 the Building Regulations, so I wouldn't have considered
 16 that to be particularly unusual. Each project throws up
 17 different questions, and you think you know the guidance
 18 off by heart, you go back and read it again and you
 19 think: actually, I think it means something else. You
 20 need to take your time over these things.
 21 Q. Well, that's hopeless, isn't it? This is an approved
 22 document intended to provide clear guidance to people
 23 carrying out the work so that they know with precision
 24 and clarity what it is that, if they use it, would at
 25 least part of the way satisfy presumptively the

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1 functional requirement. I mean, this isn't the Old
 2 Testament. Why —
 3 A. I mean, it is a very complex subject, and you're
 4 focusing on one — you know, a couple of paragraphs. We
 5 had several approved documents — you know, numerous
 6 approved documents, numerous queries, thousands of
 7 different buildings with different questions arising.
 8 So taking time to have a look and try and give
 9 a considered answer to a question from
 10 a building control officer seems fine to me.
 11 I don't think this — this wouldn't have been
 12 evidence to me that there was something fundamentally
 13 wrong with the guidance. It would mean Building
 14 Regulations gets a bit complicated sometimes, which is
 15 something I'd been living with most of my career.
 16 MR MILLETT: Mr Chairman, is that a convenient moment?
 17 SIR MARTIN MOORE-BICK: Yes. I think it's time we had
 18 a break. I was going to suggest that if you hadn't
 19 suggested it yourself.
 20 So, Mr Martin, we'll have a break at that point.
 21 We'll come back, please, at 3.40. As before, I have to
 22 ask you not to talk to anyone about your evidence or
 23 anything to do with it while you're out of the room.
 24 All right?
 25 THE WITNESS: Yes, sir.

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1 SIR MARTIN MOORE-BICK: Thank you very much. Would you go
 2 with the usher, then, please.
 3 THE WITNESS: Yes.
 4 (Pause)
 5 SIR MARTIN MOORE-BICK: Thank you very much, Mr Millett.
 6 3.40, please. Thank you.
 7 (3.22 pm)
 8 (A short break)
 9 (3.40 pm)
 10 SIR MARTIN MOORE-BICK: All right, Mr Martin. Ready to
 11 carry on?
 12 THE WITNESS: Yes, sir.
 13 SIR MARTIN MOORE-BICK: Good. Thank you very much.
 14 Yes, Mr Millett, when you're ready.
 15 MR MILLETT: Thank you.
 16 Mr Martin, I'm now going to come to the email run
 17 that you referred to earlier this afternoon in your
 18 evidence with Tony Baker of the BRE in November 2013.
 19 Can we go, please, to {CLG10005895/2}, at the foot
 20 of that page. You can see that this is an email from
 21 Tony Baker, BRE, to you, copied to Sarah Colwell and
 22 Stephen Howard, both of the BRE, on 25 November 2013,
 23 subject, "ADB Clause 12.6 & 12.7", and I'll read it all
 24 to you:
 25 "Hi Brian,

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1 "I hope you are keeping well.
 2 "I hope you can help with the following, we are
 3 seeing an increasing number of enquiries in which we are
 4 being asked for our opinion/interpretation of Diagram 40
 5 and AD-B B4 clauses 12.6 & 7 in relation to the build-up
 6 of systems using board finishes and we would like to
 7 reach a general understand[sic] so we can respond to all
 8 parties in the same way.
 9 " ■ Systems with board type outer layers — the boards
 10 are typically 15–20mm thick and achieve B-s3, d2;
 11 " ■ Clause 12.6 guidance references diagram 40 in
 12 relation to the classification of the finish which would
 13 be acceptable over 18m as being B-s3, d2 but 12.7 talks
 14 about insulation or filler materials which make up the
 15 wall being limited combustibility.
 16 " ■ As the minimum/maximum surface finish is not
 17 defined a debate has opened up within the industry as to
 18 whether or not the boards can be called the ' finish ' or
 19 the ' filler ' .
 20 "Based on our experience from the original PII
 21 programme we would suggest that the a [sic] definition
 22 of the surface finish thickness and ' filler ' would
 23 assist in clarifying this point and would therefore be
 24 grateful for your thoughts."
 25 Now, had you previously been aware that the BRE was

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1 receiving enquiries on this subject?
 2 A. No.
 3 Q. So did this come as a surprise to you?
 4 A. Well, it was new to me, yes.
 5 Q. News?
 6 A. Yes.
 7 Q. Surprising news?
 8 A. As I say, questions arise about the application of the
 9 regulations all the time, so it wouldn't have been
 10 surprising that a — people in the industry were
 11 debating what a piece of the regulations may or may not
 12 mean.
 13 Q. Maybe, but we're talking about the very provisions that
 14 you examined in detail and reconstructed and drafted
 15 yourself in November and December 2006. Did it come as
 16 a surprise to you that here were quarters of the
 17 industry filtering through to BRE a question about what
 18 they meant?
 19 A. Well, I'd been involved in drafting, to some extent, all
 20 of that approved document and several others by that
 21 point, so queries about them was not an unusual thing,
 22 but this was the first time that somebody had raised
 23 a question about 12.6 to me at that time.
 24 Q. Do you know from whom those enquiries had emanated?
 25 A. No.

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1 Q. Did you ask?
 2 A. No.
 3 Q. Why not?
 4 A. I don't think I saw the need to.
 5 Q. Now, if we go to the top of page 2, to the next email in
 6 the same chain, your response, which is sent just over
 7 half an hour later at 15.47:
 8 "Hi Tony
 9 "I see where you are coming from.
 10 "The problem we have with Class B is that you can
 11 have a thin surface that gives you the performance and
 12 back it with something less desirable. So there's no
 13 such thing as a class B 'material' .
 14 "The word filler was introduced because of a
 15 particular incident where a polymeric foam was used to
 16 keep an aluminium panel stiff. The foam was not used
 17 for thermal reasons so it wasn't ' insulation ' ! (it still
 18 burned of course!!!) Sarah will remember the details I'm
 19 sure.
 20 "I'm thinking out loud here but I think a homogenous
 21 Class B board would be fine (effectively a class B
 22 material?). But a lamination of board with something
 23 else should revert to the limited combustibility
 24 criteria .
 25 "Does this make sense.

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1 "Don't quote me on this yet, what do you think?
 2 "Brian."
 3 Now, first, it looks as if this exchange was the
 4 first time Tony Baker's question had been raised with
 5 you. Is that correct?
 6 A. Yes.
 7 Q. Here was a serious question, would you accept, posed by
 8 a senior and reputable BRE technician, copied to
 9 Sarah Colwell herself? Do you accept that?
 10 A. Yes.
 11 Q. Yes.
 12 Now, your response half an hour later, as we can
 13 see, I've read to you, tends to suggest — and is this
 14 right — that you'd never actually thought about this
 15 question before; is that right?
 16 A. Perhaps not in the terms that was being talked about
 17 here.
 18 Q. Why is that?
 19 A. Well, I hadn't been asked this question since we'd
 20 worked on the draft in 2006.
 21 Q. Well, historically I see why you say that, but given
 22 that the whole purpose of adding the phrase " filler
 23 material etc" to 12.7 back in 2006 was to ensure that
 24 the core of a composite external panel was of limited
 25 combustibility, how could you not have thought of this

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1 question before November 2013?
 2 A. Well, I probably hadn't thought about it between 2006
 3 and 2013, which is quite a long period of time, and
 4 I think our focus, when we were drafting the 2006
 5 edition, was thinking about the response to The Edge,
 6 whereas this was looking more at thinner laminate, which
 7 perhaps wasn't at the forefront of our minds when we
 8 were drafting that text.

9 But it goes back to the point that there are lots of
 10 different ways of doing things, and we were trying to
 11 draft something with a broader impact.

12 Q. Well, taking it in stages, did you consider Tony Baker's
 13 question carefully and thoroughly and do any research
 14 before you responded?

15 A. I think that's why I've said — I've asked them what
 16 they think of that advice, is because I've responded
 17 quite quickly and said, "Well, this is my thinking based
 18 on what I remember of what we did in 2006", and I think
 19 I'm referring to The Edge fire there, which Dr Colwell
 20 would have been involved in, and I'm asking them to
 21 comment on what I'm saying.

22 Q. Do we take it that you didn't ask any departmental
 23 colleagues about this question before you responded?

24 A. I doubt it.

25 Q. Why did you reply in terms which required you to think

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1 out loud and ask your own questions — "Does this make
 2 sense" — when you were asked an important question
 3 about fire safety?

4 A. Because I'm trying to work collaboratively with the
 5 people at BRE and say: is this an — they were looking
 6 for something that they could make use of when they were
 7 talking to their clients, so the question was: can
 8 I help them find a form of words that would answer their
 9 questions in a helpful way? So I'm — you know, is this
 10 helping them, is the question, does it resolve the
 11 problem that they're experiencing?

12 Q. I mean, this is a response sent which is highly
 13 conditional, full of questions, some 30 minutes after
 14 the question. It looks like a knee-jerk response, would
 15 you agree with that, off—the—cuff?

16 A. Yeah, it looks like it's off—the—cuff. I probably
 17 wouldn't have replied like that to another organisation,
 18 but I knew the people at BRE reasonably well, so I felt
 19 I could have, you know, a more open discussion with
 20 them.

21 Q. Now, I mean, you I think have just confirmed that the
 22 particular incident was The Edge fire; yes?

23 A. I believe so, yes.

24 Q. Yes.

25 A. I can't think of one that would have met that

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1 description other than that.

2 Q. Yes, and you told us before that the word " filler " was
 3 introduced in order to ensure that the core of
 4 a composite external rainscreen panel was comprised of
 5 a material of limited combustibility and, indeed, much
 6 else in the external cladding build—up also. Why not
 7 just say that?

8 A. I think that's what I am saying.

9 Q. Well, you're not, are you?

10 A. Perhaps I don't understand the point you're making.

11 Q. Well, let's see what you say in your statement.

12 If you go, please, to page 39 {CLG00019469/39},
 13 paragraph 116, you summarise the email, and then you go
 14 on halfway through the paragraph to say this:

15 "He stated that the BRE would like to achieve
 16 a general understanding so that they could respond to
 17 all parties in the same way, which is a goal that
 18 I wholeheartedly supported. I responded the same day
 19 giving an initial, caveated, view that a homogenous
 20 Class B board, essentially as a class B material,
 21 I posited, would be fine, whilst anything else would
 22 revert to the limited combustibility criteria. In
 23 Mr Baker's response on 3 December 2013 he stated that
 24 based on the evidence he had seen it would ..."

25 And we'll come to that response later.

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1 My question is on this part of the paragraph, where
 2 you say, "an initial, caveated, view that a homogenous
 3 Class B board, essentially as a class B material,
 4 I posited would be fine".

5 For what reason were you positing or thinking out
 6 loud or giving an initial view on the actual meaning and
 7 practical application of a piece of government guidance
 8 of which you were the principal author published more
 9 than six years before?

10 A. I think because they were considering this question
 11 about where the finish starts and finishes, which isn't
 12 something that had been defined anywhere, and so I was
 13 thinking about the products that they were looking at
 14 and trying to think: well, how do you differentiate
 15 between the two? And I took the view that if it's
 16 a continuous, homogeneous material in a sheet, then you
 17 could regard all of that as the surface, but if you had
 18 something below the surface that was different, then
 19 material of limited combustibility would be more
 20 appropriate.

21 So it just seemed to me to be a reasonable
 22 interpretation in answer to the specific question
 23 they —

24 Q. Well, it may have occurred to you to be a reasonable
 25 interpretation, but you were the author of 12.6 and 12.7

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1 at the time, and you were — is this right — in
 2 authoring it, carrying out the Secretary of State's
 3 intention; yes?
 4 A. Well, we jointly authored it. It wasn't me on my own.
 5 Q. Well, we've seen what happened.
 6 A. Yeah.
 7 Q. All right, you and Mr Burd, let's leave it at that.
 8 A. Yeah.
 9 Q. Do you agree that, in doing that, you were carrying out
 10 the intention of the Secretary of State? This is the
 11 Secretary of State's statutory guidance and you were
 12 carrying out his intention.
 13 A. Yes, I suppose.
 14 Q. Yes. And when doing that, I thought you told us this
 15 morning that you had intended to ensure that the core of
 16 a composite rainscreen panel was a material of limited
 17 combustibility, but that the surface was not intended to
 18 be a material of limited combustibility, but rested at
 19 class 0 or —
 20 A. Yes.
 21 Q. — class B—s3, d2.
 22 A. Yes.
 23 Q. Yes. Therefore, why not simply say so?
 24 A. Because I think the question they're asking here is
 25 where does the surface start and finish.

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1 Q. Was that not a question you asked yourself at the time?
 2 A. In 2006?
 3 Q. Yes.
 4 A. I guess not.
 5 Q. Why is that?
 6 A. Didn't occur to us at the time, I suppose. As I say,
 7 we — as I think I've said on numerous occasions, we
 8 said it — we drafted that perhaps more quickly than
 9 we'd have liked to have done, and we weren't able to
 10 discuss it with as many people as we'd have liked to
 11 have done either.
 12 Q. So is this right: this is the first time that this
 13 question had occurred to you or been posed to you or
 14 crossed your mind?
 15 A. Yes.
 16 Q. Why was reaching a general understanding as to the
 17 meaning of your own guidance a goal, as you put it, some
 18 six years after it had been published?
 19 A. Well, things change over time, so it might — they
 20 weren't reporting problems in the years previous to
 21 that, so I'm guessing this was becoming an issue they
 22 were coming across. So it makes sense to try and help
 23 them come up with an answer that made sense and
 24 delivered the objectives of the regulations.
 25 Q. Well, you say come up with an answer that made sense;

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1 what about coming up with an answer that reflected the
 2 intentions of the Secretary of State as you understood
 3 them in 2006?
 4 A. Well, it's the same thing.
 5 Q. Is it? It depends.
 6 Were you not immediately troubled by the fact that
 7 there was a lack of what is called general understanding
 8 of your own guidance, your and Mr Burd's guidance?
 9 A. Again, as I've said several times, people asking
 10 questions about the guidance in the approved documents
 11 was commonplace, something we dealt with on a number of
 12 occasions every day.
 13 Q. Did you not have thoughts at the time along the lines of
 14 thinking that perhaps had you consulted on the meaning
 15 of the words "filler material etc", these questions
 16 wouldn't have been asked?
 17 A. I think in 2006 I wasn't entirely happy with the
 18 position that we'd found ourselves in, so I suppose the
 19 answer to your question is yes, I'd always thought that
 20 I'd have preferred to have done a — addressed that in
 21 more detail at the time.
 22 Q. I mean, looking at it candidly, Mr Martin, was this not
 23 the chickens coming home to roost?
 24 A. I didn't see it like it at the time. As I say, we
 25 get — used to get lots of questions about lots of

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1 different aspects of the Building Regulations. I didn't
 2 see this as being unusual.
 3 Q. Now, we don't need to see it, but I think you have
 4 elsewhere described the BRE as highly reputable, and can
 5 we take it that both Tony Baker and Sarah Colwell were,
 6 in your view at the time, experts in fire?
 7 A. Certainly experts in fire testing, yes.
 8 Q. Right. Did it not trouble you at the time that
 9 an understanding of the guidance in 12.6 and 12.7 of
 10 Approved Document B had not already been reached even by
 11 the experts within that expert organisation?
 12 A. Judging by the email, it was an issue that had only
 13 arisen fairly recently with them, and I guess from their
 14 point of view, they're testers, not appliers of the
 15 regulations, and they wanted to confirm their
 16 understanding or ...
 17 Q. You see, the amendment to ADB, particularly 12.6 and
 18 12.7, had been carried out by the BRE under a contract
 19 with the government; yes?
 20 A. Yes.
 21 Q. In which you had been involved as an employee of BRE,
 22 but also two to three days a week in government.
 23 A. Yes.
 24 Q. Did it not bother you that the person who had actually
 25 carried out the amendments under a contract, namely the

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1 BRE, were asking government about what the product of
2 that contract meant?
3 A. No, because it's about the people, not the organisation,
4 isn't it? BRE doesn't — I mean, I'd left BRE, so what
5 I remembered obviously wasn't in anybody else's mind but
6 mine.
7 Q. Did it not trouble you that Sarah Colwell was asking
8 this question, or rather that Tony Baker was asking this
9 question?
10 A. No.
11 Q. Did it occur to you at that stage that a lack of general
12 understanding even within the BRE might at least have
13 led to the emergence of non-compliant practices in
14 industry during the six and a half or seven perhaps
15 years since the publication of amended Approved
16 Document B in 2007?
17 A. No, I didn't see that as being a major problem at the
18 time. As I say, the — we weren't entirely happy with
19 the way that we'd had to draft that text back in 2006,
20 and the intent was to try and get people to think
21 broadly, and to some extent the discussions that BRE
22 were having with their clients was exactly the
23 discussions that we wanted people to have, was:
24 you know, in the case of this particular product, should
25 I be thinking about the core material or the lining or

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1 whatever it is, and, you know, should we be applying the
2 material of limited combustibility rule to it?
3 Q. Just so I understand that last answer, when you got this
4 question from Tony Baker, did you think, "Oh, good,
5 ADB's having an effect, people are starting to ask
6 questions about it"?
7 A. I'm not sure exactly what I was thinking at the time,
8 but I don't remember it being a particularly big deal to
9 me. It was, as I say, one of dozens of questions that
10 I would have been dealing with.
11 Q. The reason I ask is it seems from that answer and
12 a number of others — and please correct me if I've got
13 the impression wrong — that you regarded ADB as really
14 a sort of discussion document, something to provoke
15 debate, thoughts, perhaps more research, interest,
16 rather than being a guide on how to comply with the
17 functional requirement?
18 A. I think it sits somewhere twixt the two.
19 Q. Really?
20 A. Yes, I think ... again, as I think we've said — I've
21 said a few times, what everybody should be focusing on
22 is on the functional requirement, looking at the
23 guidance and then applying their judgement as to what
24 they think's right in the circumstances of the building
25 they're looking at.

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1 Q. What's the point of the guidance, then?
2 A. To help them make those judgements.
3 Q. How does it help them make those judgements if all it
4 does is provoke discussions, debate, questions and
5 possibly —
6 A. That's how people make judgements, is by considering
7 them, looking at the available information. If they're
8 not sure, going off and doing more research, speaking to
9 their colleagues.
10 Q. If I want to comply with the functional requirement and
11 I don't know what to do, what do I look at?
12 A. You'd start with Approved Document B, I guess. You
13 might also look at trade information. You might speak
14 to your colleagues. And if you don't understand it, you
15 would seek further advice.
16 Q. And you think that was the intention and effect of the
17 statutory guidance, Mr Martin?
18 A. To some extent, I think, yes.
19 Q. How much of an extent?
20 A. I think it varies on the project and the complexity of
21 the question you're looking at.
22 Q. So was it your understanding — let me be clear about
23 this — that the approved documents, and Approved
24 Document B in particular, was really just a discussion
25 document to provoke discussion, to allow people to come

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1 to a judgement somewhere down the line, as opposed to
2 a strict roadmap, which had a presumptive effect of
3 compliance if you complied, and a presumptive effect of
4 non-compliance, with all that that entailed, if you
5 didn't?
6 A. I think, depending on the situation, there was always
7 an element of the designers and the building control
8 body having to think and apply their own judgement.
9 Q. So chuck it out there, see what they think and answer
10 questions as you go, and that's all very good for the
11 construction industry?
12 A. I don't think I'd phrase it that way.
13 Q. How would you phrase it?
14 A. I think it's providing the best guidance you can at the
15 time to support professionals making what are quite
16 difficult judgements.
17 Q. In your email to Mr Baker at 15.47 — let's go back to
18 that, please. Can we go back to {CLG10005895/2}, the
19 one you sent at 15.47. You say there that you are
20 positing that anything other than a homogeneous class B
21 board should somehow be caught by 12.7 of Approved
22 Document B and should therefore be of limited
23 combustibility, but you're also saying that
24 a homogeneous class B board would not be caught by the
25 limited combustibility criteria. Have I got that right?

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1 A. Yeah, I think that's the point I'm trying to make, yes.
 2 Q. For absolute clarity, it's right, isn't it, that there
 3 is a definition of "homogeneous" given in EN 13501? We
 4 don't need to go to it but, for our records, it's at
 5 {BSI00001738/10}, paragraph 3.1.3. I'll read it to you
 6 aloud. It is a "product consisting of a single
 7 material, having uniform density and composition
 8 throughout the product".
 9 I'll say that again, a "product consisting of
 10 a single material, having uniform density and
 11 composition throughout the product".
 12 Now, is that what you intended or understood by the
 13 word "homogeneous" in this context?
 14 A. I don't know if I was specifically referring to the
 15 European definition, I was just using the word
 16 "homogeneous", which means the same thing, as far as I'm
 17 concerned, which is it's something that is consistent
 18 through its thickness.
 19 Q. All right.
 20 Now, to be clear, were you therefore positing that
 21 all elements of a composite rainscreen panel with
 22 an outer skin and an inner core would need to be of
 23 limited combustibility?
 24 A. No, I think what I'm saying here is the core would be.
 25 Q. Well, you don't, though, do you?

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1 A. I think I'm answering in the context of the question.
 2 Q. But what were you positing?
 3 Take a composite rainscreen with an outer skin and
 4 an inner core. Were you positing here that both the
 5 outer skin and the inner core would be need to be
 6 material of limited combustibility?
 7 A. What I had in my mind there is that the core would be
 8 a material of limited combustibility and the surface
 9 could be class B or class 0, but we were talking about
 10 European classifications on this.
 11 Q. But a homogeneous rainscreen panel, in other words not
 12 a composite, would not need to be of limited
 13 combustibility?
 14 A. Yeah.
 15 Q. Where did you get that interpretation from?
 16 A. That's my interpretation of the text as applied to
 17 a sheet that's essentially the surface.
 18 Q. Now, would you agree that there's nothing in
 19 diagram 40 — and we're both, I think, very familiar
 20 with it, for you to understand the question — or in
 21 12.6 or 12.7 for that matter, which tells us that
 22 a homogeneous class B board is fine, as you would put
 23 it, at class B, ie not of limited combustibility, but
 24 that anything else should be caught by the word "filler"
 25 in 12.7 and therefore be of limited combustibility?

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1 A. In the context of this question, they're talking —
 2 class — diagram 40 talks about the surface. Surface
 3 isn't defined, and so you need to apply judgement to
 4 what it means, and that's the point I'm asking them to
 5 comment on, is: do you think it's reasonable to treat —
 6 if you've got a thin panel which is a homogeneous
 7 material, is that not a class B surface? That's what
 8 I'm asking them, is do they agree that's a reasonable
 9 interpretation.
 10 Q. But you presumably knew, didn't you — I'm assuming
 11 this, maybe this is not right — that class 0 was
 12 defined in paragraph 13 of appendix A as it was, namely
 13 that the surface material where it's homogeneous or
 14 a composite product needed to be composed throughout
 15 either of limited combustibility or of a class 1
 16 material meeting the various different indices? Surely
 17 you knew that?
 18 A. I think so, but, as I say, I'm trying to address their
 19 question helpfully.
 20 Q. So did it occur to you that there might be something
 21 wrong with the definition of class 0 if one had trouble
 22 answering where the surface ended and the rest of it
 23 began?
 24 A. I think it was a problem with talking about surface
 25 without being specific about what surface meant.

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1 I think that's the point I was getting at, that you
 2 could read it different ways. What's a reasonable way
 3 that achieves the objectives of the functional
 4 requirement?
 5 Q. Looking at your response, do you accept that you didn't
 6 actually know the answer to Tony Baker's question?
 7 A. Well, the answer I'm proposing is the one that I would
 8 apply and what I considered to be right, but I don't
 9 have absolute authority, and so I'm asking two experts
 10 in fire testing and cladding whether they think I'm
 11 right.
 12 Q. But you are the repository of the approved documents and
 13 not the BRE. I mean, leaving aside the contract point
 14 for the moment. Why would you need to think out loud
 15 and ask them questions whether it makes sense or not be
 16 quoted?
 17 A. I don't have god-like knowledge of every form of
 18 construction and every technical question, so when
 19 somebody's raising something with me, especially people
 20 like Tony Baker and Sarah Colwell, who've got a lot of
 21 knowledge in this area, I want to test my views with
 22 them.
 23 Q. No, but you didn't need to be the Almighty to know what
 24 was in your own mind when you drafted 12.6 and 12.7 in
 25 2006.

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1 A. Yes, and I've just said what I thought was in my mind
2 and I'm asking — I'm testing it with them to see
3 whether it makes sense to them now.
4 Q. Why? All that matters was that you reflected to them
5 factually, surely, what you intended at that time, just
6 told them.
7 A. I think that's what I was doing.
8 Q. Did this correspondence in November 2013 and your answer
9 to him, couched in the way it was, not make it clear to
10 you at this point that the guidance in 12.6 and 12.7 was
11 not clear to those who would be using it?
12 A. I was aware that it wasn't as categorical as I'd have
13 liked it to have been in 2006.
14 Q. So I think that's a yes, isn't it?
15 A. I suppose, yes.
16 Q. Right.
17 Did it occur to you, either at this time or any
18 other time later, that far from being a goal which you
19 wholeheartedly supported, as you say in your statement,
20 achieving general clarity of understanding of statutory
21 guidance on the fire safety requirements for external
22 cladding on high-rise buildings ought to have been
23 achieved by the publication of the guidance itself?
24 A. That's a desirable outcome, but it's my experience that
25 it's very difficult to achieve. There are always

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1 questions that arise.
2 Q. So, again, does it come to this: that ADB was really
3 little more than an aspiration, guidance with fingers
4 crossed, so to speak?
5 A. No. It was the best guidance we could give at the time
6 based on the information we had.
7 Q. Did it occur to you at the time that it wasn't going to
8 be possible for readers to arrive at a settled
9 understanding of the meaning and remit of the guidance
10 when you yourself hadn't reached any settled
11 understanding in your own mind, but were simply
12 questioning and positing and asking the asker of the
13 question whether your answer made sense?
14 A. So this is a kind of conversation that I would have
15 a dozen times in a day on a range of different subjects,
16 so I didn't see this as unusual, and was just doing my
17 best to work with people in industry to try and get the
18 best outcomes.
19 Q. Right. I mean, did you not see your responsibility as
20 achieving clarity in this guidance, in other words
21 a settled meaning and understanding which the entire
22 industry could adhere to so as to achieve a uniformity
23 of outcome?
24 A. Well, that would be a desirable objective and something
25 that I would have liked to have amended when I got the

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1 next opportunity.
2 Q. You call it a goal or a desirable objective. I think
3 really what I'm having difficulty with — please help
4 me — is why it's only a goal, only a desirable
5 objective. Why isn't it the objective, the only
6 objective?
7 A. Well, because at that time I wasn't rewriting Approved
8 Document B and didn't have the opportunity to change it.
9 So the question is: what can you do at that time to
10 address that issue? And so I was doing the best
11 I could.
12 Q. So when is, on this answer, surface a surface and when
13 is it part of the core? Where does the surface end and
14 the core begin for the purposes of —
15 A. It's not defined. In my view, I think it's reasonable
16 to treat — as I've set out here, I think it's
17 reasonable to treat a homogeneous panel as being the
18 surface, but if you've got a laminated product then you
19 ought to think about the material that's in the core.
20 MR MILLETT: Do you agree that the responsibility for — I'm
21 so sorry.
22 SIR MARTIN MOORE-BICK: Can I just butt in a second, because
23 it occurs to me that there is a question here which
24 perhaps Mr Martin ought to be invited to comment on, and
25 that is this: this whole debate, Mr Martin, in a sense

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1 has been driven by the use of class 0 as the criterion
2 for a satisfactory product on the exterior of
3 a high-rise building. Now, we know that class 0 has its
4 origin as a measure of performance for interior linings,
5 and what is passing through my mind is whether we ought
6 to deduce from that that class 0 is only relevant if
7 you're talking about an applied surface, ie the paper on
8 the plasterboard or the paint on the underlying metal,
9 or whatever it might be. Now, if you take that view,
10 you don't have this problem, do you, with the
11 distinction between the surface and the interior of
12 a homogeneous product?
13 Do you have any thoughts on that?
14 A. Erm ...
15 SIR MARTIN MOORE-BICK: Do you see what I'm putting to you?
16 Namely that the whole concept of a surface which is
17 related to class 0 only applies in a case where some
18 surface has been applied to an underlying material.
19 A. I guess in response to that, sir, if we're talking about
20 a homogeneous panel, that's equivalent to a very thick
21 layer of paint or paper.
22 SIR MARTIN MOORE-BICK: Well, it's not really, is it?
23 I mean, the homogeneous panel, if you imagine a piece of
24 MDF or something like that which is the same material
25 all the way through, it has a surface in one sense, but

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1 not a surface to which the concept of class 0 can apply.
 2 A. Well, you can — you certainly could put a piece of MDF
 3 in a class 0 — in a fire propagation test and see
 4 whether you get class 0 for it. I think there are
 5 class 0 MDF materials available, sir.
 6 SIR MARTIN MOORE—BICK: All right. Well, there you are, for
 7 what it's worth.
 8 Mr Millett, if you want to follow that up, please
 9 do. If you don't think it's worth following up, just
 10 ignore it.
 11 MR MILLETT: Mr Chairman, I'd like to have a think about
 12 that a little bit more before I do.
 13 Let me just see how far I get with this line, then.
 14 Can I just ask you, Mr Martin, do you agree that the
 15 responsibility for deciding definitions of words within
 16 government guidance or explaining them fell to
 17 government?
 18 A. I guess the ultimate responsibility, yes.
 19 Q. Yes. And do you agree that, in practical terms, you
 20 were responsible for Approved Document B?
 21 A. I was the desk officer for it. The Secretary of State's
 22 responsible for it, if you're being pedantic, which
 23 I don't desire to be, but you've asked me the question.
 24 Q. No, no, fair enough. Pedantry is sometimes welcome
 25 here. But you're quite right. As a matter of legal

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1 responsibility, of course, ultimately it's the
 2 Secretary of State's intention reflected by the wording,
 3 signed by the Secretary of State. But in practical
 4 terms, you were the primary guardian, weren't you, the
 5 custodian —
 6 A. Yes.
 7 Q. — of Approved Document B?
 8 As a custodian, did you regard it as your
 9 responsibility to explain the intention lying behind the
 10 guidance, particularly guidance that you had drafted, of
 11 the intended meaning of the words or provisions in it?
 12 A. Yes. Well, that's what I was trying to do in that email
 13 to BRE.
 14 Q. Yes.
 15 Now, there's no need to go back to the Baker
 16 correspondence, but does it surprise you to learn that
 17 Mr Baker considered your response to be unsatisfactory?
 18 That is what he says in his fourth witness statement at
 19 paragraph 45 {BRE00043700/8}.
 20 A. I don't think he told me that.
 21 Q. Right. What about Sarah Colwell, did she come back to
 22 you and pick you up on the response?
 23 A. Not that I'm aware of.
 24 Q. Now, can we take it from this correspondence that
 25 neither the meaning nor the intended application of

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1 paragraph 12.7 was settled in your own mind in
 2 November 2013?
 3 A. Its intent was as I described in 2006, was to get the
 4 designers to consider a range of issues.
 5 Q. But it nonetheless threw up a question or a question had
 6 arisen to which you couldn't point to 12.6 or 12.7 and
 7 provide a clear answer.
 8 A. Its provisions aren't categorical, so they needed some
 9 interpretation.
 10 Q. So does that tell us that there wasn't a settled and
 11 understood meaning in your own mind even in 2013 of the
 12 meaning of 12.6 and 12.7?
 13 A. In general terms there was, but for specific forms of
 14 construction, different questions would arise.
 15 Q. Right. So let's just see if we can pin this down.
 16 A. Okay.
 17 Q. In November 2013, to what materials or component parts
 18 of an external wall arrangement did the term "filler
 19 materials etc" apply such that those materials should be
 20 of limited combustibility?
 21 A. I'm not sure I could give you a definitive list.
 22 Q. So the answer is you don't know?
 23 A. I guess if you pulled up a dozen different diagrams,
 24 I could come up with what I thought it might apply to.
 25 Q. Well, let me try it a different way.

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1 When you're looking at an external rainscreen
 2 panel — take that as an object, a product — was the
 3 requirement of limited combustibility limited to the
 4 core or did it extend to the whole product?
 5 A. You're talking about a composite rainscreen panel?
 6 Q. You are right, I am, yes.
 7 A. Then I would say it applies to the core.
 8 Q. And not the exterior, not the external surface?
 9 A. Yes.
 10 Q. Were all external panels to be of limited
 11 combustibility, even if they were homogeneous panels
 12 with no core?
 13 A. That's not the way I read it.
 14 Q. So does that tell us that the limited combustibility
 15 requirements in 12.7 only applied to panels which were
 16 not composed of homogeneous materials?
 17 A. If we're talking — yes. Yes, I think that's correct.
 18 Q. Right. And was that your clear understanding in
 19 November 2013?
 20 A. I think so, yes.
 21 MR MILLETT: Mr Chairman, it's 4.20. We're making some
 22 progress. I don't want to spend ten minutes now wasting
 23 time on the next set of documents if I can help it, so
 24 it might be sensible to rise now, and I might be able to
 25 shorten the next part of the examination. I suspect

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1 it's ten minutes for ten minutes, but I am in your
 2 hands.
 3 SIR MARTIN MOORE—BICK: I'm sure that if you think it may
 4 result in shortening the examination, Mr Martin for one
 5 will not object, and as long as we're making reasonable
 6 progress, I see no reason why we shouldn't break
 7 a little bit early.
 8 MR MILLETT: We are making reasonable progress.
 9 SIR MARTIN MOORE—BICK: Right. Well, in that case we'll
 10 have a slightly early afternoon. We can stop at that
 11 point.
 12 Mr Martin, as you've heard, Mr Millett's making good
 13 progress, and you won't mind if we stop ten minutes
 14 early, I'm sure.
 15 We will resume, if we may, please, at 10 o'clock
 16 tomorrow morning, and I have to say this every time,
 17 I know, but please don't talk to anyone about your
 18 evidence or anything relating to it over the break, and,
 19 as I say, we'll see you at 10 o'clock tomorrow.
 20 Thank you very much. Would you like to go with the
 21 usher, please.
 22 (Pause)
 23 Thank you all very much. We'll break there and
 24 resume at 10 o'clock tomorrow. Thank you.
 25 (4.20 pm)

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1 (The hearing adjourned until 10 am
 2 on Wednesday, 23 March 2022)
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